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JOSEPH POPE

ACTS

OF THE

PARLIAMENT OF THE DOMINION OF CANADA

RELATING TO

CRIMINAL LAW,

TO

PROCEDURE IN CRIMINAL CASES

AND TO

EVIDENCE.

Compiled from the Revised Statutes of Canada, which were issued under authority of the Act 49 Vict., Chap 4, and brought into force on 1st MARCH, 1887, under proclamation dated 24th January, 1887; with marginal references to corresponding Imperial Acts; also Acts passed since the Consolidation relating to above subjects.



OTTAWA:
PRINTED BY BROWN CHAMBERLIN, PRINTER TO THE QUEEN'S MOST
EXCELLENT MAJESTY.

1891.

0 923564

NOTE.

In this volume are collected all the Acts of the Parliament of Canada having exclusive reference to criminal law, criminal procedure and evidence in criminal matters, as they appear in the Revised Statutes of Canada and in the subsequent Acts of the Parliament of Canada passed in the sessions of 1887, 1888, 1889 and 1890.

Where a repeal has been effected, the chapter or section repealed is omitted, and a reference to the repealing or substituted enactment is given instead. Minor amendments are noted in or opposite the text amended.

It must be noted that very many of the general laws of Canada, included in the Revised Statutes, contain penal clauses. Such clauses are not to be found in this volume, but recourse must be had to the Revised and annual Statutes where the Acts containing them appear at length.

The marginal reference inclosed in brackets are to Acts of the Parliament of the United Kingdom corresponding to the text opposite to which they are respectively placed. They do not, however, extend beyond the Acts of 1887.

The following table will show the years of the christian era corresponding to the years of the sovereign's reign in the Acts in such marginal references, and in the Canadian statutes given in the text at the end of each section :

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ERRATUM.

Page 289.—Instead of words “ Repealed, &c., by 53 V., c. 37, s. 27, read “ Proviso added by 53 V., &c., to section as printed herewith :—”

Convictions,
&c., not to be
invalid for
informalities.

Proviso.

§7. No conviction or order made by any justice of the peace and no warrant for enforcing the same, shall, on being removed by *certiorari* be held invalid for any irregularity, informality or insufficiency therein, provided that the court or judge before which or whom the question is raised is, upon perusal of the depositions, satisfied that an offence of the nature described in the conviction, order or warrant, has been committed, over which such justice has jurisdiction, and that the punishment imposed is not in excess of that which might have been lawfully imposed for the said offence; and any statement which, under this Act or otherwise, would be sufficient if contained in a conviction, shall also be sufficient if contained in an information, summons, order or warrant. 49 V., c. 49, s. 2.



THE
REVISED STATUTES

OF
CANADA.

CHAPTER I.

An Act respecting the Form and Interpretation of A.D. 1886.
Statutes.

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

SHORT TITLE.

1. This Act may be cited as "*The Interpretation Act.*" Short title.
31 V., c. 1, s. 16.

APPLICATION.

2. This Act, and every provision thereof, shall extend and apply to every Act of the Parliament of Canada, now or hereafter passed except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context,—and except in so far as any provision hereof is in any such Act declared not applicable thereto; and the omission in any Act of a declaration that "*The Interpretation Act*" applies thereto, shall not be construed to prevent its so applying, although such express declaration is inserted in some other Act or Acts of the same session. 31 V., c. 1, s. 3;—31 V., c. 28.

This Act to
apply to all
Acts now or
hereafter
passed.

FORM OF ENACTING.

Form of
enacting
clause.

3. The following words may be inserted in the preambles of statutes, and shall indicate the authority by virtue of which they are passed: "Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows." 31 V., c. 1, s. 1.

Other clauses
to follow in
concise form.

4. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall, with these considerations or reasons constitute the entire preamble, the various clauses of the statute shall follow in a concise and enunciative form. 31 V., c. 1, s. 2.

TIME OF COMMENCEMENT OF ACTS.

Date of Royal
assent to be
indorsed on
every Act.

5. The Clerk of the Parliaments shall indorse on every Act of the Parliament of Canada, immediately after the title of such Act, the day, month and year when the same was, by the Governor General, assented to in Her Majesty's name, or reserved by him for the signification of Her Majesty's pleasure thereon,—and in the latter case, such Clerk shall also indorse thereon the day, month and year when the Governor General signified, either by speech or message to the Senate and House of Commons, or by proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same; and such indorsement shall be taken to be a part of such Act, and the date of such assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement is therein provided. 31 V., c. 1, s. 4;—35 V., c. 1, s. 1, *part.*

Effect of such
indorsement.

AMENDMENT OR REPEAL.

Every Act
may be
amended dur-
ing session in
which it
passes.

6. Any Act of the Parliament of Canada may be amended, altered or repealed by any Act passed in the same session thereof. 46 V., c. 1, s. 1, *part.*

INTERPRETATION.

How enact-
ments shall
be construed.
To apply to
the whole
Dominion.
Territorial
application of
Acts amend-
ing previous
Acts.

7. In every Act of the Parliament of Canada, unless the context otherwise requires,—

(1.) The enactments apply to the whole of Canada:

(2.) No Act amending a previous Act which does not apply to all the Provinces of Canada, and no enactment in any such amending Act, although of a substantive nature or form, shall apply to any Province to which the amended Act does not apply, unless it is expressly provided that such amending Act or enactment shall apply to such Province or to all the Provinces of Canada:

(3.) The law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same shall be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof, according to its spirit, true intent and meaning :

Application
of expressions
in present
tense.

(4.) The expression "shall" shall be construed as imperative, and the expression "may" as permissive :

"Shall" and
"may."

(5.) Whenever the expression "herein" is used in any section of an Act, it shall be understood to relate to the whole Act, and not to that section only :

"Herein."

(6.) The expression "Her Majesty," "the Queen," or "the Crown," means Her Majesty, her heirs and successors, sovereigns of the United Kingdom of Great Britain and Ireland :

"Her Ma-
jesty," &c.

(7.) The expression "Governor," "Governor of Canada," "Governor General," or "Governor in Chief," means the Governor General for the time being of Canada, or other the chief executive officer or administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated :

"Governor,"
&c.

(8.) The expression "Governor in Council," or "Governor General in Council," means the Governor General of Canada, or person administering the Government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Queen's Privy Council for Canada :

"Governor in
Council," &c.

(9.) The expression "Lieutenant Governor" means the Lieutenant Governor for the time being, or other chief executive officer or administrator for the time being, carrying on the Government of the Province or Provinces of the Dominion indicated by the Act, by whatever title he is designated :

"Lieutenant
Governor,"
&c.

(10.) The expression "Lieutenant Governor in Council" means the Lieutenant Governor, or person administering the Government of the Province indicated by the Act, for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Executive Council of the said Province :

"Lieutenant
Governor in
Council," &c.

(11.) The expression "the United Kingdom" means the United Kingdom of Great Britain and Ireland :

"United
Kingdom."

(12.) The expression "the United States" means the United States of America :

"United
States."

(13.) The expression "Province" includes the North-West Territories and the District of Keewatin :

"Province."

(14.) The expression "Legislature," "Legislative Council" or "Legislative Assembly," includes the Lieutenant Governor in Council and also the Legislative Assembly of the North-West Territories, and the Lieutenant Governor in Council of the District of Keewatin :

"Legisla-
ture."

(15.) The expression "Act" as meaning an Act of a Legislature, includes an Ordinance of the North-West Territories or the District of Keewatin :

"Act."

Names of
places, &c.

(16.) The name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, means such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof:

“ Proclama-
tion.”

(17.) The expression “proclamation” means a proclamation under the Great Seal:

“ Great Seal.”

(18.) The expression “Great Seal” means the Great Seal of Canada:

Governor act-
ing by Pro-
clamation.

(19.) When the Governor General is authorized to do any act by proclamation, such proclamation is understood to be a proclamation issued under an order of the Governor in Council; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order:

“ County.”

(20.) The expression “county” includes two or more counties united for purposes to which the enactment relates:

Number and
gender.

(21.) Words importing the singular number or the masculine gender only, include more persons, parties or things of the same kind than one, and females as well as males, and the converse:

“ Person.”

(22.) The expression “person” includes any body corporate and politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of Canada to which such context extends:

“ Writing;”
“ written.”

(23.) The expression “writing,” “written,” or any term of like import, includes words printed, painted, engraved, lithographed or otherwise traced or copied:

“ Now ” or
“ next.”

(24.) The expression “now” or “next” shall be construed as having reference to the time when the Act was presented for the Royal Assent:

“ Month.”

(25.) The expression “month” means a calendar month;

“ Holiday.”

(26.) The expression “holiday” includes Sundays, New Year’s Day, the Epiphany, the Annunciation, Good Friday, the Ascension, Corpus Christi, St. Peter and St. Paul’s Day, All Saints’ Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign, Dominion Day, and any day appointed by proclamation for a general fast or thanksgiving:

Reckoning
time.

(27.) If the time limited by any Act for any proceeding, or the doing of any thing under its provisions, expires or falls upon a holiday, the time so limited shall be extended to, and such thing may be done on the day next following which is not a holiday:

Oath.”

(28.) The expression “oath” includes a solemn affirmation or declaration, whenever the context applies to any person and case by whom and in which a solemn affirmation or declaration may be made instead of an oath; and in like cases the expression “sworn” includes the expression “affirmed” or “declared”:

“ Sworn.”

(29.) Whenever by an Act of Parliament or by a rule of the Senate or House of Commons, or by an order, regulation or commission made or issued by the Governor in Council, under any law authorizing him to require the taking of evidence under oath, an oath is authorized or directed to be made, taken or administered, such oath may be administered, and a certificate of its having been made, taken or administered, may be given, by any one named in any such Act, rule, order, regulation or commission, or by a judge of any court, a notary public, a justice of the peace, or a commissioner for taking affidavits, having authority or jurisdiction within the place where the oath is administered :

Who may administer and certify to oaths.

(30.) The expression "sureties" means sufficient sureties, and the expression "security" means sufficient security, and whenever these words are used, one person shall be sufficient therefor unless otherwise expressly required :

"Sureties."
"Security."

(31.) The expression "superior court" means, in the Province of Ontario, the Court of Appeal for Ontario, and the High Court of Justice for Ontario; in the Province of Quebec, the Court of Queen's Bench and the Superior Court in and for the said Province; in the Provinces of Nova Scotia, New Brunswick and British Columbia, the Supreme Court in and for each of the said Provinces respectively; in the Province of Prince Edward Island, the Supreme Court of Judicature for that Province; in the Province of Manitoba, Her Majesty's Court of Queen's Bench for Manitoba; and in the North-West Territories, the Supreme Court of the North-West Territories :

"Superior Courts."

(32.) The expression "registrar" or "register" means and includes indifferently registrars and registers in the several Provinces of Canada, and their deputies, respectively :

"Registrar."
"Register."

(33.) If any sum of the public money is, by any Act, appropriated for any purpose or directed to be paid by the Governor General, and no other provision is made respecting it, such sum shall be payable under warrant of the Governor General directed to the Minister of Finance and Receiver General, out of the Consolidated Revenue Fund of Canada; and all persons intrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such officer as the Governor General directs :

Paying and accounting for moneys appropriated by statute.

(34.) The expression "magistrate" means a justice of the peace :

"Magistrate."

(35.) The expression "two justices" means two or more justices of the peace, assembled or acting together :

"Two Justices."

(36.) If anything is directed to be done by or before a magistrate or a justice of the peace, or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done :

Local jurisdiction.

(37.) Whenever power is given to any person, officer or functionary, to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are

Power to do anything to include all necessary

powers for doing it.

necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing :

Imprisonment where to be, when no special place is mentioned.

(38.) If, in any Act, any person is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there is no common gaol there, then in or to that common gaol which is nearest to such locality ; and the keeper of any such common gaol shall receive such person, and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed, in cases in which bail may, by law, be taken :

Words giving power to appoint include power to remove, &c.

(39.) Words authorizing the appointment of any public officer or functionary, or any deputy, include the power of removing or suspending him, re-appointing or re-instating him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested :

Directions to a Minister or public officer, to apply to his substitute, successors and Deputy.

(40.) Words directing or empowering a Minister of the Crown to do any act or thing, or otherwise applying to him by his name of office, include a Minister acting for, or, if the office is vacant, in the place of such Minister, under the authority of an Order in Council, and also his successors in such office, and his or their lawful deputy ; and words directing or empowering any other public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office, and his or their lawful deputy ;

Appointments by Governor to be during pleasure.

(41.) All officers now appointed or hereafter appointed by the Governor General, whether by commission or otherwise, shall remain in office during pleasure only, unless otherwise expressed in their commissions or appointments :

Acts to be done by more than two.

(42.) When any act or thing is required to be done by more than two persons, a majority of them may do it :

Words constituting a corporation to vest certain powers in it.

(43.) Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation power to sue and be sued, contract and be contracted with by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure ; and shall also vest in any majority of the members of the corporation the power to bind the others by their acts ; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not violate the provisions of the Act incorporating them ; but no corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such corporation :

Slight deviation from forms not to invalidate.

(44.) Whenever forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not vitiate them :

(45.) Whenever power to make by-laws, regulations, rules or orders is conferred, it shall include the power, from time to time, to alter or revoke the same and make others :

Power to make by-laws, what included by.

(46.) No provision or enactment in any Act shall affect, in any manner or way whatsoever, the rights of Her Majesty, Her heirs or successors, unless it is expressly stated therein that Her Majesty shall be bound thereby ; nor, if such Act is of the nature of a private Act, shall it affect the rights of any person or of any body politic, corporate or collegiate,—such only excepted as are therein mentioned or referred to :

Acts not to affect the Crown, unless specially declared to do so.

As to Acts of a private nature.

(47.) Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament, to be required for the public good ; and unless it is otherwise expressly provided in any Act passed for chartering any bank, it shall be in the discretion of Parliament, at any time thereafter, to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such bank as to Parliament appears expedient :

Power always reserved to Parliament to repeal or amend any Act.

As to Bank Charters.

(48.) The repeal of any Act or part of an Act shall not revive any Act or provision of law repealed by such Act or part of an Act, or prevent the effect of any saving clause therein :

Effect of repeal of repealing Act.

(49.) Whenever any Act is repealed, wholly or in part, and other provisions are substituted, and whenever any regulation is revoked and other provisions substituted, all officers, persons, bodies politic or corporate, acting under the old law or regulation, shall continue to act as if appointed under the new law or regulation until others are appointed in their stead ; and all proceedings taken under the old law or regulation shall be taken up and continued under the new law or regulation, when not inconsistent therewith : and all penalties and forfeitures may be recovered and all proceedings had in relation to matters which have happened before the repeal or revocation, in the same manner as if the law or regulation was still in force, pursuing the new provisions as far as they can be adapted to the old law or regulation :

Effect of repeal of Act as to persons acting under it.

How far only to affect certain proceedings.

(50.) Whenever any Act is repealed, wholly or in part, and other provisions are substituted, all by-laws, orders, regulations, rules and ordinances made under the repealed Act shall continue good and valid in so far as they are not inconsistent with the substituted Act, enactment or provision, until they are annulled or others made in their stead :

As to by-laws, &c., under repealed Act.

(51.) Whenever any Act or part of an Act is repealed, and other provisions are substituted by way of amendment, revision or consolidation, any reference in any unrepealed Act, or in any rule, order or regulation made thereunder to such repealed Act or enactment, shall, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the

Construction of references to enactment for which others are substituted.

Proviso :
case in which
the repealed
enactment is
to stand good.

provisions of the substituted Act or enactment relating to the same subject matter as such repealed Act or enactment: Provided always, that where there is no provision in the substituted Act or enactment relating to the same subject matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed, in so far, but in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder:

As to acts,
&c., done
before repeal.

(52.) The repeal of an Act, or the revocation of a regulation, at any time, shall not affect any act done or any right or right of action existing, accruing, accrued or established, or any proceedings commenced in a civil cause, before the time when such repeal or revocation takes effect: but the proceedings in such case shall be conformable when necessary, to the repealing act or regulation:

Offences com-
mitted and
penalties in-
curred not
affected by
repeal.

(53.) No offence committed and no penalty or forfeiture incurred, and no proceeding pending under any Act at any time repealed, or under any regulation at any time revoked, shall be affected by the repeal or revocation, except that the proceeding shall be conformable, when necessary, to the repealing Act or regulation, and that whenever any penalty, forfeiture or punishment is mitigated by any of the provisions of the repealing Act or regulation, such provisions shall be extended and applied to any judgment to be pronounced after such repeal or revocation:

All Acts to be
deemed
public Acts,
as regards
pleading.

(54.) Every Act shall, unless by express provision it is declared to be a private Act, be deemed to be a public Act, and shall be judicially noticed by all judges, justices of the peace and others without being specially pleaded:

Proof of Acts.

(55.) Every copy of any Act, public or private, printed by the Queen's Printer, shall be evidence of such Act and of its contents; and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary is shown:

Preamble to
be a part of
Act.

(56.) The preamble of every Act shall be deemed a part thereof, intended to assist in explaining the purport and object of the Act; and every Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport is to direct the doing of any thing which Parliament deems to be for the public good, or to prevent or punish the doing of any thing which it deems contrary to the public good—and shall accordingly receive such fair, large and liberal construction and interpretation as will best insure the attainment of the object of the Act and of such provision or enactment, according to its true intent, meaning and spirit:

All Acts
remedial, and
to be con-
strued as such.

Application of
rules of con-
struction not
excluded.

(57.) Nothing in this section shall exclude the application to any Act of any rule of construction applicable thereto, and not inconsistent with this section. 31 V., c. 1, ss. 6, 7, *part*, and 8;—35 V., c. 27, ss. 12, *part*, 13, 14 and 15;—37 V., c. 9, s. 129;—37 V., c. 10, s. 62;—38 V., c. 1, ss. 2 and 3;—42 V., c. 47, s. 3;—46 V., c. 1, ss. 1 and 2, *parts*;—48-49 V., c. 40,

s. 2, *part*;—49 V., c. 2, s. 1;—49 V., c. 24, s. 69, *part*;—49 V., c. 25, s. 14, *part*.

The following paragraphs are added to this section by 53 V., c. 7, s. 1:—

“(58.) The repeal of any Act or part of an Act shall not be deemed to be or to involve a declaration that such Act, or the part thereof so repealed, was, or was considered by Parliament to have been, previously in force :

“(59.) The amendment of any Act shall not be deemed to be or to involve a declaration that the law under such Act was, or was considered by Parliament to have been, different from the law as it has become under such Act as so amended :

“(60.) The repeal or amendment of any Act shall not be deemed to be or to involve any declaration whatsoever as to the previous state of the law :

“(61.) Parliament shall not, by re-enacting an Act, or part of an Act, or by revising, consolidating or amending the same, be deemed to have adopted the construction which has, by judicial decision or otherwise, been placed upon the language used in such Act or upon similar language.”

S. Any Act may be cited as of the year of Our Lord.

How Acts may be cited.

9. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein.

Provisions herein to apply to this Act.



CHAPTER 144.

A. D. 1886. An Act respecting the application of the Criminal Law of England to the Provinces of Ontario and British Columbia.

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

ONTARIO.

Criminal law of England continued in Ontario.

1. The criminal law of England, as it stood on the seventeenth day of September, in the year one thousand seven hundred and ninety-two, and as the same has since been repealed, altered, varied, modified or affected by any Act of the Parliament of the United Kingdom having force of law in the Province of Ontario, or by any Act of the Parliament of the late Province of Upper Canada, or of the Province of Canada, still having force of law, or by any Act of the Parliament of Canada, shall be the criminal law of the Province of Ontario. C. S. U. C., c. 94.

BRITISH COLUMBIA.

And in British Columbia.

2. The criminal law of England, as it stood on the nineteenth day of November, in the year one thousand eight hundred and fifty-eight, and as the same has since been repealed, altered, varied, modified or affected by any ordinance or Act (still having the force of law) of the colony of British Columbia, or of the colony of Vancouver Island, before the union of such colonies or of the colony of British Columbia, passed since such union, or by any Act of the Parliament of Canada, shall be the criminal law of the Province of British Columbia. R. S. B. C., c. 70, s. 2, *part*.



CHAPTER 145.

An Act respecting Accessories.

A. D. 1886.

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

FELONIES.

1. Every one who becomes an accessory before the fact to any felony, whether the same is a felony at common law, or by virtue of any Act, may be indicted, tried, convicted and punished in all respects as if he were a principal felon. 31 V., c. 69, s. 9, *part*, and c. 72, s. 1;—32-33 V., c. 20, s. 8, *part*, and c. 21, s. 107, *part*.

Accessories before the fact to felony punishable as principals. [24-25 V., c. 94, s. 1.]

2. Every one who counsels, procures or commands any other person to commit any felony, whether the same is a felony at common law, or by virtue of any Act, is guilty of felony, and may be indicted, and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon,—or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been convicted, or is or is not amenable to justice,—and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as on accessory, may be punished. 31 V., c. 72, s. 2.

Punishment of person counselling, &c., the committing of a felony. [24-25 V., c. 94, s. 2.]

3. In every felony, every principal in the second degree shall be punishable in the same manner as the principal in the first degree is punishable. 31 V., c. 69, s. 9, *part*, and c. 72, s. 3;—32-33 V., c. 21, s. 107, *part*.

Punishment of principal in second degree. [11-12 V., c. 12, s. 8; 24-25 V., c. 96, s. 98, c. 97, s. 56, c. 98, s. 49, c. 99, s. 35, c. 100, s. 67.]

4. Every one who becomes an accessory after the fact to any felony, whether the same is a felony at common law or by virtue of any Act, may be indicted and convicted, either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been convicted, or

Accessories after the fact may be indicted as such or as substantive felons. [24-25 V., c. 94, s. 3.]

is or is not amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished. 31 V., c. 72, s. 4;—32-33 V., c. 20, s. 8, *part*.

Punishment of accessories after the fact. [24-25 V., c. 94, s. 4.]

5. Every accessory after the fact to any felony (except when it is otherwise specially enacted), whether the same is a felony at common law, or by virtue of any Act, shall be liable to imprisonment for any term less than two years. 31 V., c. 69, s. 9, *part*, and c. 72, s. 5, *part*;—32-33 V., c. 19, s. 57, *part*.

Prosecution of accessory after principal offender convicted, &c. [24-25 V., c. 94, s. 5.]

6. If any principal offender is, in any wise, convicted of any felony, any accessory, either before or after the fact, may be proceeded against in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon dies or is pardoned or otherwise delivered before such attainder; and every such accessory shall, upon conviction, suffer the same punishment as he would have suffered if the principal had been attainted. 31 V., c. 72, s. 6;—32-33 V., c. 20, s. 8, *part*.

MISDEMEANOURS.

Abettors in misdemeanours punishable as principals [24-25 V., c. 94, s. 8.]

7. Every one who aids, abets, counsels or procures the commission of any misdemeanour, whether the same is a misdemeanour at common law, or by virtue of any Act, is guilty of a misdemeanour and liable to be tried, indicted and punished as a principal offender. 31 V., c. 72, s. 9;—32-33 V., c. 19, s. 57, *part*, and c. 21, s. 107, *part*;—35 V., c. 32, s. 13;—40 V., c. 32, s. 1, *part*.

OFFENCES PUNISHABLE ON SUMMARY CONVICTION.

Abettors in offences punishable summarily punishable as principals. [11-12 V., c. 43, s. 5. 24-25 V., c. 96, s. 99; c. 97, s. 63.]

8. Every one who aids, abets, counsels or procures the commission of any offence punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction, be liable for every first, second or subsequent offence, of aiding, abetting, counselling or procuring, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence as a principal offender, is liable. 32-33 V., c. 21, s. 108, and c. 22, s. 70, and c. 31, s. 15, *part*;—33 V., c. 31, s. 5, *part*.



CHAPTER 146.

An Act respecting Treason and other Offences against the Queen's authority. A.D. 1886.

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

1. Every one who compasses, imagines, invents, devises or intends death or destruction, or any bodily harm, tending to death or destruction, maiming or wounding, imprisonment or restraint of our Sovereign Lady the Queen, Her Heirs or Successors, and expresses, utters or declares such compassings, imaginations, inventions, devices or intentions, or any of them, by publishing any printing or writing, or by any overt act or deed, is guilty of treason and shall suffer death. 31 V., c. 69, s. 2 ;—32-33 V., c. 17, s. 1.

Compassing death of the Sovereign, treason.

[36 G. III, c. 7, s. 1; 57 G. III, c. 6, s. 1; 11 and 12 V., c. 12, s. 3.]

2. Every officer or soldier in Her Majesty's army, who holds correspondence with any rebel, or enemy of Her Majesty, or gives him advice or intelligence, either by letters, messages, signs or tokens, or in any manner or way whatsoever, or treats with such rebel or enemy, or enters into any condition with him without Her Majesty's license, or the license of the general, lieutenant general or chief commander, is guilty of treason and shall suffer death. 31 V., c. 69, s. 3.

Corresponding with the enemy, treason.

[44-45 V., c. 58, s. 4 (3) (4).]

3. Every one who compasses, imagines, invents, devises or intends to deprive or depose Our Sovereign Lady the Queen, Her Heirs or Successors, from the style, honour or royal name of the imperial crown of the United Kingdom, or of any other of Her Majesty's dominions or countries,—or to levy war against Her Majesty, Her Heirs or Successors, within any part of the United Kingdom or of Canada, in order, by force or constraint, to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe both Houses or either House of Parliament, of the United Kingdom or of Canada,—or to move or stir any foreigner or stranger with force to invade the United Kingdom or Canada, or any other of Her Majesty's dominions or countries under the obeisance of Her Majesty, Her Heirs or Successors, and expresses, utters or declares such compassings, imaginations, inventions, devices

Certain offences declared felonies.

[11-12 V., c. 12, s. 3.]

Punishment. or intentions, or any of them, by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, is guilty of felony, and liable to imprisonment for life. 31 V., c. 69, s. 5;—32-33 V., c. 17, s. 1.

Conspiracy to intimidate legislative body a felony. **4.** Every one who confederates, combines or conspires with any person to do any act of violence, in order to intimidate, or to put any force or constraint upon any Legislative Council, Legislative Assembly or House of Assembly in any Province of Canada, is guilty of felony, and liable to fourteen years' imprisonment. 31 V., c. 71, s. 5.

Time within which prosecution shall be commenced, warrant issued, &c. **5.** No person shall be prosecuted for any felony by virtue of this Act in respect of such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same are expressed, uttered or declared by open and advised speaking only, unless information of such compassings, imaginations, inventions, devices and intentions and of the words by which the same were expressed, uttered or declared, is given upon oath to one or more justices of the peace, within six days after such words are spoken, and unless a warrant for the apprehension of the person by whom such words were spoken is issued within ten days next after such information is given as aforesaid; and no person shall be convicted of any such compassings, imaginations, inventions, devices or intentions as aforesaid, in so far as the same are expressed, uttered or declared by open or advised speaking as aforesaid, except upon his own confession in open court, or unless the words so spoken are proved by two credible witnesses. 31 V., c. 69, s. 6.

[11-12 V., c. 12, s. 4.]

Evidence.

Trial of citizens of a foreign power taken in arms in Canada. **6.** If any person, being a citizen or subject of any foreign state or country at peace with Her Majesty, is or continues in arms against Her Majesty, within Canada, or commits any act of hostility therein, or enters Canada with design or intent to levy war against Her Majesty, or to commit any felony therein, for which any person would, in Canada, be liable to suffer death, the Governor General may order the assembling of a militia general court martial for the trial of such person, under "*The Militia Act*"; and upon being found guilty by such court martial of offending against the provisions of this section, such person shall be sentenced by such court martial to suffer death, or such other punishment as the court awards. 31 V., c. 14, s. 2.

Trial of subjects of H. M. levying war in Canada in company with foreigners. **7.** Every subject of Her Majesty, within Canada, who levies war against Her Majesty, in company with any of the subjects or citizens of any foreign state or country then at peace with Her Majesty, or enters Canada in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any such act of felony as aforesaid, or who, with the design or intent to aid and assist, joins himself to any person

or persons whomsoever, whether subjects or aliens, who have entered Canada with design or intent to levy war on Her Majesty, or to commit any such felony within the same, may be tried and punished by a militia court martial, in the same manner as any citizen or subject of a foreign state or country at peace with Her Majesty, may be tried and punished under the next preceding section. 31 V., c. 14, s. 3.

8. Every subject of Her Majesty, and every citizen or subject of any foreign state or country, who offends against the provisions of the two sections next preceding, is guilty of felony and may, notwithstanding the provisions hereinbefore contained, be prosecuted and tried in any county or district of the Province in which such offence was committed, before any court of competent jurisdiction, in the same manner as if the offence had been committed in such county or district, and, upon conviction, shall suffer death as a felon. 31 V., c. 14, s. 4.

Punishment of persons offending under preceding sections.

9. Nothing herein contained shall lessen the force of or in any manner affect anything enacted by the statute passed in the twenty-fifth year of the reign of His Majesty King Edward the Third, intituled "*A declaration which offences shall be adjudged treason.*" 31 V., c. 69, s. 1.

Nothing herein to affect 25 Edw. III, c. 2. [11-12 V., c. 12, s. 6.]



CHAPTER 147.

A. D. 1886. An Act respecting Riots, unlawful Assemblies and Breaches of the Peace.

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

Sheriff, &c., may enjoin persons riotously assembled to disperse.

[1 G. I, St. 2, c. 5, s. 1.]

1. Every sheriff, deputy sheriff, mayor or other head officer, and justice of the peace, of any county, city or town, who has notice that there are within his jurisdiction persons to the number of twelve or more unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace, shall resort to the place where such unlawful, riotous and tumultuous assembly is, and among the rioters, or as near to them as he can safely come, with a loud voice, command, or cause to be commanded, silence, and, after that, openly and with loud voice, make or cause to be made a proclamation in these words, or to the like effect:—

Form of proclamation.

[1 G. I, St. 2, c. 5, s. 2.]

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

“GOD SAVE THE QUEEN.”

31 V., c. 70, s. 1, *part*, and ss. 2 and 3.

Persons making opposition or continuing assembled guilty of felony.

[1 G. I, St. 2, c. 5, s. 5.]

2. All persons who,—

(a.) With force and arms wilfully oppose, hinder or hurt any person who begins or is about to make the said proclamation, whereby such proclamation is not made, or—

(b.) Continue together to the number of twelve, for one hour after such proclamation has been made, or if they know that its making was hindered as aforesaid, continue together and do not disperse themselves within one hour after such hindrance,—

Punishment.

Time for prosecution limited.

[1 G. I, St. 2, c. 5, s. 8.]

Are guilty of felony and liable to imprisonment for life :

2. No person shall be prosecuted for any offence under this section unless such prosecution is commenced within twelve months after the offence is committed. 31 V., c. 70, ss. 1, *part*, 6, 7 and 8.

3. If the persons so unlawfully, riotously and tumultuously assembled together as aforesaid, or twelve or more of them, continue together, and do not disperse themselves, for the space of one hour after the proclamation is made, or after such hindrance as aforesaid, every such sheriff, mayor, justice and other officer as aforesaid, and every constable or other peace officer, and all persons required by them to assist, shall cause such persons to be apprehended and carried before a justice of the peace; and if any of the persons so assembled is killed or hurt, in the apprehension of such persons or in the endeavour to apprehend or disperse them, by reason of their resistance, every person ordering them to be apprehended or dispersed, and every person executing such orders, shall be indemnified against all proceedings of every kind in respect thereof. 31 V., c. 70, ss. 4 and 5.

Persons continuing assembled may be apprehended.

[1 G. I, St. 2, c. 5, s. 3.]

Persons suppressing riot justified.

4. All meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, without lawful authority for so doing, are unlawful and prohibited. 31 V., c. 15, s. 1, *part.*

Unlawful meeting for drill prohibited.

[60 G. III and 1 G. IV., c. 1, s. 1.]

5. Every one who is present at or attends any such meeting or assembly for the purpose of training any other person or persons to the use of arms or to the practice of military exercises, movements or evolutions, or who, without lawful authority for so doing, trains or drills any other person or persons to the use of arms, or to the practice of military exercises, movements or evolutions, or who aids or assists therein is guilty of a misdemeanour and liable to two years' imprisonment. 31 V., c. 15, s. 1, *part.*

Punishment of persons acting as instructors.

[60 G. III and 1 G. IV, c. 1, s. 1.]

6. Every one who attends or is present at any such meeting or assembly, for the purpose of being, or who, at any such meeting or assembly, is trained or drilled to the use of arms, or to the practice of military exercises, movements or evolutions, is guilty of a misdemeanour and liable to two years' imprisonment. 31 V., c. 15, s. 1, *part.*

And of persons receiving instruction.

[60 G. III and 1 G. IV, c. 1, s. 1.]

7. Any justice of the peace, constable or peace officer, or any person acting in his aid or assistance, may disperse any such unlawful meeting or assembly as in the three sections next preceding mentioned, and may arrest and detain any person present at or aiding, assisting or abetting any such assembly or meeting as aforesaid; and the justice of the peace who arrests any such person or before whom any person so arrested is brought, may commit such person for trial for such offence, unless such person gives bail for his appearance at the next court of competent jurisdiction, to answer to any indictment which is preferred against him for any such offence. 31 V., c. 15, s. 2.

Meeting may be dispersed and persons attending it arrested.

[60 G. III and 1 G. IV, c. 1, s. 2.]

Time for prosecution limited.

[60 G. III and 1 G. IV, c. 1, s. 7.]

8. No one shall be prosecuted for any offence under the four sections next preceding unless such prosecution is commenced within six months after the offence is committed. 31 V., c. 15, s. 9.

Rioters demolishing church, building, &c.

[24-25 V., c. 97, s. 11.]

9. All persons who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish, pull down or destroy, or begin to demolish, pull down or destroy, any church, chapel, meeting-house or other place of divine worship, or any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, granary, shed, hovel or fold, or any building or erection used in farming land, or in carrying on any trade or manufacture, or any branch thereof,—or any building other than such as are in this section before mentioned, belonging to Her Majesty, or to any county, municipality, riding, city, town, village, parish or place, or to any university or college or hall of any university, or to any corporation, or to any unincorporated body or society or persons associated for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution,—or any machinery, whether fixed or movable, prepared for or employed in any manufacture or in any branch thereof,—or any steam engine or other engine for sinking, working, ventilating or draining any mine, or any staith, building or erection used in conducting the business of any mine, or any bridge, wagon-way or track for conveying minerals, from any mine, are guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 15.

Punishment.

Rioters injuring buildings, machinery, &c.

[24-25 V., c. 97, s. 12.]

10. All persons who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force injure or damage any such church, chapel, meeting-house, place of divine worship, house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, wagon-way or track, as in the next preceding section mentioned, are guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 16, *part*;—R. S. N. S. (3rd S.); c. 162, s. 6.

Punishment.

Punishment for unlawful assembly.

11. Three or more persons who, having assembled, continue together with intent unlawfully to execute any common purpose with force and violence, or in a manner calculated to create terror and alarm, are guilty of an unlawful assembly, and liable to two years' imprisonment. R. S. N. S. (3rd S.), c. 162, s. 5;—1 R. S. N. B., c. 147, s. 6.

Punishment for rout.

12. Three or more persons who, having assembled, continue together with intent unlawfully to execute any common purpose with force and violence, or in any manner calculated to

create terror and alarm, and who endeavour to execute such purpose, are, although such purpose is not executed, guilty of a rout, and liable to three years' imprisonment. 1 R. S. N. B., c. 147, s. 7.

13. Three or more persons who, having assembled, continue together with intent unlawfully to execute any common purpose with force and violence, and who, wholly or in part, execute such purpose in a manner calculated to create terror and alarm, are guilty of a riot, and liable to four years' imprisonment. 1 R. S. N. B., c. 147, s. 8. ^{Punishment for riot.}

14. Two or more persons who fight together in a public place, in a manner calculated to create terror and alarm, are guilty of an affray, and liable, on summary conviction, to three months' imprisonment. R. S. N. S. (3rd S.), c. 162, s. 7;—1 R. S. N. B., c. 147, s. 9. ^{Punishment for affray.}

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 148.

A. D. 1886. An Act respecting the improper use of fire-arms and other weapons.

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

Persons carrying pistol or air gun may be bound to keep the peace.

1. Every one who has upon his person a pistol or air gun without reasonable cause to fear an assault or other injury to his person or his family or property, may, upon complaint made before any justice of the peace, be required to find sureties for keeping the peace for a term not exceeding six months ; and in default of finding such sureties, may be imprisoned for any term not exceeding thirty days. 40 V., c. 30, s. 1.

Having such weapon when arrested, &c.

2. Every one who, when arrested either on a warrant issued against him for an offence or whilst committing an offence, has upon his person a pistol or air-gun, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars and not less than twenty dollars, or to imprisonment for any term not exceeding three months. 40 V., c. 30, s. 2.

Or with intent to injure any person.

3. Every one who has upon his person a pistol or air-gun, with intent therewith unlawfully and maliciously to do injury to any other person, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding two hundred dollars and not less than fifty dollars, or to imprisonment for any term not exceeding six months ; and the fact of the pistol or air-gun being on the person shall be *prima facie* evidence of such intent. 40 V., c. 30, s. 3.

Pointing firearm at any person.

4. Every one who, without lawful excuse, points at another person any firearm or air-gun, whether loaded or unloaded, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars and not less than twenty dollars, or to imprisonment for any term not exceeding thirty days. 40 V., c. 30, s. 4.

Carrying daggers or other weapons.

5. Every one who carries about his person any bowie-knife, dagger or dirk, or any weapons called or known as iron knuckles, skull-crackers or slung shot, or other offensive weapons of a like character, or secretly carries about his person

any instrument loaded at the end, or sells or exposes for sale, publicly or privately, any such weapon, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars and not less than ten dollars, and in default of payment thereof, to imprisonment for any term not exceeding thirty days. 32-33 V., c. 20, s. 72.

6. Every one who is found, in any of the seaport towns or cities of Canada, carrying about his person any sheath-knife, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment thereof, to imprisonment for any term not exceeding thirty days : but nothing in this section contained shall apply to seamen or riggers when occupied or engaged in their lawful trade or calling. 32-23 V., c. 20, s. 73.

Carrying sheath knives in seaport towns.

Exception.

7. The court or justice before whom any person is convicted of any offence against the provisions of the preceding sections, shall impound the weapon for carrying which such person is convicted, and if the weapon is not a pistol, shall cause it to be destroyed; and if the weapon is a pistol, the court or justice shall cause it to be handed over to the corporation of the municipality in which the conviction takes place, for the public uses of such corporation :

Weapon to be impounded.

Disposal thereof.

2. If the conviction takes place where there is no municipality, the pistol shall be handed over to the Lieutenant Governor of the Province in which the conviction takes place, for the public uses thereof in connection with the administration of justice therein. 32-33 V., c. 20, s. 75 ;—45 V., c. 39, ss. 1 and 2.

If there is no municipality.

8. If two or more persons openly carry dangerous or unusual weapons in any public place, in such a manner and under such circumstances as are calculated to create terror and alarm, each of such persons shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment to imprisonment for any term not exceeding thirty days. R. S. N. S. (3rd S.), c. 162, s. 8 ;—1 R. S. N. B., c. 147, s. 10.

Openly carrying dangerous weapons.

9. No prosecution under this Act shall be commenced unless within one month after the commission of the offence charged. 32-33 V., c. 20, s. 76.

Time for prosecution limited.

10. Nothing hereinbefore contained shall affect the right of any soldier, sailor or volunteer in Her Majesty's service, constable or other policeman, to carry loaded pistols in the discharge of his duty. 40 V., c. 30, s. 7.

Exception as to soldiers, &c.



CHAPTER 149.

A. D. 1886. An Act respecting the seizure of Arms kept for dangerous purposes.

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

Interpretation.

“Arms.”

1. In this Act, unless the context otherwise requires, the expression “arms” includes any pike, pike-head, spear, dirk, dagger, sword, pistol, gun, rifle or other weapon, gunpowder, lead, cartridges, bullets and other ammunition or munitions of war.

Arms kept for any unlawful purpose may be seized.

2. Any justice of the peace, upon information on oath of one or more credible witnesses, that any arms are, for any purpose dangerous to the public peace, in the possession of any person, or in any house or place, may issue his warrant to any constable or any other peace officer, to search for and seize any such arms which are in the possession of any such person, or in any such house or place as aforesaid, and to arrest any person having such possession as aforesaid,—and if admission into such house or place is refused, or not obtained within a reasonable time after it has been first demanded, to enter by force, by day or by night, into every such house or place whatsoever,—and to detain or cause to be detained such person, and to keep in safe custody, in such place as the said justice appoints and directs, the arms so found and seized, unless the owner thereof proves, to the satisfaction of such justice, that such arms were not kept for for any purpose dangerous to the public peace; and every such person who has the possession or custody of any such arms, and is so arrested, shall be brought before any justice of the peace, and may be dealt with, tried and punished in the manner hereinafter provided. 31 V., c. 15, s. 3.

Person in possession thereof may be arrested.

Decision of claims for restitution of such arms.

3. Any person from whom any such arms are so taken may, if the justice of the peace upon whose warrant the same are taken, upon application made for that purpose, refuses to restore the same, apply to a judge of a superior or county court for the restitution of such arms, upon giving ten days' previous notice of such application to such justice; and such judge shall make such order for the restitution or safe custody of such arms, as, upon such application, appears to him to be proper. 31 V., c. 15, s. 4.

4. Any justice of the peace, constable, peace officer or other person acting under the warrant of any justice of the peace, or any person acting with or in aid of any justice of the peace, or of any constable or peace officer, having such warrant as aforesaid, may arrest and detain any person found carrying any such arms, in such manner and at such times as, in the judgment of such justice of the peace, affords just grounds of suspicion that the same are for purposes dangerous to the public peace; and the justice of the peace who arrests any such person, or before whom any person arrested upon such warrant is brought, may commit such person for trial for a misdemeanor; and such person shall be liable to be tried for a misdemeanor for carrying such arms and, on conviction, shall be punished by fine or imprisonment, or both, in the discretion of the court; but such person may, before conviction, give good and sufficient bail for his appearance at the next court of competent jurisdiction, to answer to any indictment which is preferred against him. 31 V., c. 15, s. 5.

Persons carrying such arms may be arrested

May be admitted to bail.

5. All justices of the peace in and for any district, county, city, town or place, in Canada, shall have concurrent jurisdiction as justices of the peace, with the justices of any other district, county, city, town or place, in all cases with respect to the carrying into execution the provisions of this Act, and with respect to all matters and things relating to the preservation of the public peace under this Act, as fully and effectually as if each of such justices was in the commission of the peace, or was *ex officio* a justice of the peace for each of such districts, counties, cities, towns or places. 31 V., c. 15, s. 6.

Concurrent jurisdiction of justices of the peace.

6. No person shall be prosecuted for any offence done or committed against the provisions of this Act, unless such prosecution is commenced within six months after the offence is committed. 31 V., c. 15, s. 9.

Time for prosecution limited.

7. The Governor in Council may, from time to time, by proclamation, suspend the operation of this Act in any Province of Canada or in any particular district, county or locality specified in the proclamation; and from and after the period specified in any such proclamation, the powers given by this Act shall be suspended in such Province, district, county or locality; but nothing herein contained shall prevent the Governor in Council from again declaring, by proclamation, that any such Province, district, county or locality shall be again subject to this Act and the powers hereby given, and upon such proclamation this Act shall be revived and in force accordingly. 31 V., c. 15, s. 8.

This Act may be suspended and again brought into force.



CHAPTER 150.

A. D. 1886.

An Act respecting Explosive Substances.

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

Short title.
[46 V., c. 3,
s. 1.]

1. This Act may be cited as "*The Explosive Substances Act.*" 48-49 V., c. 7, s. 1.

Interpretation.
"Attorney
General."

2. In this Act, unless the context otherwise requires,—
(a.) The expression "Attorney General" means the Attorney General of the Province of Canada in which any proceedings are taken under this Act, and, with respect to the North-West Territories and the District of Keewatin, the Attorney General of Canada;

"Explosive
substance."
[46 V., c. 3, s.
9.]

(b.) The expression "explosive substance" includes any materials for making any explosive substance: also any apparatus, machine, implement, or materials used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; and also any part of any such apparatus, machine or implement. 48-49 V., c. 7, s. 2.

Punishment
for maliciously
causing
dangerous
explosions.
[46 V., c. 3, s.
2.]

3. Every person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property is, whether any injury to person or property is actually caused or not, guilty of felony, and liable to imprisonment for life. 48-49 V., c. 7, s. 3.

Maliciously
doing acts, or
conspiring to
cause such
explosions.
[46 V., c. 3, s.
3.]

4. Every person who unlawfully and maliciously—
(a.) Does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion of a nature likely to endanger life, or to cause serious injury to property, or—

Maliciously
making or
having explo-
sive substan-
ces with
intent.

(b.) Makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life, or to cause serious injury to property or to enable any other person by means thereof to endanger life or to cause serious injury to property,—

Punishment.

Is, whether any explosion takes place or not, and whether any injury to person or property is actually caused or not, guilty of felony, and liable to fourteen years' imprisonment. 48-49 V., c. 7, s. 4.

5. Every person who makes or knowingly has in his possession or under his control any explosive substance under such circumstances as to give rise to a reasonable suspicion that he is not making it or has it not in his possession or under his control for a lawful object, is, unless he can show that he made it or had it in his possession or under his control for a lawful object, guilty of felony, and liable to seven years' imprisonment:

Making or having explosives without reasonable and lawful cause.
Burden of proof.
Punishment. [46 V., c. 3, s. 4.]

2. In any proceeding against any person for any offence under this section such person and his wife, or her husband, as the case may be, may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case:

Accused and his wife, or *vice versa* may be witnesses.

3. If any person is charged before a justice of the peace with any offence under this section, no further proceeding shall be taken against such person without the consent of the Attorney General, except such as the justice of the peace thinks necessary by remand or otherwise, to secure the safe custody of such person. 48-49 V., c. 7, s. 5.

Attorney General's consent for further proceedings. [46 V., c. 3, s. 7 (1).]

6. The same criminal act may be charged in different counts of an indictment as constituting different offences under this Act, and upon the trial of any such indictment the prosecutor shall not be put to his election as to the count on which he must proceed. 48-49 V., c. 7, s. 6.

As to counts of indictment. [46 V., c. 3, s. 7 (2).]

7. Every person accused of any offence under this Act may be dealt with, indicted, tried and punished in the district, county or place in which the offence is committed or in which he is apprehended, or is in custody. 48-49 V., c. 7, s. 7.

Venue.

8. If the Attorney General has reasonable ground to believe that any offence under this Act has been committed, he may order an enquiry, and thereupon any justice of the peace for the district, county or place in which the offence was committed or is suspected to have been committed, who is authorized in that behalf by the Attorney General, may, although no person is charged before him with the commission of such crime, examine on oath concerning such crime any witness appearing before him, and may take the deposition of such witness, and, if he sees cause, may bind such witness by recognizance to appear and give evidence at the next court of competent jurisdiction, or when called upon within three months from the date of such recognizance; and the law relating to the compelling of the attendance of a witness before a justice of the peace, and to a witness attending before a justice of the peace and required to give evidence concerning the matter of an information or complaint, shall apply to compelling the attendance of a witness for examination, and to a witness attending under this section:

Attorney General may order inquiry.
Jurisdiction of a justice of the peace under such order. [46 V., c. 3, s. 6 (1) (2) (3).]
Certain provisions applicable to witnesses in cases under this Act.

Witness may not refuse to answer on certain grounds. When only answer admissible against him.

2. A witness examined under this section shall not be excused from answering any question on the ground that the answer thereto may criminate, or tend to criminate, himself; but any statement made by any person in answer to any question put to him on any examination under this section, shall not, except in the case of an indictment or other criminal proceeding for perjury, be admissible in evidence against him in any proceeding, civil or criminal:

Examining justice not to commit for trial.

3. A justice of the peace who conducts the examination under this section, of a person concerning any offence, shall not take part in the committing for trial of such person for such offence. 48-49 V., c. 7, s. 8.

Arrest and commitment of absconding witnesses. [46 V., c. 3, s. 6 (4).]

9. Whenever any person is bound by recognizance to give evidence before a justice of the peace, or any criminal court, in respect of any offence under this Act, any justice of the peace, if he sees fit, upon information being made in writing and on oath, that such person is about to abscond, or has absconded, may issue his warrant for the arrest of such person; and if such person is arrested any justice of the peace, upon being satisfied that the ends of justice would otherwise be defeated, may commit such person to prison until the time at which he is bound by such recognizance to give evidence, unless in the meantime he produces sufficient sureties; but any person so arrested shall be entitled on demand to receive a copy of the information upon which the warrant for his arrest was issued. 48-49 V., c. 7, s. 9.

Witness to have copy of information.

Search warrants for explosives. [24-25 V., c. 97, s. 55, c. 100, s. 65; 100, s. 65.]

10. Any justice of the peace for any district, county or place, in which any explosive substance is suspected to be made, kept or carried for any unlawful object, may, upon reasonable cause assigned upon oath by any person, issue a warrant under his hand and seal for searching any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf or other place, or any carriage, wagon, cart, ship, boat or vessel, in which the same is suspected to be made, kept or carried for such object. 48-49 V., c. 7, s. 10.

Seizure under search warrant. [24-25 V., c. 97, s. 55, c. 100, s. 65; 38 V., c. 17, s. 74.]
Proceeding on such seizure.

11. Every person acting in the execution of any such warrant may seize any explosive substance which he has good cause to suspect is intended to be used for any unlawful object,— and shall, with all convenient speed, after the seizure, remove the same to such proper place as he thinks fit, and detain the same until ordered by a judge of a superior court to restore it to the person who claims the same. 48-49 V., c. 7, s. 11.

Disposal of explosives seized under this Act.

12. Any explosive substance seized under the provisions of this Act, shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of any offence under this Act, be forfeited; and the same shall be destroyed or sold under the direction of the court before

which such person is convicted, and, in the case of sale, the proceeds arising therefrom shall be paid to the Minister of Finance and Receiver General, for the public uses of Canada. 48-49 V., c. 7, s. 12.

13. The person who so searches or seizes shall not be liable to any suit for detaining such explosive substance, or for any loss or damage which happens thereto, without the wilful act or neglect of himself or of the person whom he intrusts with the keeping thereof. 48-49 V., c. 7, s. 13.

Person searching or seizing liable for wilful neglect only. [38 V., c. 17, s. 74 (5) (6).]

14. This Act shall not exempt any person from any indictment or proceeding for any offence which is punishable at common law, or by any other Act; but no person shall be twice punished for the same criminal act. 48-49 V., c. 7, s. 14.

Offender not exempt from punishment for other offences. [46 V., c. 3, s. 7 (4).]



CHAPTER 151.

A. D. 1886. An Act respecting the Preservation of Peace in the vicinity of Public Works.

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

INTERPRETATION.

- 1.** In this Act, unless the context otherwise requires,—
- (a.)** The expression “this Act” means such section or sections thereof as are in force, by virtue of any proclamation, in the place or places with reference to which the Act is to be construed and applied;
- (b.)** The expression “commissioner” means a commissioner under this Act;
- (c.)** The expression “weapon” includes any gun or other firearm, or air-gun or any part thereof, or any sword, sword-blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, or other instrument intended for cutting or stabbing, or any steel or metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon;
- (d.)** The expression “intoxicating liquor” means and includes any alcoholic, spirituous, vinous, fermented, or other intoxicating liquor, or any mixed liquor, a part of which is spirituous or vinous, fermented or otherwise intoxicating;
- (e.)** The expression “district, county or place,” includes any division of any Province for the purposes of the administration of justice in the matter to which the context relates;
- (f.)** The expression “public work” means and includes any railway, canal, road, bridge or other work of any kind, and any mining operation constructed or carried on by the Government of Canada, or of any Province of Canada, or by any municipal corporation, or by any incorporated company, or by private enterprise. 32-33 V., c. 24, s. 2, *part*, and s. 21;—33 V., c. 28, s. 2, *part*;—48-49 V., c. 80, s. 1.

PROCLAMATION.

2. The Governor in Council may, as often as occasion requires, declare, by proclamation, that upon and after a day

Act may be declared in force at any

therein named, this Act, or any section or sections thereof, shall be in force in any place or places in Canada in such proclamation designated, within the limits or in the vicinity whereof any public work is in course of construction, or in such places as are in the vicinity of any public work, within which he deems it necessary that this Act, or any section or sections thereof, should be in force, and this Act, or any such section or sections thereof, shall, upon and after the day named in such proclamation, take effect within the places designated therein :

2. The Governor in Council, may, in like manner, from time to time, declare this Act, or any section or sections thereof, to be no longer in force in any such place or places,—and may again, from time to time, declare this Act, or any section or sections thereof, to be in force therein:

3. No such proclamation shall have effect within the limits of any city :

4. All courts, magistrates and justices of the peace shall take judicial notice of every such proclamation. 48-49 V., c. 80, s. 2.

WEAPONS.

3. On or before the day named in such proclamation, every person employed on or about any public work, to which the same relates, shall bring and deliver up, to some commissioner or officer appointed for the purposes of this Act, every weapon in his possession, and shall obtain from such commissioner or officer a receipt for the same. 32-33 V., c. 24, s. 3.

4. Every weapon found in the possession of any person employed, as aforesaid, after the day named in any proclamation and within the limits designated in such proclamation, may be seized by any justice of the peace, commissioner, constable or other peace officer,—and shall be forfeited to the use of Her Majesty. 32-33 V., c. 24, s. 5.

5. Every one employed upon or about any public work, within the place or places in which this Act is then in force, who, upon or after the day named in such proclamation, keeps or has in his possession or under his care or control, within any such place, any weapon, shall incur a penalty not exceeding four dollars and not less than two dollars for every such weapon found in his possession. 32-33 V., c. 24, s. 2, *part*.

6. Every one who, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within any place in which this Act is at the time in force, any weapon belonging to or in the custody of any person employed on or about any public work, shall incur a penalty not exceeding one hundred dollars and not less than forty dollars, and a moiety of such penalty

shall belong to the informer and the other moiety to Her Majesty, for the public uses of Canada 32-33 V., c. 24, s. 6.

Persons unlawfully carrying arms may be arrested.

7. Any commissioner or justice of the peace, constable or peace officer, or any person acting under a warrant, in aid of any constable or peace officer, may arrest and detain any person employed on any public work, found carrying any weapon, within any place in which this Act is, at the time, in force, at such time and in such manner as, in the judgment of such commissioner, justice of the peace, constable or peace officer, or person acting under a warrant, affords just cause of suspicion that it is carried for purposes dangerous to the public peace; and every one so employed, who so carries any such weapon, is guilty of a misdemeanour,—and the justice of the peace or commissioner arresting such person, or before whom he is brought under such a warrant, may commit him for trial for a misdemeanour, unless he gives sufficient bail for his appearance at the next term or sitting of the court before which the offence can be tried, to answer to any indictment to be then preferred against him. 32-33 V., c. 24, s. 8.

And committed.

Search warrant may be issued.

8. Any commissioner appointed under this Act, or any justice of the peace having authority within the place in which this Act is at the time in force, upon the oath of a credible witness that he believes that any weapon is in the possession of any person or in any house or place contrary to the provisions of this Act, may issue his warrant to any constable or peace officer to search for and seize the same,—and he, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place. 32-33 V., c. 24, s. 7, *part*.

Right of entry for search.

9. If admission to any such house or place is refused after demand, such constable or peace officer, and any person in his aid, may enter the same by force, by day or by night, and seize any such weapon and deliver it to such commissioner; and unless the person in whose possession or in whose house or premises the same is found, within four days next after the seizure, proves to the satisfaction of such commissioner or justice of the peace that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Act, such weapon shall be forfeited to the use of Her Majesty. 32-33 V., c. 24, s. 7, *part*.

Forfeiture of arms found.

Disposal of forfeited arms.

10. All weapons declared forfeited under this Act shall be sold or destroyed under the direction of the commissioner by whom or by whose authority the same are seized, and the proceeds of such sale, after deducting necessary expenses, shall be received by such commissioner and paid over by him to the Minister of Finance and Receiver General, for the public uses of Canada. 32-33 V., c. 24, s. 10.

11. Whenever this Act ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or whenever the owner or person lawfully entitled to any such weapon satisfies the commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it. 32-33 V., c. 24, s. 4. Restitution of arms when Act is no longer in force.

12. Every commissioner under this Act shall make a monthly return to the Secretary of State of all weapons delivered to him, and by him detained under this Act. 32-33 V., c. 24, s. 9. Monthly returns to be made.

INTOXICATING LIQUOR.

13. Upon and after the day named in such proclamation and during such period as such proclamation remains in force, no person shall, at any place within the limits specified in such proclamation, sell, barter or, directly or indirectly, for any matter, thing, profit or reward, exchange, supply or dispose of, any intoxicating liquor; nor expose, keep or have in possession any intoxicating liquor intended to be dealt with in any such way: Sale of liquor prohibited.

2. The provisions of this section shall not extend to any person selling intoxicating liquor by wholesale, and not retailing the same, if such person is a licensed distiller or brewer. 48-49 V., c. 80, s. 3, *part.* Possession of liquors for sale prohibited. Proviso.

14. Every one who, by himself, his clerk, servant, agent or other person, violates any of the provisions of the next preceding section, is guilty of an offence against this Act, and, on a first conviction, shall be liable to a penalty of forty dollars and costs, and, in default of payment, to imprisonment for a term not exceeding three months,—and on every subsequent conviction, to the said penalty and the said imprisonment in default of payment, and also to further imprisonment for a term not exceeding six months. 48-49 V., c. 80, s. 3, *part.* Penalty for contravention.

15. Every clerk, servant, agent or other person who, being in the employment of, or on the premises of another person, violates or assists in violating any of the provisions of the thirteenth section of this Act, for the person in whose employment or on whose premises he is, shall be equally guilty with the principal offender, and shall be liable to the penalties mentioned in the next preceding section. 48-49 V., c. 80, s. 3, *part.* Agent to be liable to same penalty as principal.

16. If any person makes oath or affirmation before any commissioner or justice of the peace, that he has reason to believe, and does believe that any intoxicating liquor with Search for and seizure of liquor, on information and warrant.

respect to which a violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed is, within the limits specified in any proclamation by which this Act has been proclaimed to be in force, on board of any steam-boat, vessel, boat, canoe, raft or other craft, or in or about any building or premises, or in any carriage, vehicle or other conveyance, or at any place, the commissioner or justice of the peace shall issue a search-warrant to any sheriff, police officer, constable or bailiff who shall forthwith proceed to search the steamboat, vessel, boat, canoe, raft, other craft, building, premises, carriage, vehicle, conveyance or place described in such search-warrant; and if any intoxicating liquor is found therein or thereon the person executing such search-warrant shall seize the intoxicating liquor and the barrels, casks, jars, bottles or other packages in which it is contained and shall keep it and them secure until final action is had thereon:

Seized liquor to be securely kept.

Proviso: where there is no shop or bar.

2. No dwelling house in which, or in part of which, or on the premises whereof, a shop or bar is not kept, shall be searched, unless the said informant also makes oath or affirmation that some offence in violation of the provisions of the thirteenth section of this Act has been committed therein or therefrom within one month next preceding the time of making his said information for a search-warrant:

Owner to be summoned.

3. The owner, keeper or person in possession of the intoxicating liquor so seized, if he is known to the officer seizing the same, shall be summoned forthwith by the commissioner or justice of the peace who issued the search-warrant to appear before such commissioner or justice of the peace; and if he fails so to appear, or if it appears to the satisfaction of such commissioner or justice of the peace that a violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed, with respect to such intoxicating liquor, it shall be declared forfeited, with any package in which it is contained, and shall be destroyed by authority of the written order to that effect of such commissioner or justice, and in his presence or in the presence of some person appointed by him to witness the destruction thereof; and the commissioner or justice, or the person so appointed by him, and the officer by whom the said intoxicating liquor has been destroyed, shall jointly attest, in writing upon the back of the said order, the fact that it has been destroyed:

Liquor forfeited and to be destroyed.

Attestation of destruction.

Owner, keeper or persons in possession may be convicted at once.

4. The owner, keeper, or person in possession of any intoxicating liquor seized and forfeited under the provisions of this section may be convicted of an offence against the thirteenth section of this Act without any further information laid or trial had, and shall be liable to the penalties mentioned in the fourteenth section of this Act. 48-49 V., c. 80, s. 3, *part*.

If owner is unknown.

17. If the owner, keeper or possessor of intoxicating liquor seized under the next preceding section is unknown to the

officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure, with the number and description of the packages, as near as may be, has been advertised, for two weeks, by posting up a written or a printed notice and description thereof, in at least three public places of the place where it was seized :

Seizure to be advertised before liquor is destroyed.

2. If it is proved within such two weeks, to the satisfaction of the commissioner or justice by whose authority such intoxicating liquor was seized, that with respect to such intoxicating liquor no violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed. it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor in writing upon the back of the search-warrant, which shall be returned to the commissioner or justice who issued the same ; but if, after such advertisement as aforesaid, it appears to such commissioner or justice that a violation of the provisions of the thirteenth section of this Act has been committed or is intended to be committed, then such intoxicating liquor, with any package in which it is contained, shall be forfeited and destroyed, according to the provisions of the next preceding section. 48-49 V., c. 80, s. 3, *part*.

When liquor may be delivered to owner.

Forfeiture and destruction in other cases.

18. Any payment or compensation, whether in money or securities for money, labour or property of any kind, for intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions of the thirteenth section of this Act, shall be held to have been criminally received without consideration and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the person making, paying or furnishing such payment or compensation ; and all sales, transfers, conveyances, liens and securities of every kind, which, either in whole or in part have been made or given for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of contrary to the provisions of the thirteenth section of this Act, shall be void against all persons, and no right shall be acquired thereby ; and no action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions of the said section. 48-49 V., c. 80, s. 3, *part*.

Money paid or consideration given for liquor sold contrary to Act, may be recovered.

No action to lie for or on account of such liquor.

19. In any prosecution under this Act for any offence with respect to intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor with respect to which the offence has been committed, or to the precise consideration therefor, or to the fact of the offence having been committed with his participation or to his own personal and certain knowledge ; but the commissioner or justice of the peace trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish

Evidence of precise description of liquor not necessary, nor of personal knowledge of sale, &c.

the offence complained of, shall put the defendant on his defence, and in default of such evidence being rebutted, shall convict the defendant accordingly. 48-49 V., c. 80, s. 4.

GENERAL PROVISIONS.

Procedure and powers of the commissioner or justice.

20. Any commissioner or justice of the peace may hear and determine, in a summary manner, any case arising within his jurisdiction under this Act; and every person making complaint against any other person for violating this Act, or any provision thereof, before such commissioner or justice, may be admitted as a witness; and the commissioner or justice of the place before whom the examination or trial is had, may, if he thinks there was probable cause for the prosecution, order that the defendant shall not recover costs, although the prosecution fails. 32-33 V., c. 24, s. 17.

Certain Acts to apply.

21. All the provisions of every law respecting the duties of justices of the peace in relation to summary convictions and orders, and to appeals from such convictions, and for the protection of justices of the peace when acting as such, or to facilitate proceedings by or before them in matters relating to summary convictions and orders, shall, in so far as they are not inconsistent with this Act, apply to every commissioner or justice of the peace mentioned in this Act or empowered to try offenders against this Act; and every such commissioner shall be deemed a justice of the peace within the meaning of any such law, whether he is or is not a justice of the peace for other purposes. 32-33 V., c. 24, s. 18.

Commissioner to be deemed a justice.

Defendant and his consort competent witnesses.

22. On the trial of any proceeding, matter or question under this Act, the person opposing or defending, and the wife or husband of such person, shall be competent to give evidence. 48-49 V., c. 80, s. 5.

Defect of form not to invalidate proceedings.

23. No action or other proceeding, warrant, judgment, order or other instrument or writing, authorized by this Act or necessary to carry out its provisions, shall be held void or be allowed to fail for defect of form. 32-33 V., c. 24, s. 20.

Limitation of time for actions against persons acting under this; Act. &c.

24. Every action brought against any commissioner or justice of the peace, constable, peace officer or other person, for anything done in pursuance of this Act, shall be commenced within six months next after the alleged cause of action arises; and the venue shall be laid or the action instituted in the district or county or place where the cause of action arose; and the defendant may plead the general issue and give this Act and the special matter in evidence; and if such action is brought after the time limited, or the venue is laid or the action brought in any other district, county or place than as above prescribed, the judgment or verdict shall be given for

the defendant ; and in such case, or if the judgment or verdict is given for the defendant on the merits, or if the plaintiff becomes non-suited or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the defendant shall be entitled to recover double costs. 32-33 V., c. 24, s. 19.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 152.

A. D. 1886. An Act respecting the Preservation of Peace at Public Meetings.

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

Justice of the peace may disarm persons attending a meeting.

1. Any justice of the peace within whose jurisdiction any public meeting is appointed to be held, may demand, have and take of and from any person attending such meeting, or on his way to attend the same, any offensive weapon, such as fire-arms, swords, staves, bludgeons, or the like, with which any such person is so armed, or which any such person has in his possession; and every such person who, upon such demand, declines or refuses to deliver up, peaceably and quietly, to such justice of the peace, any such offensive weapon as aforesaid, is guilty of a misdemeanour, and such justice may thereupon record the refusal of such person to deliver up such weapon, and adjudge him to pay a penalty not exceeding eight dollars,—which penalty shall be levied in like manner as penalties are levied under the "*Act respecting summary proceedings before Justices of the Peace,*" or such person may be proceeded against by indictment or information, as in other cases of misdemeanour; but such conviction shall not interfere with the power of such justice, or any other justice of the peace, to take such weapon, or cause the same to be taken from such person, without his consent and against his will, by such force as is necessary for that purpose. C. S. C., c. 82, s. 15.

Punishment of person refusing to surrender weapons.

Conviction not to prevent disarming.

Restitution of weapons.

2. Upon reasonable request to any justice of the peace, to whom any such weapon has been peaceably and quietly delivered as aforesaid, made on the day next after the meeting has finally dispersed, and not before, such weapon shall, if of the value of one dollar or upwards, be returned by such justice of the peace to the person from whom the same was received. C. S. C., c. 82, s. 16.

No liability in case of accidental loss.

3. No such justice of the peace shall be held liable to return any such weapon, or make good the value thereof, if the same, by unavoidable accident, has been actually destroyed or lost out of the possession of such justice without his wilful default. C. S. C., c. 82, s. 17.

4. Every person who is convicted of a battery, committed within the distance of two miles of the place appointed for the holding of such public meeting and during any part of the day whereon any such meeting has been appointed to be held, shall be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. C. S. C., c. 82, s. 18.

Punishment of persons convicted of battery near a meeting.

5. Every person, except the sheriff, deputy sheriff and justices of the peace for the district or county, or the mayor and justices of the peace for the city or town respectively, in which any such meeting is held, and the constables and special constables employed by them, or any of them, for the preservation of the public peace at such meeting, who, during any part of the day upon which such meeting is appointed to be held, comes within two miles of the place appointed for such meeting, armed with any offensive weapon of any kind, as fire-arms, swords, staves, bludgeons, or the like, is guilty of a misdemeanour, and liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. C. S. C., c. 82, s. 19.

Punishment of persons approaching a meeting armed.

6. Every person who lies in wait for any person returning, or expected to return, from any such public meeting, with intent to commit an assault upon such person, or with intent, by abusive language, opprobrious epithets or other offensive demeanour, directed to, at or against such person, to provoke such person, or those who accompany him, to a breach of the peace, is guilty of a misdemeanour, and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both. C. S. C., c. 82, s. 20.

Punishment of persons lying in wait.

7. No action shall be brought against any person for anything done by him under authority of this Act, unless within twelve months next after the cause of such action accrued. C. S. C., c. 82, s. 21.

Time for actions limited.



CHAPTER 153.

A. D. 1886.

An Act respecting Prize Fighting.

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

Interpretation.

“ Prize
“ fight.”

1. In this Act, unless the context otherwise requires, the expression “ prize fight ” means an encounter or fight with fists or hands, between two persons who have met for such purpose by previous arrangement made by or for them. 44 V., c. 30, s. 1.

Punishment of person challenging to or preparing for a prize fight.

2. Every one who sends or publishes, or causes to be sent or published, or otherwise made known, any challenge to fight a prize fight, or accepts any such challenge, or causes the same to be accepted, or goes into training preparatory to such fight, or acts as trainer or second to any person who intends to engage in a prize fight, is guilty of a misdemeanour, and liable, on summary conviction, to a penalty not exceeding one thousand dollars and not less than one hundred dollars, or to imprisonment for a term not exceeding six months, or to both. 44 V., c. 30, s. 2.

Punishment of principal in prize fight.

3. Every one who engages as a principal in a prize fight is guilty of a misdemeanour, and liable, on summary conviction, to imprisonment for a term not exceeding twelve months and not less than three months. 44 V., c. 30, s. 3.

And of aiders and abettors.

4. Every one who is present at a prize fight as an aid, second, surgeon, umpire, backer, assistant or reporter, or who advises, encourages or promotes such fight, is guilty of a misdemeanour, and liable, on summary conviction, to a penalty not exceeding five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding twelve months, or to both. 44 V., c. 30, s. 4.

Punishment for leaving Canada to engage in a prize fight.

5. Every one who, being an inhabitant or resident of Canada, leaves Canada with intent to engage in a prize fight without the limits thereof, is guilty of a misdemeanour, and liable, on summary conviction, to a penalty not exceeding four hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months, or to both. 44 V., c. 30, s. 5.

6. If, at any time, the sheriff of any county, place or district in Canada, any chief of police, any police officer, or any constable, or other peace officer, has reason to believe that any person within his bailiwick or jurisdiction is about to engage as principal in any prize fight within Canada, he shall forthwith arrest such person and take him before some person having authority to try offences against this Act, and shall forthwith make complaint in that behalf, upon oath, before such person; and thereupon such person shall inquire into the charge, and if he is satisfied that the person so brought before him was, at the time of his arrest, about to engage as a principal in a prize fight, he shall require the accused to enter into a recognizance, with sufficient sureties, in a sum not exceeding five thousand dollars and not less than one thousand dollars, conditioned that the accused will not engage in any such fight within one year from and after the date of such arrest; and in default of such recognizance, the person before whom the accused has been brought shall commit the accused to the gaol of the county, district or city within which such inquiry takes place, or if there is no common gaol there, then to the common gaol which is nearest to the place where such inquiry is had, there to remain until he gives such recognizance with such sureties. 44 V., c. 30, s. 6.

Proceedings when prize fight is about to take place.

Arrest.

Recognizance.

Commitment in default.

7. If any sheriff has reason to believe that a prize fight is taking place or is about to take place within his jurisdiction as such sheriff, or that any persons are about to come into Canada at a point within his jurisdiction, from any place outside of Canada, with intent to engage in, or to be concerned in, or to attend any prize fight within Canada, he shall forthwith summon a force of the inhabitants of his district or county sufficient for the purpose of suppressing and preventing such fight,—and he shall, with their aid, suppress and prevent the same, and arrest all persons present thereat, or who come into Canada as aforesaid, and shall take them before some person having authority to try offences against this Act, to be dealt with according to law, and fined or imprisoned, or both, or compelled to enter into recognizances with sureties, as hereinbefore provided, according to the nature of the case. 44 V., c. 30, s. 7.

Sheriff may prevent prize fight by force.

8. Every person offending against any of the provisions of this Act, except the principals engaged or intending to engage in a prize fight, shall be competent and compellable to give evidence in any proceeding under this Act, in the same manner and to the same extent as other persons; and no person examined as a witness shall be excused from answering any question on the ground that his answer will tend to criminate him; but his evidence shall not be used against him in any proceeding or prosecution whatsoever, and he shall not be liable to punishment for the offence respecting which he is required to testify. 44 V., c. 30, s. 8.

Who shall be competent witnesses, &c.

If the fight was not a prize fight but an actual quarrel.

9. If, after hearing evidence of the circumstances connected with the origin of the fight or intended fight, the person before whom a complaint is made under this Act is satisfied that such fight or intended fight was *bonâ fide* the consequence or result of a quarrel or dispute between the principals engaged or intended to engage therein, and that the same was not an encounter or fight for a prize, or on the result of which the handing over or transfer of money or property depends, such person may, in his discretion, discharge the accused or impose upon him a penalty not exceeding fifty dollars. 44 V., c. 30, s. 9.

Certain judges to have powers of justices of the peace.

10. Every judge of a superior court or of a county court, judge of the sessions of the peace, stipendiary magistrate, police magistrate, and commissioner of police of Canada, shall, within the limits of his jurisdiction as such judge, magistrate or commissioner, have all the powers of a justice of the peace with respect to offences against this Act. 44 V., c. 30, s. 10, *part.*



CHAPTER 154.

An Act respecting Perjury.

A. D. 1886.

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

1. Every one who commits perjury or subornation of perjury is guilty of a misdemeanour, and liable to a fine in the discretion of the court and to fourteen years' imprisonment. 32-33 V., c. 23, s. 1. Punishment of perjury.

2. Every one who,—

(a.) Having taken any oath, affirmation, declaration or affidavit in any case in which by any Act or law in force in Canada, or in any Province of Canada, it is required or authorized that facts, matters or things be verified, or otherwise assured or ascertained, by or upon the oath, affirmation, declaration or affidavit of any person, wilfully and corruptly, upon such oath, affirmation, declaration or affidavit, deposes, swears to or makes any false statement as to any such fact, matter or thing,— Who are guilty of perjury. Oath, &c., required by any Act in force falsely taken.

(b.) Knowingly, wilfully and corruptly, upon oath or affirmation, affirms, declares, or deposes to the truth of any statement for so verifying, assuring or ascertaining any such fact, matter or thing, or purporting so to do, or knowingly, wilfully and corruptly takes, makes, signs or subscribes any such affirmation, declaration or affidavit, as to any such fact, matter or thing,—such statement, affidavit, affirmation or declaration being untrue, in the whole or any part thereof, or— False statement of fact.

(c.) Knowingly, wilfully and corruptly omits from any such affidavit, affirmation or declaration, sworn or made under the provisions of any law, any matter which, by the provisions of such law, is required to be stated in such affidavit, affirmation or declaration,— Wilful omission.

Is guilty of wilful and corrupt perjury, and liable to be punished accordingly :

2. Provided, that nothing herein contained shall affect any case amounting to perjury at common law, or the case of any offence in respect of which other or special provision is made by any Act. 32-33 V., c. 23, s. 2. As to perjury at common law.

Making false affidavit out of the Province in which it is to be used. [18-19 V., c. 42, s. 4.]

3. Every person who wilfully and corruptly makes any false affidavit, affirmation or declaration, out of the Province in which it is to be used, but within Canada, before any functionary authorized to take the same for the purpose of being used in any Province of Canada, shall be deemed guilty of perjury, in like manner as if such false affidavit, affirmation or declaration had been made in the Province in which it is used, or intended to be used, before a competent authority. 33 V., c. 26, s. 1, *part.*

Judge may direct prosecution of person guilty of perjury before him. [14-15 V., c. 11, s. 19.]

4. Any judge of any court of record, or any commissioner before whom any inquiry or trial is held, and which he is by law required or authorized to hold, may, if it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, affirmation, declaration, deposition, examination, answer or other proceeding made or taken before him, direct such person to be prosecuted for such perjury, if there appears to such judge or commissioner a reasonable cause for such prosecution,—and may commit such person so directed to be prosecuted until the next term, sittings or session of any court having power to try for perjury, in the jurisdiction within which such perjury was committed, or permit such person to enter into a recognizance, with one or more sufficient sureties, conditioned for the appearance of such person at such next term, sittings or session, and that he will then surrender and take his trial and not depart the court without leave,—and may require any person, such judge or commissioner thinks fit, to enter into a recognizance conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid 32-33 V., c. 23, s. 6.

Commitment or admission to bail.

All evidence material with respect to perjury.

5. All evidence and proof whatsoever, whether given or made orally, or by or in any affidavit, affirmation, declaration, examination or deposition, shall be deemed and taken to be material with respect to the liability of any person to be proceeded against and punished for wilful and corrupt perjury, or for subornation of perjury. 32-33 V., c. 23, s. 7.



CHAPTER 155.

An Act respecting Escapes and Rescues.

A. D. 1886.

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

- 1.** Every one who is convicted of a felonious rescue is liable to seven years' imprisonment, when no special punishment is otherwise provided by statute. 32-33 V., c. 29, s. 84, *part.*

Felonious rescue.
- 2.** Every one who escapes from or rescues, or aids in rescuing any other person from lawful custody, or makes or causes any breach of prison, if such offence does not amount to felony, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 29, s. 84, *part.*

Escape or rescue from lawful custody.
- 3.** Every one who, being a prisoner ordered to be detained in any penitentiary, escapes from the person or persons having the lawful custody of him, when being conveyed thereto, or when being conveyed from one penitentiary to another, is guilty of felony, and liable to two years' imprisonment. 46 V., c. 37, s. 54, *part.*

Escape while being conveyed to a penitentiary.
[1-2 V., c. 82, s. 12; 5-6 V., c. 29, s. 24; 6-7 V., c. 26, s. 22.]
- 4.** Every one who, being a prisoner in a penitentiary, breaks prison or escapes, or attempts to escape from the custody of any officer, guard or other servant of the penitentiary while at work, or passing to or from work, either within or beyond the prison walls or penitentiary limits, is guilty of felony, and liable to three years' imprisonment. 46 V., c. 37, s. 54, *part.*

Escape from a penitentiary while at work.
- 5.** Every one who, being a prisoner in any penitentiary, at any time attempts to break prison, or who forcibly breaks out of his cell, or makes any breach therein with intent to escape therefrom, whether successful or not, is guilty of felony, and liable to one year's imprisonment. 46 V., c. 37, s. 55, *part.*

Breaking out of a penitentiary.
[1-2 V., c. 82, s. 12; 5-6 V., c. 29, s. 24; 6-7 V., c. 26, s. 22.]
- 6.** Every one who rescues or attempts to rescue any prisoner while being conveyed to any penitentiary, or while imprisoned therein, or while being conveyed from one penitentiary to another, or while passing to or from work at or near any penitentiary,—and every one who, by supplying arms, tools or instruments of disguise, or otherwise in any manner aids any such

Rescuing prisoner from a penitentiary.
[1-2 V., c. 82, s. 13; 5-6 V., c. 29, s. 25; 6-7 V., c. 26,

s. 23 ; 28-29
V., c. 126, s.
37.]

prisoner in any escape or attempt at escape, is guilty of felony, and liable to five years' imprisonment. 46 V., c. 37, s. 57.

Keepers
allowing
prisoner in a
penitentiary
to escape.
[1-2 V., c. 82,
s. 13 ; 5-6 V.,
c. 29, s. 25 ;
6-7 V., c. 26,
s. 23.]

7. Every one who, having the custody of any such prisoner as aforesaid, or being employed by the person having such custody, as a keeper, turnkey, guard or assistant, carelessly allows any such prisoner to escape, is guilty of a misdemeanour, and liable to fine or imprisonment, or to both, in the discretion of the court; and every such person as aforesaid, who knowingly and wilfully allows any such convict to escape, is guilty of felony, and liable to five years' imprisonment. 46 V., c. 37, s. 58.

Unlawfully
procuring
discharge of
prisoner.

8. Every one who, knowingly and unlawfully, under colour of any pretended authority, directs or procures the discharge of any prisoner not entitled to be so discharged, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years; and the person so discharged shall be held to have escaped. 32-23 V., c. 29, s. 85.

9. * * * *

Repealed and new section substituted by 53 V., c. 37, s. 1.

10. Every one who,—

Assisting
escape from
such prison.

(a.) Knowingly assists, directly or indirectly, any offender detained in a reformatory prison or reformatory or industrial school, to escape from such prison or school,—

Including to
escape.

(b.) Directly or indirectly induces such an offender to escape from such prison or school;

Harbouring
escaped
prisoner.

(c.) Knowingly harbours, conceals or prevents from returning to the prison or school, or assists in harbouring, concealing or preventing from returning to the prison or school, any offender who has escaped from such prison or school,—

Punishment.

Shall be liable, on summary conviction before two justices of the peace, to a penalty not exceeding eighty dollars, or to imprisonment with or without hard labour for any term not exceeding two months. 32-33 V., c. 34, s. 8.

How escaped
prisoners
shall be
punished.

11. Every one who escapes from imprisonment shall, on being retaken, undergo, in the prison he escaped from, the remainder of his term unexpired at the time of his escape; and any imprisonment awarded for such offence may be to the penitentiary or prison from which the escape was made. 32-33 V., c. 29, s. 87.



CHAPTER 156.

An Act respecting Offences against Religion.

A. D. 1886.

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

1. Every one who, by threats or force, unlawfully obstructs or prevents, or endeavours to obstruct or prevent, any clergy man or other minister, in or from celebrating divine service, or otherwise officiating in any church, chapel, meeting-house, school-house or other place used for divine worship, or in or from the performance of his duty in the lawful burial of the dead, in any church-yard or other burial place, or strikes or offers any violence to, or upon any civil process, or under the pretence of executing any civil process, arrests any clergyman or other minister who is engaged in or, to the knowledge of the offender, is about to engage in any of the rites or duties in this section mentioned, or who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 36.

Obstructing or assaulting a clergyman in the discharge of his duties. [24-25 V., c. 100, s. 36.]

Punishment.

2. Every one who wilfully disturbs, interrupts or disquiets any assemblage of persons met for religious worship, or for any moral, social or benevolent purpose, by profane discourse, by rude or indecent behaviour, or by making a noise, either within the place of such meeting or so near it as to disturb the order or solemnity of the meeting, is guilty of a misdemeanour and liable, on summary conviction, to a penalty not exceeding twenty dollars and costs, and, in default of payment, to imprisonment for a term not exceeding one month,—and may be arrested on view by any peace officer present at such meeting, or by any other person present, verbally authorized thereto by any justice of the peace present thereat, and detained until he can be brought before a justice of the peace. 32-33 V., c. 20, s. 37.

Disturbing congregation met for religious worship.

Punishment.



CHAPTER 157.

A. D. 1886. An Act respecting Offences against Public Morals and Public Convenience.

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

Sodomy.
[24-25 V., c.
100, s. 61.]

1. Every one who commits the crime of buggery, either with a human being or with any other living creature, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 63.

Attempts.
[24-25 V., c.
100, s. 62.]

2. Every one who attempts to commit buggery, or assaults any person with intent to commit buggery, or who, being a male, indecently assaults any other male, is guilty of a misdemeanour, and liable to ten years' imprisonment. 32-33 V., c. 20, s. 64.

Persons
who—
Seduce or
attempt to
seduce girls
under sixteen.

3. Every one who—

(a.) Seduces and has illicit connection with any girl of previously chaste character, or who attempts to have illicit connection with any girl of previously chaste character, being in either case of or above the age of *fourteen* (See 53 V., c. 37, s. 3.) years, and under the age of sixteen years, or—

Unlawfully
have connec-
tion with
idiot or imbe-
cile women or
girls.

(b.) Unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile or *insane* woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the offence that the woman or girl was an idiot or imbecile or *insane*—(added by 50-51 V. c. 48, s 1.)

Punishment.

Is guilty of a misdemeanour, and liable to two years' imprisonment. 49 V., c. 52, s. 1 and s. 8, part.

4. * * * * *

Repealed and new section substituted by 50-51 V., c. 48, s. 2.

Inducing
resort for
carnal illicit
knowledge.

5. Every one who, being the owner and occupier of any premises, or having, or acting, or assisting in the management or control thereof, induces, or knowingly suffers, any girl of such age as in this section mentioned, to resort to or be in or upon such premises for the purpose of being unlawfully and

[48-49 V., c.
69, s. 6.]

carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally,—

(a.) If such girl is under the age of *fourteen* (See 53 Vic., c. 37, s. 3.) years, is guilty of felony, and liable to ten years' imprisonment,— Punishment if girl is under fourteen.

(b.) If such girl is of or above the age of *fourteen* and under the age of sixteen years, is guilty of a misdemeanour, and liable to two years' imprisonment : And if over fourteen and under sixteen.

Provided, that it shall be a sufficient defence to any charge under this section if it is made to appear to the court or jury before whom the charge is brought, that the person so charged had reasonable cause to believe that the girl was of or above the age of sixteen years. 49 V., c. 52, s. 4 and s. 8, *part*. Reasonable doubt as to age, a sufficient defence.

6. No person shall be convicted of any offence under the three sections of this Act next preceding upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused : No conviction on evidence of one witness only.

2. In every case arising under the said sections, the defendant shall be a competent witness in his own behalf upon any charge or complaint against him : Defendant a competent witness. [48-49 V., c. 69, s. 20.]

3. No prosecution under the said sections shall be commenced after the expiration of one year from the time when the offence was committed. 49 V., c. 52, ss. 5, 6 and 7, *parts*. Limitation of time for prosecution.

The provisions of this section apply also to offences under 53 V., c. 37, ss. 4 and 9 (q. v.)

7. Every one who, by false pretences, false representations, or other fraudulent means,— Persons who—

(a.) Procures any woman or girl, under the age of twenty-one years, to have illicit carnal connection with any man other than the procurer, or— Procure defilement of girl under age, or—

(b.) Inveigles or entices any such woman or girl to a house of ill-fame or assignation, for the purpose of illicit intercourse or prostitution, or who knowingly conceals in such house any such woman or girl so inveigled or enticed,— Entice girl under age to bawdy house, &c. [24-25 V., c. 100, s. 49.]

Is guilty of a misdemeanour, and is liable to two years' imprisonment : Punishment. [48-49 V., c. 69, s. 2.]

2. Whenever there is reason to believe that any such woman or girl has been inveigled or enticed to a house of ill-fame or assignation, as aforesaid, then, upon complaint thereof being made under oath by the parent, master or guardian of such woman or girl, or in the event of such woman or girl having neither parent, master nor guardian in the province in which the offence is alleged to have been committed, by any other person, to any justice of the peace, or to a judge of any court authorized to issue warrants in cases of alleged offences against the criminal law, such justice of the peace or judge of the court may issue a warrant to enter, by day or night, such house of ill-fame or assignation, and to search for such woman or girl, and bring her, and the person or persons in whose keeping and Search for person so inveigled and proceedings if she is found in such house. [48-49 V., c. 69, s. 10.]

possession she is, before such justice of the peace or judge of the court, who may, on examination, order her to be delivered to her parent, master or guardian, or to be discharged, as law and justice require. 48-49 V., c. 82, s. 1.

What persons shall be deemed loose, idle or disorderly or vagrants.
[5 G. 4, c. 83, ss. 3-4; 1-2 V., c. 38, s. 2.]

8. All persons who—

(a.) Not having visible means of maintaining themselves, live without employment,—

(b.) Being able to work and thereby or by other means to maintain themselves and families, wilfully refuse or neglect to do so,—

(c.) Openly expose or exhibit in any street, road, public place or highway, any indecent exhibition, or openly or indecently expose their persons,—

(d.) Without a certificate signed, within six months, by a priest, clergyman or minister of the gospel, or two justices of the peace, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wander about and beg, or go about from door to door, or place themselves in any street, highway, passage or public place to beg or receive alms,—

(e.) Loiter on any street or highway, and obstruct passengers by standing across the footpaths or by using insulting language, or in any other way,—

(f.) Cause a disturbance in any street or highway by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers,—

(g.) By discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly or maliciously disturb the peace and quiet of the inmates of any dwelling house near such street or highway,—

(h.) Tear down or deface signs, break windows, doors or door plates, or the walls of houses, roads or gardens, or destroy fences,—

(i.) Are common prostitutes or night walkers, wandering in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and not giving a satisfactory account of themselves,—

(j.) Are keepers or inmates of disorderly houses, bawdy-houses or houses of ill-fame, or houses for the resort of prostitutes, or persons in the habit of frequenting such houses, not giving a satisfactory account of themselves,—

(k.) Have no peaceable profession or calling to maintain themselves by, but who do, for the most part, support themselves by gaming or crime, or by the avails of prostitution,—

Are loose, idle or disorderly persons or vagrants, within the meaning of this section :

2. Every loose, idle or disorderly person or vagrant shall, upon summary conviction before two justices of the peace, be deemed guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty dollars or to imprisonment, with or with-

Punishment of such persons.

out hard labour, for any term not exceeding six months, or to both :

3. Any stipendiary or police magistrate, mayor or warden, or any two justices of the peace, upon information before them made, that any person hereinbefore described as a loose, idle or disorderly person, or vagrant, is or is reasonably suspected to be harboured or concealed in any disorderly house, bawdy-house, house of ill-fame, tavern or boarding-house, may, by warrant, authorize any constable or other person to enter at any time such house or tavern, and to apprehend and bring before them or any other justices of the peace, every person found therein so suspected as aforesaid :

Justices may cause such persons to be brought before them.

4. If provision is made therefor by the laws of the Province in which the conviction takes place, any such loose, idle or disorderly person may, instead of being committed to the common gaol or other public prison, be committed to any house of industry or correction, alms house, work house or reformatory prison. 32-33 V., c. 28;—37 V., c. 43;—44 V., c. 31:—R. S. N. S. (3rd S.), c. 162, s. 9.

To what places of detention they shall be committed.



CHAPTER 158.

A. D. 1886.

An Act respecting Gaming Houses.

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

Interpretation.
“Chief constable.”

1. In this Act, unless the context otherwise requires,—

(a.) The expression “chief constable” includes chief of police, city marshal or other head of the police force of any city, town or place;

“Deputy chief constable.”

(b.) The expression “deputy chief constable” includes deputy chief of police, deputy city marshal or other deputy head of the police force of any city, town or place.

Police magistrate, &c., may, on report authorize entry of common gaming house.
[8-9 V., c. 109, ss. 3-6.]

2. If the chief constable or deputy chief constable of any city or town, or other officer authorized to act in his absence, reports in writing to any of the commissioners of police or mayor of such city or town, or to the police magistrate of any town, that there are good grounds for believing, and that he does believe, that any house, room or place within the said city or town is kept or used as a common gaming house, whether admission thereto is limited to those possessed of entrance keys or otherwise, the said commissioners or commissioner, or mayor, or the said police magistrate, may, by order in writing, authorize the chief constable, deputy chief constable, or other officer as aforesaid, to enter any such house, room or place, with such constables as are deemed requisite by the chief constable, deputy chief constable or other officer,—and, if necessary, to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise,—and to take into custody all persons who are found therein, and to seize all tables and instruments of gaming found in such house or premises, and also to seize all moneys and securities for money found therein. 38 V., c. 41, s. 1;—40 V., c. 33, s. 1.

Arrest of persons therein and seizure of instruments.

Powers of search.
[8-9 V., c. 109, s. 7.]

3. The chief constable, deputy chief constable or other officer making such entry, in obedience to any such order, may, with the assistance of one or more constables, search all parts of the house, room or place which he has so entered, where he suspects that tables or instruments of gaming are concealed, and all persons whom he finds therein, and seize all tables and instruments of gaming which he so finds. 38 V., c. 41, s. 2.

4. When any cards, dice, balls, counters, tables or other instruments of gaming, used in playing any unlawful game, are found in any house, room or place suspected to be used as a common gaming house, and entered under a warrant or order issued under this Act, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming house, and that the persons found in the room or place where such tables or instruments of gaming are found were playing therein, although no play was actually going on in the presence of the chief constable, deputy chief constable or other officer entering the same under a warrant or order issued under this Act, or in the presence of those persons by whom he is accompanied as aforesaid. 38 V., c. 41, s. 3;—40 V., c. 33, s. 2.

What shall be deemed evidence of gaming. [8-9 V., c. 109, s. 8.]

5. The police magistrate or other justice of the peace before whom any person is taken by virtue of any order or warrant under this Act, shall direct any cards, dice, balls, counters, tables or other instruments of gaming, used in playing any game, and seized under this Act in any place used as a common gaming house, to be forthwith destroyed; and any money or securities so seized shall be forfeited to the Crown for the public uses of Canada. 40 V., c. 33, s. 3.

Instruments to be destroyed. [8-9 V., c. 109, s. 8.]

6. Every one who plays or looks on while any other person is playing in a common gaming house is guilty of an offence, and liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars and not less than twenty dollars, and, in default of payment, to imprisonment for a term not exceeding two months. 40 V., c. 33, s. 4, *part*.

Punishment of persons playing or looking on.

7. Every one who wilfully prevents any constable or other officer, authorized under any of the preceding sections to enter any house, room or place, from entering the same, or any part thereof, or who obstructs or delays any such constable or officer in so entering, and every one who, by any bolt, chain, or other contrivance, secures any external or internal door of, or means of access to, any house, room or place so authorized to be entered, or uses any means or contrivance whatsoever for the purpose of preventing, obstructing or delaying the entry of any constable or officer authorized as aforesaid, into any such house, room or place, or any part thereof, shall, for every such offence, be liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars, with costs, and to imprisonment with or without hard labour for any term not exceeding six months. 38 V., c. 41, s. 4.

Punishment of persons obstructing constables. [17-18 V., c. 38, s. 1.]

8. If any constable or officer authorized, as aforesaid, to enter any house, room or place, is wilfully prevented from, or

What shall be evidence that a house is a

common gaming house.
[17-18 V., c. 38, s. 2.]

obstructed or delayed in entering the same or any part thereof, —or if any external or internal door of, or means of access to any such house, room or place so authorized to be entered, is found to be fitted or provided with any bolt, bar, chain or any means or contrivance for the purpose of preventing, delaying or obstructing the entry into the same, or any part thereof, of any constable or officer authorized, as aforesaid, or for giving an alarm in case of such entry, —or if any such house, room or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing or destroying any instruments of gaming, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming house, and that the persons found therein were unlawfully playing therein. 38 V., c. 41, s. 5.

Magistrate may require any of the persons apprehended to give evidence.
[17-18 V., c. 38, s. 5.]

9. The police magistrate, mayor or justice of the peace, before whom any person is brought who has been found in any house, room or place, entered in pursuance of any warrant or order issued under this Act, may require any such person to be examined on oath and to give evidence touching any unlawful gaming in such house, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, room or place, or any part thereof, of any constable or officer authorized as aforesaid; and no person so required to be examined as a witness shall be excused from being so examined when brought before such police magistrate, mayor or justice of the peace, or from being so examined at any subsequent time by or before the police magistrate or mayor or any justice of the peace, or by or before any court, on any proceeding, or on the trial of any indictment, information, action or suit in anywise relating to such unlawful gaming, or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness who refuses to make oath accordingly, or to answer any such question, shall be subject to be dealt with in all respects as any person appearing as a witness before any justice or court in obedience to a summons or subpoena and refusing without lawful cause or excuse to be sworn or to give evidence, may, by law, be dealt with; but nothing in this section shall render any offender, under the sixth section of this Act, liable on his trial to examination hereunder. 38 V., c. 41, s. 6;—40 V., c. 33, s. 4, *part*.

Punishment of persons refusing to give evidence.

Such witnesses making a full discovery to be free from all penalties, on certificate.

10. Every person so required to be examined as a witness, who, upon such examination, makes true disclosure, to the best of his knowledge, of all things as to which he is examined shall receive from the judge, justice of the peace, magistrate, examiner or other judicial officer before whom such proceeding is had, a certificate in writing to that effect, and

shall be freed from all criminal prosecutions and penal actions, and from all penalties, forfeitures and punishments to which he has become liable for anything done before that time in respect of the matters regarding which he has been examined; but such certificate shall not be effectual for the purpose aforesaid, unless it states that such witness made a true disclosure in respect to all things as to which he was examined; and any action, indictment or proceedings pending or brought in any court against such witness, in respect of any act of gaming regarding which he was so examined, shall be stayed, upon the production and proof of such certificate, and upon summary application to the court in which such action, indictment or proceeding is pending, or any judge thereof, or any judge of any of the superior courts of any Province. 38 V., c. 41, s. 7.

[8-9 V., c. 109,
s. 9; 17-18 V.,
c. 38, s. 6.]
What the cer-
tificate must
set forth.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 159.

A. D. 1886. An Act respecting Lotteries, Betting and Pool-selling.

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

Interpreta-
tion.

“ Personal
“ property.”

“ Real pro-
“ perty.”

1. In this Act, unless the context otherwise requires,—

(a.) The expression “personal property” includes every description of money, chattel and valuable security, and every kind of personal property ;

(b.) The expression “real property” includes every description of land, and all estates and interests therein. C.S.C., c. 95, s. 7.

LOTTERIES.

Penalty for
making or
advertising a
lottery.

[8 G. I, c. 2,
s. 36 ; 6-7 W.
IV, c. 66.]

2. Every one who makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan, for advancing, lending, giving, selling or in any way disposing of any property, either real or personal, by lots, cards, tickets, or any mode of chance whatsoever, or sells, barters, exchanges or otherwise disposes of, or causes or procures, or aids or assists in the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device, for advancing, lending, giving, selling or otherwise disposing of any property, real or personal, by lots, tickets or any mode of chance whatsoever, shall be liable, on summary conviction, to a penalty of twenty dollars. C.S.C., c. 95, s. 1.

Penalty for
buying or re-
ceiving lot-
tery tickets.

[8 G. I, c. 2,
s. 37 ; 12 G.
II, c. 28, s. 3.]

3. Every one who buys, barters, exchanges, takes or receives any such lot, card, ticket, or other device, shall be liable, on summary conviction, to a penalty of twenty dollars. C.S.C., c. 95, s. 2.

Sales, &c.,
founded on
lotteries void.

[12 G. II, c.
28, s. 4.]

4. Every sale, loan, gift, barter or exchange of any real or personal property, by any lottery, ticket, card or other mode of chance whatsoever, depending upon or to be determined by chance or lot, shall be void, and all such real or personal property so sold, lent, given, bartered or exchanged, shall be forfeited to any person who sues for the same by action or information in any court of competent jurisdiction. C.S.C., c. 95, s. 3.

5. No such forfeiture shall affect any right or title to such real or personal property acquired by any *bonâ fide* purchaser for valuable consideration, without notice. C. S. C., c. 95, s. 4.

As to purchaser without notice.

6. The provisions of this Act shall extend to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and to the sale, or offer for sale, of any ticket, chance or share, in any such lottery, or to the advertisement for sale of such ticket, chance or share. C. S. C., c. 95, s. 6.

Act to extend to publication of foreign lottery schemes. [9 G. I, c. 19, s. 4; 6 G. II, c. 35, s. 29; 6-7 W. IV, c. 66.]

7. Nothing in this Act contained, shall prevent joint tenants, or tenants in common, or persons having joint interests (*droits indivis*) in any real or personal property, from dividing such property by lot or chance in the same manner as if this Act had not been passed. C. S. C., c. 95, s. 9.

As to *bonâ fide* division of property held in common. [12 G. II, c. 28, s. 11.]

8. Nothing in this Act shall apply,—

(a.) To raffles for prizes of small value, at any bazaar held for any charitable object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held, and the articles raffled for have thereat first been offered for sale, and none of them are of a value exceeding fifty dollars;

Act not to apply— To raffles at bazaars.

(b.) To any distribution by lot, among the members or ticket holders of any incorporated society established for the encouragement of art, of any paintings, drawings or other work of art, produced by the labour of the members of, or published by or under the direction of such incorporated society. 23 V. (Can.), c. 36 ;—46 V., c. 36.

Or to distribution by lot of works of art.

BETTING AND POOL-SELLING.

9. Every one who,—

(a.) Uses or knowingly allows any part of any premises under his control to be used for the purpose of recording or registering any bet or wager, or selling any pool,—

Persons who— Use premises for pool-selling, &c.

(b.) Keeps, exhibits, or employs, or knowingly allows to be kept, exhibited or employed, in any part of any premises under his control, any device or apparatus, for the purpose of recording or registering any bet or wager or selling any pool,—

Keep apparatus for such purpose. [16-17 V., c. 119, ss. 1-4.]

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

Become custodians of wagers.

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

Record bets or sell pools—

Upon the result of any political or municipal election, or of any race, or of any contest or trial of skill or endurance of man or beast,—

On events specified.

Punishment. Is guilty of a misdemeanour, and liable to a fine not exceeding one thousand dollars, and to imprisonment for any term not exceeding one year :

Act not to extend to holders of stakes in certain cases. [16-17 V., c. 119, s. 6.] 2. Nothing in this section shall apply to any person by reason of his becoming the custodian or depositary of any money, property or valuable thing staked, to be paid to the winner of any lawful race, sport, game or exercise, or to the owner of any horse engaged in any lawful race, or to bets between individuals. 40 V., c. 31, ss. 1 and 2.

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CHAPTER 160.

An Act respecting Gambling in Public Conveyances. A. D. 1886.

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

1. Every one who, in any railway car, or steam-boat, used as a public conveyance for passengers, by means of any game of cards, dice or other instrument of gambling, or by any device of like character, obtains from any other person any money, chattel, valuable security or property, is guilty of the misdemeanour of obtaining the same unlawfully by false pretences, and liable to imprisonment for any term less than one year : Punishment of persons obtaining money by gambling in public conveyances.

2. Any attempt to commit such offence by actually engaging any person in any such game with intent to obtain money or other valuable thing from him, is a misdemeanour, punishable in like manner as the offence itself. 40 V., c. 32, s. 1, *part*. And of attempts.

2. Every such offence may be dealt with, inquired of, tried, determined and punished as being committed either at the place where it actually took place, or in any district, county or place through or adjoining to or by the boundary of any part whereof the railway car or steam-boat passed in the course of the journey or voyage during which the offence was committed, in the same manner as if it had been actually committed in such district, county or place. 40 V., c. 32, s. 2. Where the offence may be tried and punished.

3. Every conductor, master or superior officer in charge of, and every clerk or employee when authorized by the conductor or superior officer in charge of any railway train or steam-boat, station or landing place, in or at which any such offence, as aforesaid, is committed or attempted, shall, with or without warrant, arrest any person whom he has good reason to believe to have committed or attempted to commit the same, and shall take him before a justice of the peace, and make complaint of such offence on oath, in writing; and the offender, whether arrested with or without a warrant, shall be dealt with, and other proceedings shall be had, as if he been arrested upon a warrant of such justice : Arrest of offenders.
How dealt with after arrest.

Penalty for neglecting to arrest offender.

2. Every conductor, master or superior officer in charge of any railway car or steam-boat to which this Act applies, who makes default in the discharge of any duty imposed on him by this section, shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, and not less than twenty dollars. 40 V., c. 32, ss. 3 and 5, *part.*

Money, &c., to be deemed obtained by larceny.

4. Any money or valuable thing obtained by an offence against the first section of this Act, shall be dealt with as obtained by larceny from the person. 40 V., c. 32, s. 4, *part.*

Fees to persons arresting an offender.

5. Every person arresting any such offender, with or without a warrant, and taking him before a justice of the peace, and otherwise complying with this Act in respect of such offender, shall be entitled to the same fees, payable in the same manner, as if he had so done under a warrant of such justice. 40 V., c. 32, s. 4, *part.*

Copies of act to be posted up.

6. Every company or person who owns or works any railway car or steam-boat to which this Act applies, shall keep a copy thereof posted up in some conspicuous part of such railway car or steam-boat; and every company or person who makes default in the discharge of such duty, shall be liable to a penalty not exceeding one hundred dollars and not less than twenty dollars. 40 V., c. 32, s. 5, *part.*

Penalty for default.



CHAPTER 161.

An Act respecting Offences relating to the Law of Marriage. A. D. 1886.

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

1. Every one who,—

(a.) Without lawful authority, the proof of which shall lie on him, solemnizes or pretends to solemnize any marriage, or—

(b.) Procures any person to solemnize any marriage, knowing that such person is not lawfully authorized to solemnize such marriage, or knowingly aids or abets such person in performing such ceremony,—

Unlawfully solemnizing or procuring unlawful solemnization of marriage.

Is guilty of a misdemeanour, and liable to a fine or to two years' imprisonment, or to both. C.S.U.C., c. 102, ss. 1 and 2 ;—R.S.N.S. (3rd S.), c. 161, s. 3 ;—1 R.S.N.B., c. 146, s. 2.

Punishment.

2. Every one who procures a feigned or pretended marriage between himself and any woman, and every one who knowingly aids and assists in procuring such feigned or pretended marriage, is guilty of a misdemeanour, and liable to two years' imprisonment:

Procuring feigned marriage.

2. No person shall be convicted of any offence under this section upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused :

No conviction on evidence of one witness only.

3. In every case arising under this section the defendant shall be a competent witness in his own behalf upon any charge or complaint against him :

Defendant a competent witness.

4. No prosecution under this section shall be commenced after the expiration of one year from the time when the offence was committed. 49 V., c. 52, ss. 3 and 5, 6, 7 and 8, parts.

Limitation of time for prosecution.

3. Every one who, being lawfully authorized, knowingly and wilfully solemnizes any marriage in violation of the laws of the Province in which the marriage is solemnized, is guilty of a misdemeanour, and liable to a fine or to one year's imprisonment :

Solemnizing marriage in violation of provincial law.

2. No prosecution for any offence against this section shall be commenced except within two years after the offence is committed. C.S.U.C., c. 102, ss. 3, and 4, parts ;—1 R.S.N.B., c. 146, s. 3, part ;—R.S.B.C., c. 89, s. 14.

Time for prosecution limited.

BIGAMY.

Bigamy.

4. * * * * *

Repealed and new section substituted by 53 V., c. 37, s. 10.

Exceptions.

2. Nothing in this section contained shall extend to,—

Marriage by
an alien out
of Canada.

(a.) Any second marriage contracted elsewhere than in Canada by any other than a subject of Her Majesty resident in Canada and leaving the same with intent to commit the offence ;

Absence for
seven years.

(b.) Any person marrying a second time whose husband or wife has been continually absent from such person for the space of seven years then last past, and who was not known by such person to be living within that time ;

Divorce.

(c.) Any person who, at the time of such second marriage, was divorced from the bond of the first marriage ; or—

Former
marriage
annulled.(d.) Any person whose former marriage has been declared void by the sentence of any court of competent jurisdiction.
32-33 V., c. 20, s. 58, part.*(Two sections, 5 and 6, are added to this Act by 53 V., c. 37, s. 11.)*



CHAPTER 162.

An Act respecting Offences against the Person.

A. D. 1886.

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

1. In this Act, unless the context otherwise requires, the expression “loaded arms” includes any gun, pistol or other arm loaded in the barrel with gunpowder or other explosive substance, and ball, shot, slug or other destructive material, or charged with compressed air and having ball, shot, slug or other destructive material in the barrel, although the attempt to discharge the same fails. 32-33 V., c. 20, s. 18.

Interpretation.
“Loaded
“arms.”
[24-25 V., c.
100, s. 19.]

HOMICIDE.

2. Every one who is convicted of murder shall suffer death as a felon. 32-33 V., c. 20, s. 1.

Murder.
[24-25 V., c.
100, s. 1.]

3. Every one who,—

(a.) Conspires, confederates or agrees with any person to murder any other person, whether the person intended to be murdered is a subject of Her Majesty or not, or is within the Queen’s dominions or not, or—

Conspiracy to
murder.
[24-25 V., c.
100, s. 4.]

(b.) Solicits, encourages, persuades, endeavours to persuade or proposes to any person to solicit, encouraged or attempted to be procured is a subject of Her Majesty or not, or within the Queen’s dominions or not,—

Proposal to
murder.

Is guilty of a misdemeanour, and liable to ten years’ imprisonment. 32-33 V., c. 20, s. 3.

4. Every accessory after the fact to murder is liable to imprisonment for life. 32-33 V., c. 20, s. 4.

Accessory
after the fact.
[24-25 V., c.
100, s. 67.]

5. Every one who is convicted of manslaughter is liable to imprisonment for life, or to pay such fine as the court awards, in addition to or without any such imprisonment. 32-33 V., c. 20, s. 5.

Manslaugh-
ter.
[24-25 V., c.
100, s. 5.]

6. No punishment or forfeiture shall be incurred by any person who kills another by misfortune, or in his own defence, or in any other manner without felony. 32-33 V., c. 20, s. 7.

Excusable
homicide.
[24-25 V., c.
100, s. 7.]

Petit treason.
[24-25 V., c.
100, s. 8.]

7. Every offence which, before the abolition of the crime of petit treason, would have amounted to petit treason, shall be deemed to be murder only, and no greater offence. 32-33 V., c. 20, s. 8, *part.*

ATTEMPTS TO MURDER.

Attempts to murder.
[24-25 V., c.
100, s. 11.]

8. Every one who, with intent to commit murder, administers, or causes to be administered, or to be taken by any person, any poison or other destructive thing, or by any means whatsoever, wounds or causes any grievous bodily harm to any person, is guilty of felony, and liable to imprisonment for life. 40 V., c. 28, s. 1.

Damaging building with intent to murder.
[24-25 V., c.
100, s. 12.]

9. Every one who, by the explosion of gunpowder or other explosive substance, destroys or damages any building, with intent to commit murder, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 11.

Setting fire to, &c., a ship with intent to murder.
[24-25 V., c.
100, s. 13.]

10. Every one who, with intent to commit murder, sets fire to any ship or vessel, or any part thereof, or any part of the tackle, apparel or furniture thereof, or any goods or any chattels being therein, or casts away or destroys any ship or vessel, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 12.

Attempts to poison, shoot, drown, &c. any person with intent to murder.
[24-25 V., c.
100, s. 14.]

11. Every one who, with intent to commit murder, attempts to administer to, or attempts to cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shoots at any person, or, by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate or strangle any person, whether any bodily injury is effected or not, is guilty of felony, and is liable to imprisonment for life. 32-33 V., c. 20, s. 13.

Attempting murder by any other means.
[24-25 V., c.
100, s. 15.]

12. Every one who, by any means other than those specified in any of the preceding sections of this Act, attempts to commit murder, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 14.

ACTS CAUSING BODILY HARM OR DANGEROUS TO LIFE.

Attempts to maim, disfigure, &c.
[24-25 V., c.
100, s. 18.]

13. Every one who, with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, unlawfully and maliciously, by any means whatsoever, wounds or causes any grievous bodily harm to any person, or shoots at any person, or, by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 17.

14. Every one who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 20, s. 19, *part.*

Inflicting injuries with or without a weapon. [24-25 V., c. 100, s. 20.]

15. Every one who, with intent thereby to enable himself or any other person to commit, or with intent thereby to assist any other person in committing any indictable offence, or by any means whatsoever, attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious or incapable of resistance, is guilty of felony, and liable to imprisonment for life, and to be whipped. 32-33 V., c. 20, s. 20.

Attempt to choke, &c., with intent to commit an indictable offence. [24-25 V., c. 100, s. 21.]

16. Every one who, with intent thereby to enable himself or any other person to commit, or with intent thereby to assist any other person in committing any indictable offence, unlawfully applies or administers to, or causes to be taken by, or attempts to apply or administer to, or attempts or causes to be administered to or taken by any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing, is guilty of felony, and liable to imprisonment for life, and to be whipped. 32-33 V., c. 20, s. 21.

Administering chloroform, &c., with like intent. [24-25 V., c. 100, s. 22.]

17. Every one who unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 20, s. 22.

Administering poison so as to endanger life, &c. [24-25 V., c. 100, s. 23.]

18. Every one who unlawfully and maliciously administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 20, s. 23.

Administering poison with intent to injure or annoy. [24-25 V., c. 100, s. 24.]

19. Every one who, being legally liable, either as a husband, parent, guardian, or committee, master or mistress, nurse or otherwise, to provide for any person as wife, child, ward, lunatic or idiot, apprentice or servant, infant or otherwise, necessary food, clothing or lodging, wilfully and without lawful excuse, refuses or neglects to provide the same, or unlawfully or maliciously does, or causes to be done, any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been, or is likely to be, permanently

Failing, when liable, to provide food, &c., whereby life is endangered. [24-25 V., c. 100, s. 26.]

injured, is guilty of a misdemeanour, and liable to three years' imprisonment :

Who may give evidence in a case specified.

2. In any prosecution of any person under this section, for refusing or neglecting to provide necessary food, clothing or lodging for his wife or child, his wife shall be competent to give evidence as a witness, either for or against her husband, and the person charged shall be a competent witness in his own behalf. 32-33 V., c. 20, s. 25 ;—49 V., c. 51, s. 1.

Exposing children. [24-25 V., c. 100, s. 27.]

20. Every one who unlawfully abandons or exposes any child, being under the age of two years, whereby the life of such child is endangered, or the health of such child has been, or is likely to be, permanently injured, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 20, s. 26.

Causing bodily injury by explosives. [24-25 V., c. 100, s. 28.]

21. Every one who, unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, burns, maims, disfigures, disables or does any grievous bodily harm to any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 27.

Causing explosion, sending explosives and throwing corrosive substances. [24-25 V., c. 100, s. 29.]

22. Every one who, with intent to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, unlawfully and maliciously causes any gunpowder or other explosive substance to explode, or sends or delivers to, or causes to be taken or received by any person any explosive substance, or any other dangerous or noxious thing, or puts or lays at any place, or casts or throws at or upon, or otherwise applies to any person, any corrosive fluid, or any destructive or explosive substance, and whether any bodily harm is effected or not, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 28.

Placing explosive near a building or vessel. [24-25 V., c. 100, s. 30.]

23. Every one who unlawfully and maliciously places or throws in, into, upon, against or near any building, ship or vessel, any gunpowder or other explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place, and whether or not any bodily injury is effected, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 20, s. 29.

Setting spring guns, &c. [24-25 V., c. 100, s. 31.]

24. Every one who sets or places, or causes to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy or inflict grievous bodily harm, upon any trespasser or other person coming in contact therewith, is guilty of a misdemeanour, and liable to three years' imprisonment :

Allowing the same to remain so set.

2. Every one who knowingly and wilfully permits any such spring-gun, man-trap or other engine which has been set or

placed by some other person, in any place which is, or afterwards comes into his possession or occupation, to continue so set or placed, shall be deemed to have set or placed such gun, trap or engine, with such intent as aforesaid :

3. Nothing in this section contained shall extend to make it illegal to set or place any gin or trap such as is usually set or placed with the intent of destroying vermin. 32-33 V., c. 20, s. 30. As to traps for vermin.

25. Every one who, with intent to injure or to endanger the safety of any person travelling or being upon any railway, unlawfully and maliciously puts or throws upon or across such railway, any wood, stone, or other matter or thing, or unlawfully and maliciously takes up, removes or displaces any rail, railway switch, sleeper or other matter or thing belonging to such railway, or injures or destroys any track, bridge or fence of such railway, or any portion thereof, or unlawfully and maliciously turns, moves or diverts any point or other machinery belonging to such railway, or unlawfully and maliciously makes or shows, hides or removes any signal or light upon or near to such railway, or unlawfully and maliciously does or causes to be done any other matter or thing, with such intent, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 31 ;—42 V., c. 9, s. 88, *part*, and s. 89 ;—44 V., c. 25, ss. 116, *part*, and 117. Placing obstacles on a railway or removing rails, &c. [24-25 V., c. 100, s. 32.]

26. Every one who unlawfully and maliciously throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used upon any railway, any wood, stone or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train, of which such first mentioned engine, tender, carriage or truck forms part, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 32. Throwing missiles at a railway carriage. [24-25 V., c. 100, s. 33.]

27. Every one who, by any unlawful act, or by any wilful omission or neglect of duty, endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 33. Doing anything to endanger persons on a railway. [24-25 V., c. 100, s. 34.]

28. Every one who, having the charge of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person whomsoever, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 34. Injuring persons by furious driving. [24-25 V., c. 100, s. 35.]

Leaving un-
guarded holes
in the ice on
any fre-
quented water
a misde-
meanour.

29. Every one who cuts or makes, or causes to be cut or made for the purpose of harvesting or obtaining ice for sale or use, any hole, opening, aperture or place, of sufficient size or area to endanger human life, through the ice on any navigable or other water open to or frequented by the public, and leaves such hole, opening, aperture or place, while it is in a state dangerous to human life, whether the same is frozen over or not, unguarded and uninlosed by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking, skating or falling therein, is guilty of a misdemeanour, and liable to be punished by fine or imprisonment, on summary conviction, before any justice of the peace or district magistrate, having jurisdiction in any city, judicial district or county within which, or on the borders of which, such navigable or other water is wholly or partly situate. 49 V., c. 53, s. 1.

Prosecution
and punish-
ment.

Leaving cer-
tain excava-
tions un-
guarded a mis-
demeanour.

30. Every one who is the owner, manager or superintendent of any abandoned or unused mine or quarry or property upon or in which any excavation in search of mines or quarries has been or is hereafter made of a sufficient area and depth to endanger human life, and who leaves the same unguarded and uninlosed by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking or falling therein, is guilty of a misdemeanour, and liable to be punished by fine or imprisonment or both, on summary conviction before any justice of the peace having jurisdiction in the locality in which the said mine or quarry is situate. 49 V., c. 53, s. 2.

Prosecution
and punish-
ment.

Continuing to
leave open-
ings un-
guarded
after convic-
tion, to be a
new offence.

31. If, within five days after conviction for any offence referred to in either of the two sections next preceding, a suitable guard or fence is not constructed around or over the said exposed opening, to conform to the provisions of the said sections, the person liable for such omission may be again complained of and convicted for the said offence, and the plea of a former conviction therefor shall not avail to him as a relief from the said complaint and conviction. 49 V., c. 53, s. 3.

Offence to be
manslaughter
if causing loss
of life.

32. If any person loses his life by accidentally riding, driving, walking, skating or falling into any such hole, opening, aperture or place unguarded as is mentioned in either of the three sections next preceding, the person or persons whose duty it was to guard such hole, opening, aperture or place, in manner aforesaid, is guilty of manslaughter. 49 V., c. 53, s. 4.

Negligently
causing
bodily injury.

33. Every one who, by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily injury to any other person, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 35.

ASSAULTS.

34. Every one who assaults any person with intent to commit any indictable offence,—or assaults, resists or wilfully obstructs any revenue or peace officer, or any officer seizing trees, logs, timber or other products thereof, in the due execution of his duty, or any person acting in aid of such officer,—or assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person for any offence,—or assaults, resists or wilfully obstructs any person in the lawful execution of any process against any lands or goods, or in making any lawful distress or seizure, or with intent to rescue any goods taken under such process, distress or seizure, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 39; —43 V., c. 28, s. 65, *part*;—46 V., c. 16, s. 6, *part*, and c. 17, s. 66, *part*.

Assault with intent to commit indictable offence and assaults on officers. [24-25 V., c. 100, s. 38.]

35. Every one who commits any assault which occasions actual bodily harm, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 20, s. 47, *part*.

Assault occasioning bodily harm. [24-25 V., c. 100, s. 47.]

36. Every one who commits a common assault is guilty of a misdemeanour, and liable, if convicted upon an indictment, to one year's imprisonment, and, on summary conviction, to a fine not exceeding twenty dollars and costs, or to two months' imprisonment, with or without hard labour. 32-33 V., c. 20, ss. 43, *part*, and 47, *part*.

Common assault. [24-25 V., c. 100, ss. 42-47.]

RAPE.

37. Every one who commits the crime of rape is guilty of felony, and liable to suffer death as a felon, or to imprisonment for life or for any term not less than seven years. 36 V., c. 50, s. 1, *part*.

Rape. [24-25 V., c. 100, s. 48.]

ABDUCTION AND DERILEMENT OF WOMEN.

38. Every one who assaults any woman or girl with intent to commit rape is guilty of a misdemeanour, and liable to imprisonment for any term not exceeding seven years and not less than two years. 36 V., c. 50, s. 1, *part*.

Assault with intent to commit rape.

- 39.** * * * * *
- 40.** * * * * *
- 41.** * * * * *

Repealed and new sections substituted by 53 V., c. 37, s. 12.
(See also ib. s. 13 as to the evidence in such cases of children of tender years.)

Abduction of a woman, against her will, from motives of lucre.

[24-25 V., c. 100, s. 53.]

42. Every one who,—

(a.) From motives of lucre, takes away or detains against her will, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, any woman of any age who has any interest, whether legal or equitable, present or future, absolute, conditional or contingent in any real or personal estate, or who is a presumptive heiress or co-heiress or presumptive next of kin, or one of the presumptive next of kin to any one having such interest, or—

Abduction of a girl under age.

(b.) Fraudulently allures, takes away or detains such woman being under the age of twenty-one years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person,—

Punishment.

Is guilty of felony, and liable to fourteen years' imprisonment :

Offender incapable of taking any of her property.

2. Every one convicted of any offence under this section shall be incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any interest, or which comes to her as such heiress, co-heiress or next of kin; and if any such marriage takes place, such property shall, upon such conviction, be settled in such manner as any court of competent jurisdiction, upon any information, at the instance of the Attorney General for the Province in which the property is situate, appoints. 32-33 V., c. 20, s. 54.

Forcible abduction of any woman.

[24-25 V., c. 100, s. 54.]

43. Every one who, by force, takes away or detains against her will any woman, of any age, with intent to marry or carnally know her, or to cause her to be married or carnally known by any other person, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 20, s. 55.

Abduction of a girl under sixteen years.

[24-25 V., c. 100, s. 55; 48-49 V., c. 69, s. 7.]

44. Every one who unlawfully takes or causes to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 56.

CHILD STEALING.

Taking away, enticing and detaining children.

[24-25 V., c. 100, s. 56.]

45. Every one who,—

(a.) Unlawfully, either by force or fraud, leads or takes away or decoys or entices away or detains any child under the age of fourteen years, with intent to deprive any parent, guardian or other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article belongs, or—

(b.) With any such intent, receives or harbours any such child, knowing the same to have been, by force or fraud, led, taken, decoyed, enticed away or detained, as in this section before mentioned,—

Receiving stolen child.

Is guilty of felony, and liable to seven years' imprisonment : Punishment.

2. No person who has claimed any right to the possession of such child, or is the mother, or has claimed to be the father of an illegitimate child, shall be liable to be prosecuted by virtue hereof on account of the getting possession of such child or taking such child out of the possession of any person having the lawful charge thereof. 32-33 V., c. 20, s. 57.

Persons preferring certain claims not liable to prosecution.

KIDNAPPING.

46. Every one who, without lawful authority, forcibly seizes and confines or imprisons any other person within Canada, or kidnaps any other person with intent,—

Seizing, confining, or imprisoning without lawful authority.

(a.) To cause such other person to be secretly confined or imprisoned in Canada against his will,—

(b.) To cause such other person to be unlawfully sent or transported out of Canada against his will, or—

(c.) To cause such other person to be sold or captured as a slave, or in any way held to service against his will,—

Is guilty of felony, and liable to seven years' imprisonment : Punishment.

2. Upon the trial of any offence under this section, the non-resistance of the person so kidnapped or unlawfully confined thereto, shall not be a defence, unless it appears that it was not caused by threats, duress or force or exhibition of force. 32-33 V., c. 20, ss. 69 and 70.

Non-resistance not a defence.

ABORTION.

47. Every woman, being with child, who, with the intent to procure her own miscarriage, unlawfully administers, or permits to be administered, to herself any poison or other noxious thing, or unlawfully uses, or permits to be used on herself, any instrument or other means whatsoever with the like intent, and—

Administering drugs or using instruments to procure abortion. [24-25 V., c. 100, s. 58.]

Every one who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent,—

Is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 20, s. 59.

Punishment.

48. Every one who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child, is guilty of a mis-

Supplying or procuring drugs or instruments for such purpose. [24-25 V., c. 100, s. 59.]

demeanour, and liable to two years' imprisonment. 32-33 V., c. 20, s. 60.

CONCEALING THE BIRTH OF A CHILD.

Concealing
birth of a
child.
[24-25 V., c.
100, s. 60.]

49. Every one who, by any secret disposition of the dead body of any child of which any woman is delivered, whether such child died before, at or after its birth, endeavours to conceal the birth thereof, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 61, *part.*

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 163.

An Act respecting Libel.

A. D. 1886.

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

- 1.** Every one who publishes or threatens to publish any libel upon any other person, or directly or indirectly threatens to print or publish, or proposes to abstain from printing or publishing of, or offers to prevent the printing or publishing of any matter or thing touching any other person, with intent to extort any money or security for money or any valuable thing, from such person or from any other person, or with intent to induce any person to confer upon or procure for any person any appointment or office of profit or trust, is guilty of a misdemeanour, and liable to a fine not exceeding six hundred dollars, or to imprisonment for any term less than two years, or to both. 37 V., c. 38, s. 1, *part.*

Publishing or threatening to publish any matter with intent to extort money, [6-7 V., c. 96, s. 3.]
- 2.** Every one who maliciously publishes any defamatory libel, knowing the same to be false, is guilty of a misdemeanour, and liable to a fine not exceeding four hundred dollars, or to imprisonment for any term less than two years, or to both. 37 V., c. 38, s. 2.

Publishing defamatory libel knowing it to be false. [6-7 V., c. 96, s. 4.]
- 3.** Every one who maliciously publishes any defamatory libel is guilty of a misdemeanour, and liable to a fine not exceeding two hundred dollars, or to imprisonment for any term not exceeding one year, or to both. 37 V., c. 38, s. 3.

Publishing any defamatory libel. [6-7 V., c. 96, s. 5.]
- 4.** It shall, if pleaded, be a defence to an indictment or information for a defamatory libel, that the defamatory matter was true, and that it was for the public benefit that such matter should be published. 37 V., c. 38, ss. 5 and 6, *parts.*

Truth of defamatory matter a defence. [6-7 V., c. 96, s. 6.]
- 5.** Whenever, upon the trial of any indictment or information for the publication of a defamatory libel, to which a plea of not guilty has been pleaded, evidence is given which establishes against the defendant a presumptive case of publication by his authority, by the act of any other person, the defendant may prove, and, if proved, it shall be a good defence, that such publication was made without his authority, consent

Evidence by defendant of the publication having been without his authority. [6-7 V., c. 96, s. 7.]

or knowledge, and that such publication did not arise from want of due care or caution on his part. 37 V., c. 38, s. 10.

Publication by order of a legislative body may be pleaded. [3-4 V., c. 9, s. 1.]

6. Every person against whom any criminal proceedings are commenced or prosecuted in any manner for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, by or under the authority of any Legislative Council, Legislative Assembly or House of Assembly, may bring before the court in which such proceedings are so commenced or prosecuted, or before any judge of the same, first giving twenty-four hours' notice of his intention so to do, to the prosecutor in such proceedings, or to his attorney or solicitor, a certificate under the hand of the speaker or clerk of any Legislative Council, Legislative Assembly or House of Assembly, as the case may be, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such criminal proceedings have been commenced or prosecuted, was or were published by such person, or by his servant, by order or under the authority of any Legislative Council, Legislative Assembly or House of Assembly, as the case may be, together with an affidavit verifying such certificate; and such court or judge shall thereupon immediately stay such criminal proceedings, and the same shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue hereof. 24 V. (P.E.I.), c. 31, s. 1.

Certificate to be produced.

Its effect.

Copy of report, &c., with affidavit of correctness may be laid before the court. [3-4 V., c. 9, s. 2.]

7. In case of any criminal proceedings hereafter commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant, at any stage of the proceedings, may lay before the court or judge such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy; and the court or judge shall immediately stay such criminal proceedings, and the same shall be and shall be deemed to be finally put an end to, determined and superseded by virtue hereof. 24 V. (P.E.I.), c. 31, s. 2.

In prosecution for publishing extract, report, &c., may be given in evidence. [3-4 V., c. 9, s. 3.]

8. In any criminal proceeding commenced or prosecuted, for printing any extract from or abstract of any such report, paper, votes or proceedings, such report, paper, votes or proceedings may be given in evidence, and it may be shown that such extract or abstract was published *bonâ fide* and without malice, and if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant. 24 V. (P.E.I.), c. 31, s. 3.



CHAPTER 164.

An Act respecting Larceny and similar Offences. A. D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Larceny Act.*" Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "document of title to goods" includes any bill of lading, India warrant, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to; Interpretation.
"Document
of title to
goods."
[24-25 V., c.
96, s. 1.]

(b.) The expression "document of title to lands" includes any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real property, or to any interest in any real property, or any notarial or registrar's copy thereof, or any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada, respecting registration of titles, and relating to such title; "Document
of title to
lands."

(c.) The expression "trustee" means a trustee on some express trust created by some deed, will or instrument in writing, or a trustee of personal property created by parol, and includes the heir or personal representative of any such trustee, and every other person upon or to whom the duty of such trust has devolved or come, and also an executor and administrator, and an official manager, assignee, liquidator or other like officer acting under any Act relating to joint stock companies, bankruptcy or insolvency, and any person who is, by the law of the Province of Quebec, an "*administrateur*;" and the expression "trust," includes whatever is by that law an "*administration*;" "Trustee."

“ Valuable
“ security.”

(d.) The expression “valuable security” includes any order, exchequer acquittance or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of Canada or of any Province thereof, or of the United Kingdom, or of Great Britain or Ireland, or of any British colony or possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada or the United Kingdom, or any British colony or possession, or in any foreign state or country, or to any deposit in any savings bank or other bank, and also includes any debenture, deed, bond, bill, note, warrant, order or other security whatsoever, for money or for payment of money, whether of Canada or of any Province thereof, or of the United Kingdom, or of any British colony or possession, or of any foreign state, and any document of title to lands or goods as hereinbefore defined, and any stamp or writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge or other instrument evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest or deposit, for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling or evidencing title to which, such valuable security is applicable, or to that of such money or chattel personal, the payment or delivery of which is evidenced by such valuable security;

“ Property.”

(e.) The expression “property” includes every description of real and personal property, money, debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods,—and also not only such property as was originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise,—and also any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the Legislature of any Province of Canada, for the payment of any fee, rate or duty whatsoever, and whether still in the possession of the Crown, or of any person or corporation, or of any officer or agent of the Government of Canada, or of the Province by the authority of the Legislature whereof it was issued or prepared for issue; and such postal card or stamp shall be held to be a chattel, and to be equal in value to the amount of the postage, rate or duty which can be paid by it, and is expressed on its face in words or figures, or both;

“ Cattle.”

(f.) The expression “cattle” includes any horse, mule, ass, swine, sheep or goat, as well as any neat cattle or animal

of the bovine species, and whatever is the age or sex of the animal, and whether castrated or not, and by whatever technical or trivial name it is known, and shall apply to one animal as well as to many;

(g.) The expression "banker" includes any director of any "Banker." incorporated bank or banking company;

(h.) The expression "writing" includes any mode in which "Writing." and any material on which words or figures at length or abridged are written, printed or otherwise expressed, or any map or plan is inscribed;

(i.) The expression "testamentary instrument" includes any "Testamen- will, codicil or any other testamentary writing or appointment, tary instru- as well during the life of the testator whose testamentary dis- ment." position it purports to be, as after his death, whether the same relates to real or personal property, or both;

(j.) The expression "municipality" includes the corporation "Municipa- of any city, town, village, township, parish or other territorial lity." or local division of any Province of Canada, the inhabitants whereof are incorporated or have the right of holding property for any purpose;

(k.) The night shall, for the purpose of this Act, be deemed "Night." to commence at nine of the clock in the evening of each day, and to conclude at six of the clock in the morning of the next succeeding day, and the day shall include the remainder of the twenty-four hours;

(l.) Whenever the having anything in the possession of any person is in this Act expressed to be an offence, then if any person has any such thing in his personal custody or possession, or knowingly or wilfully has any such thing in any dwelling-house or other building, lodging, apartment, field or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter or thing is so had for his own use or benefit or for that of another, such person shall be deemed to have such matter or thing in his custody or possession within the meaning of this Act, and if there are two or more persons, any one or more of whom, with the knowledge and consent of the rest, has any such thing in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of all of them. 32-33 V., c. 21, s. 1;—35 V., c. 33, s. 1, *part*;—40 V., c. 29, s. 1. Having in custody or possession.

SIMPLE LARCENY.

3. Every larceny, whatever is the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects as grand larceny was before the distinction between grand and petit larceny was abolished. 32-33 V., c. 21, s. 2. All larcenies to be of the same nature. [24-25 V., c. 96, s. 2.]

4. Every one who, being a bailee of any chattel, money or valuable security, fraudulently takes or converts the same to Bailee fraudulently converting property,

guilty of
larceny.
[24-25 V., c.
96, s. 3.]

his own use or to the use of any person other than the owner thereof, although he does not break bulk or otherwise determine the bailment, is guilty of larceny, and may be convicted thereof upon an indictment for larceny; but this section shall not extend to any offence punishable on summary conviction. 32-33 V., c. 21, s. 3.

Punishment
for simple
larceny.
[24-25 V., c.
96, s. 4.]

5. Every one who commits simple larceny or any felony hereby made punishable in the same manner as simple larceny, is guilty of a felony, and, except in the cases hereinafter otherwise provided for, is liable to seven years' imprisonment. 32-33 V., c. 21, s. 4;—40 V., c. 29, s. 3.

Larceny after
a conviction
for felony.
[24-25 V., c.
96, s. 7.]

6. Every one who, having been convicted either summarily or upon indictment of a felony, commits the offence of simple larceny, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 21, s. 7.

STEALING CATTLE, ETC.

Stealing
cattle.
[24-25 V., c.
96, s. 10.]

7. Every one who steals any cattle is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 10.

Killing ani-
mals with in-
tent to steal
the carcass,
&c.
[24-25 V., c.
96, s. 11.]

8. Every one who wilfully kills any animal, with intent to steal the carcass, skin or any part of the animal so killed, is guilty of felony, and liable to the same punishment as if he had been convicted of feloniously stealing the same, provided the offence of stealing the animal so killed would have amounted to felony. 32-33 V., c. 21, s. 11.

Stealing dogs,
beasts or birds
ordinarily
kept in con-
finement and
not subjects of
larceny at
common law.
[24-25 V., c.
96, ss. 18-21.]

9. Every one who steals any dog, or any bird, beast or other animal ordinarily kept in a state of confinement or for any domestic purpose, or for any lawful purpose of profit or advantage, not being the subject of larceny at common law, or wilfully kills any such dog, bird, beast or animal, with intent to steal the same, or any part thereof, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars over and above the value of the dog, bird, beast or other animal, or to one month's imprisonment with hard labour:

Second
offence.

2. Every one who, having been convicted of any such offence either against this or any other Act or law, afterwards commits any offence in this section mentioned, is liable to three months' imprisonment with hard labour. 32-33 V., c. 21, s. 12.

Killing or
taking
pigeons.
[24-25 V., c.
96, s. 23.]

10. Every one who unlawfully and wilfully kills, wounds or takes any house-dove or pigeon under such circumstances as do not amount to larceny at common law, shall, on summary conviction, be liable to a penalty not exceeding ten dollars over and above the value of the bird. 32-33 V., c. 21, s. 13.

11. Every one who steals any oysters or oyster brood from any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, is guilty of felony, and liable to be punished as in the case of simple larceny :

Stealing oysters or oyster brood. [24-25 V., c. 96, s. 26.]

2. Every one who unlawfully and wilfully uses any dredge or net, instrument or engine whatsoever, within the limits of any oyster bed, laying or fishery, being the property of any other person, and sufficiently marked out or known as such, for the purpose of taking oysters or oyster brood, although none are actually taken, or unlawfully and wilfully with any net, instrument or engine, drags upon the ground of any such fishery, is guilty of a misdemeanour, and liable to three months' imprisonment :

Unlawfully dredging in an oyster fishery.

3. Nothing in this section contained shall prevent any person from fishing for or catching any floating fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking floating fish only. 32-33 V., c. 21, s. 14, *part*.

As to floating fish.

STEALING WRITTEN INSTRUMENTS.

12. Every one who steals or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any valuable security, other than a document of title to lands, is guilty of felony, of the same nature, and in the same degree, and punishable in the same manner as if he had stolen any chattel, of like value as the share, interest or deposit to which the security so stolen relates, or as the money due on the security so stolen or secured thereby and remaining unsatisfied, or as the value of the goods or other valuable thing represented, mentioned or referred to in or by the security. 32-33 V., c. 21, s. 15.

Stealing, destroying, &c., valuable security. [24-25 V., c. 96, s. 27.]

13. Every one who steals or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any document of title to lands, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 21, s. 16, *part*.

Deeds, &c., relating to real property. [24-25 V., c. 96, s. 28.]

14. Every one who, either during the life of the testator or after his death, steals or, for any fraudulent purpose, destroys, cancels, obliterates or conceals the whole or any part of any will, codicil or other testamentary instrument, whether the same relates to real or personal property, or to both, is guilty of felony, and liable to imprisonment for life :

Wills or codicils. [24-25 V., c. 96, s. 29.]

2. Nothing in this or the next preceding section mentioned, and no proceeding, conviction or judgment had or taken thereupon, shall prevent, lessen or impeach any remedy at law or in equity, which any person aggrieved by any such offence might or would have had if this Act had not been passed :

Other remedies not affected.

3. No conviction of any such offender shall be received in evidence in any action or suit against him ; and no person shall

As to the effect of conviction in any

civil action ;
and as to dis-
closures under
compulsory
process.

be liable to be convicted of any of the felonies in this and the next preceding section mentioned by any evidence whatever, in respect of any act done by him, if he has, at any time previously to his being charged with such offence, first disclosed such act, on oath, in consequence of any compulsory process of any court, in any action, suit or proceeding *bonâ fide* instituted by any person aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency. 32-33 V., c. 21, s. 17, *part*.

Stealing, des-
troying, &c.,
records or
other legal
documents.
[24-25 V., c.
96, s. 30.]

15. Every one who steals or, for any fraudulent purpose, takes from its place of deposit, for the time being, or from any person having the custody thereof, or unlawfully and maliciously cancels, obliterates, injures or destroys the whole or any part of any record, writ, return, affirmation, recognizance, *cognovit actionem*, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever, of or belonging to any court of justice, or relating to any cause or matter, begun, depending or terminated in any such court, or of any original document in anywise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any government or public office, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 21, s. 18, *part*.

Stealing rail-
way tickets,
&c.

16. Every one who steals any railway or steam-boat ticket, or any order or receipt for a passage on any railway or in any steamer or other vessel, is guilty of felony, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 19.

STEALING THINGS ATTACHED TO OR GROWING ON LAND.

Metal, glass,
wood, &c.,
fixed to house
or land.
[24-25 V., c.
96, s. 31.]

17. Every one who steals, or rips, cuts, severs or breaks, with intent to steal, any glass or wood-work belonging to any building whatsoever, or any lead, iron, copper, brass or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or anything made of metal fixed in any land, being private property, or for a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 20, *part*.

Trees in plea-
sure grounds
of the value of
five dollars.
[24-25 V., c.
96, s. 32.]

18. Every one who steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, respectively growing in any park, pleasure ground, garden,

orchard or avenue, or in any ground adjoining or belonging to any dwelling-house (in case the value of the article or articles stolen or the amount of the injury done exceeds the sum of five dollars), is guilty of felony, and liable to be punished as in the case of simple larceny :

2. Every one who steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, respectively growing elsewhere than in any of the situations in this section before mentioned (if the value of the article or articles stolen, or the amount of the injury done, exceeds the sum of twenty-five dollars), is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 21.

Trees elsewhere of the value of twenty-five dollars.

19. Every one who steals, or cuts, breaks, roots up or otherwise destroys or damages, with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same is respectively growing (the stealing of such article, or the injury done, being to the amount of twenty-five cents at the least), shall, on summary conviction, be liable to a penalty not exceeding twenty-five dollars over and above the value of the article stolen or the amount of the injury done :

Trees worth twenty-five cents. [24-25 V., c. 90, s. 33.]

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the said offences, in this section before mentioned, shall, on summary conviction, be liable to three months' imprisonment with hard labour :

Second offence.

3. Every one who, having been twice convicted of any such offence (whether both or either of such convictions have taken place before or after the passing of this Act), afterwards commits any of the offences in this section before mentioned is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 22.

Third or subsequent offence.

20. Every one who receives or purchases any tree or sapling, or any timber made therefrom, exceeding in value the sum of ten dollars, knowing the same to have been stolen or unlawfully cut or carried away, is guilty of a misdemeanour, and liable to the same punishment as the principal offender, —and may be indicted and convicted thereof, whether the principal offender has or has not been convicted, or is or is not amenable to justice :

Purchasing or receiving stolen trees.

2. Nothing in this or in either of the two sections next preceding contained, and no proceeding, conviction or judgment had or taken thereupon, shall prevent, lessen or impeach any remedy which any person aggrieved by any of the said offences would have had if this Act had not been passed ; nevertheless,

Other remedies saved.

the conviction of the offender shall not be received in evidence in any action or suit against him ; and no person shall be convicted of either of the offences aforesaid, by any evidence

Effect of conviction in civil suits and of disclosures under process.

disclosed by him on oath, in consequence of the compulsory process of a court, in any action, suit or proceeding instituted by any person aggrieved. 32-33 V., c. 21, s. 23.

Stealing, &c., any live or dead fences, wooden fence, stile or gate. [24-25 V., c. 96, s. 34.]

21. Every one who steals, cuts or breaks or throws down, with intent to steal, any part of any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars, over and above the value of the article or articles so stolen or the amount of the injury done :

Subsequent offence.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the said offences in this section mentioned, shall, on summary conviction, be liable to three months' imprisonment with hard labour. 32-33 V., c. 21, s. 24.

Suspected persons in possession of any wood, &c., not satisfactorily accounting for it. 24-25 V., c. 96, s. 35.]

22. Every one who, having in his possession, or on his premises with his knowledge, the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence or any post, pale, wire, rail, stile or gate, or any part thereof, of the value of twenty-five cents at the least, is taken or summoned before a justice of the peace, and does not satisfy such justice that he came lawfully by the same, shall, on summary conviction, be liable to a penalty not exceeding ten dollars, over and above the value of the article so in his possession or on his premises. 32-33 V., c. 21, s. 25.

Stealing, destroying or damaging with intent to steal any fruit, &c. [24-25 V., c. 96, s. 36.]

23. Every one who steals or destroys, or damages with intent to steal, any plant, root, fruit or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars, over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment, with or without hard labour :

Subsequent offence.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 26.

Stealing, &c. vegetable productions not growing in gardens, &c. [24-25 V., c. 96, s. 37.]

24. Every one who steals or destroys, or damages, with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground, or nursery ground, shall, on summary conviction, be liable to a penalty not exceeding five dollars, over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with hard labour :

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, is liable to three months' imprisonment with hard labour. 32-33 V., c. 21, s. 27. Subsequent offence.

STEALING ORES OR MINERALS.

25. Every one who steals, or severs with intent to steal, ore of any metal, or any quartz, lapis calaminaris, manganese, or mundic, or any piece of gold, silver or other metal, or any wad, black cawlk, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral, from any mine, bed or vein thereof respectively, is guilty of felony, and liable to imprisonment for any term less than two years : Stealing ores of metal, coal, &c. [24-25 V., c. 96, s. 38.]

2. No person shall be deemed guilty of any offence for having, for the purposes of exploration or scientific investigation, taken any specimen or specimens of any ore or mineral from any piece of ground uninclosed and not occupied or worked as a mine, quarry or digging. 32-33 V., c. 21, s. 28. Exceptions as to scientific investigations.

26. Every one who, being employed in or about any mine, quarry or digging, takes, removes or conceals any ore of any metal, or any quartz, lapis calaminaris, manganese, mundic, or any piece of gold, silver or other metal, or any mineral found or being in such mine, quarry or digging, with intent to defraud any proprietor of, or any adventurer in the same, or any workman or miner employed therein, is guilty of felony, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 29. Miners removing ore, &c., with intent to defraud. [24-25 V., c. 96, s. 39.]

27. Every one who, being the holder of any lease or license issued under the provisions of any Act relating to gold or silver mining, or by any persons owning land supposed to contain any gold or silver, by any fraudulent device or contrivance, defrauds or attempts to defraud Her Majesty, or any person, of any gold, silver or money payable or reserved by such lease, or with such intent as aforesaid, conceals or makes a false statement as to the amount of gold or silver procured by him, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 30. Concealing royalty, with intent to defraud.

28. Every one who, not being the owner or agent of mining claims then being worked, and not being thereunto authorized in writing by the proper officer in that behalf, named in any Act relating to mines in force in any Province of Canada, sells or purchases (except to or from such owner or authorized person) any quartz containing gold, or any smelted gold or silver, at or within three miles of any gold district or mining district, or gold mining division, is guilty of a misdemeanour Selling or purchasing without permission quartz, &c., containing gold or silver.

and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 31.

Purchasing gold in quartz, or smelted, &c., without giving a proper receipt for it.

29. Every one who purchases any gold in quartz, or any unsmelted or smelted gold or silver, or otherwise unmanufactured gold or silver, of the value of one dollar or upwards (except from such owner or authorized person as in the next preceding section mentioned) and does not, at the same time, execute in triplicate an instrument in writing, stating the place and time of purchase, and the quantity, quality and value of gold or silver so purchased, and the name or names of the person or persons from whom the same was purchased, and file the same with the officer in the next preceding section mentioned, within twenty days next after the date of such purchase, is guilty of a misdemeanour, and liable to a penalty not exceeding in amount double the value of the gold or silver purchased, and to imprisonment for any term less than two years. 32-33 V., c. 21, s. 32.

Possession to be *primâ facie* evidence in certain cases.

30. The possession, contrary to the provisions of any law in that behalf of any smelted gold or silver, or any gold-bearing quartz, or any unsmelted or otherwise unmanufactured gold or silver, by any operative, workman or labourer actively engaged in or on any mine, is *primâ facie* evidence that the same has been stolen by him. 32-33 V., c. 21, s. 35.

Defrauding partners.

31. Every one who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any claim, or in any share or interest in any claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim, is guilty of felony, and liable to be punished as in the case of simple larceny. 32-33 V., c. 21, s. 37.

STEALING FROM THE PERSON, AND OTHER LIKE OFFENCES.

Robbery, or stealing from the person.
[24-25 V., c. 96, s. 40.]

32. Every one who robs any person, or steals any chattel, money or valuable security from the person of another, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 39.

Assault with intent to rob.
[24-25 V., c. 96, s. 42.]

33. Every one who assaults any person with intent to rob, is guilty of felony, and, except in cases where a greater punishment is provided by this Act, liable to three years' imprisonment. 32-33 V., c. 21, s. 41.

Robbery or assault by a person armed, or by two or more, or robbery and wounding.
[24-25 V., c. 96, s. 43.]

34. Every one who, being armed with an offensive weapon or instrument, robs or assaults with intent to rob, any person, or together with one or more other person or persons, robs, or assaults with intent to rob any person, or robs any person, and at the time of, or immediately before, or immediately after such robbery, wounds, beats, strikes or uses any other personal

violence to any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 42.

BURGLARY AND HOUSE-BREAKING.

35. Every one who breaks and enters any church, chapel, meeting-house or other place of divine worship, and commits any felony therein, or being in any church, chapel, meeting-house or other place of divine worship, commits any felony therein and breaks out of the same, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 49.

Breaking and entering a church, &c., and committing a felony. [24-25 V., c. 96, s. 50.]

36. No building, although within the same curtilage with any dwelling-house and occupied therewith, shall be deemed to be part of such dwelling-house for any of the purposes of this Act, unless there is a communication between such building and dwelling-house, either immediate or by means of a covered and inclosed passage leading from the one to the other. 32-33 V., c. 21, s. 52.

What building within curtilage to be deemed part of dwelling-house. [24-25 V., c. 96, s. 53.]

37. Every one who enters the dwelling-house of another with intent to commit any felony therein, or being in such dwelling-house, commits any felony therein, and, in either case, breaks out of such dwelling-house in the night, is guilty of burglary. 32-33 V., c. 21, s. 50.

Burglary. [24-25 V., c. 96, s. 51.]

38. Every one who commits the crime of burglary is liable to imprisonment for life. 32-33 V., c. 21, s. 51.

Punishment for burglary. [25-25 V., c. 96, s. 52.]

39. Every one who enters any dwelling-house in the night, with intent to commit any felony therein, is guilty of felony, and liable to seven years' imprisonment. 32-32 V., c. 21, s. 53.

Entering in the night with intent to commit felony. [24-25 V., c. 96, s. 54.]

40. Every one who breaks and enters any building and commits any felony therein, such building being within the curtilage of a dwelling-house and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned, or being in any such building commits any felony therein and breaks out of the same, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 54.

Breaking into any building within the curtilage, and committing any felony. [24-25 V., c. 96, s. 55.]

41. Every one who breaks and enters any dwelling-house, school-house, shop, warehouse or counting-house, and commits any felony therein, or being in any dwelling-house, school-house, shop, warehouse or counting-house, commits any felony therein, and breaks out of the same, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 55.

Breaking into any house, shop, &c., and committing any felony. [24-25 V., c. 96, s. 56.]

42. Every one who breaks and enters any dwelling-house, church, chapel, meeting-house or other place of divine worship, or any building within the curtilage, or school-house, shop,

House breaking with intent to commit a felony.

[24-25 V., c. 96, s. 57.]

warehouse or counting-house, with intent to commit any felony therein, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 56.

Being armed or disguised, &c., with intent to break and enter any house in the night.

[24-25 V., c. 96, s. 58.]

43. Every one who is found by night armed with any dangerous or offensive weapon or instrument whatsoever, with intent to break or enter into any dwelling-house or other building whatsoever, and to commit any felony therein, or is found by night having in his possession, without lawful excuse, —the proof of which excuse shall lie on him—any picklock key, crow, jack, bit or other implement of house-breaking, or any match or combustible or explosive substance, or is found by night having his face blackened or otherwise disguised, with intent to commit any felony, or is found by night in any dwelling-house or other building whatsoever, with intent to commit any felony therein, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 21, s. 59.

The like after a previous conviction.

[24-25 V., c. 96, s. 59.]

44. Every one who, having been convicted of any such misdemeanour as in the next preceding section mentioned, or of any felony, commits any such misdemeanour, is liable to ten years' imprisonment. 32-33 V., c. 21, s. 60.

STEALING IN THE HOUSE.

Stealing in a dwelling-house to the value of twenty-five dollars.

[24-25 V., c. 96, s. 60.]

45. Every one who steals in any dwelling-house any chattel, money or valuable security, to the value in the whole of twenty-five dollars or more, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 61.

Stealing in a dwelling-house with menaces.

[24-25 V., c. 96, s. 61.]

46. Every one who steals any chattel, money or valuable security in any dwelling-house, and by any menace or threat puts any one therein in bodily fear, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 62.

STEALING IN MANUFACTORIES.

Stealing goods in process of manufacture.

[24-25 V., c. 96, s. 62.]

47. Every one who steals, to the value of two dollars, any woollen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of such materials mixed with each other or mixed with any other material, whilst laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 63.

Stealing goods intrusted for manufacture.

[6-7 V., c. 40, s. 2]

48. Every one who, having been intrusted for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make any felt or hat, or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax or silk, or any such materials mixed with one

another, or having been so intrusted, as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, sells, pawns, purloins, secretes, embezzles, exchanges or otherwise fraudulently disposes of the same, or any part thereof, when the offence is not within the next preceding section, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 21, s. 64.

STEALING FROM SHIPS, WHARVES, ETC.

49. Every one who steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal, or steals any goods or merchandise from any dock, wharf or quay, adjacent to any such haven, port, river, canal, creek or basin, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 65.

Stealing from ships, wharves, &c. [24-25 V., c. 96, s. 63.]

STEALING THINGS UNDER SEIZURE.

50. Every one who, whether pretending to be the owner or not, secretly or openly, and whether with or without force or violence, takes or carries away, or causes to be taken or carried away, without lawful authority, any property under lawful seizure and detention, steals such property, and is guilty of felony and liable to be punished accordingly. 43 V., c. 28, s. 66, *part*;—46 V., c. 17, s. 67;—C. S. C., c. 23, s. 10.

Stealing property under seizure.

STEALING OR EMBEZZLEMENT BY CLERKS OR SERVANTS OR PERSONS IN THE PUBLIC SERVICE.

51. Every one who, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals any chattel, money or valuable security belonging to or in the possession or power of his master or employer, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 69.

Larceny by clerks or servants. [24-25 V., c. 96, s. 67.]

52. Every one who, being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, fraudulently embezzles any chattel, money or valuable security, or any part thereof, delivered to or received or taken into possession by him, for or in the name or on the account of his master or employer, feloniously steals the same from his master or employer, although such chattel, money or security was not received into the possession of such master or employer, otherwise than by the actual possession of his clerk, servant or other person so employed, and is liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 70.

Embezzlement by clerks or servants. [24-25 V., c. 96, s. 68.]

Larceny by persons in the Queen's service, or that of any Provincial Government, &c.
[24-25 V., c. 96, s. 69.]

53. Every one who, being employed in the public service of Her Majesty, or of the Lieutenant Governor or government of any Province of Canada, or of any municipality, steals any chattel, money or valuable security belonging to or in the possession or power of Her Majesty, or of such Lieutenant Governor, government or municipality, or intrusted to or received or taken into possession by him by virtue of his employment, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 71.

Embezzlement by persons employed in the Queen's service, or that of any Provincial Government, &c.
[24-25 V., c. 96, s. 70.]

54. Every one who, being employed in the public service of Her Majesty, or of the Lieutenant Governor or government of any Province in Canada, or of any municipality, and intrusted, by virtue of such employment, with the receipt, custody, management or control of any chattel, money or valuable security, embezzles any chattel, money or valuable security intrusted to or taken into possession by him by virtue of his employment, or any part thereof, or in any manner fraudulently applies or disposes of the same, or any part thereof, to his own use or benefit, or for any purpose whatsoever except for the public service, or for the service of such Lieutenant Governor, government or municipality, feloniously steals the same from Her Majesty, or from such municipality, and is liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 72, *part*.

Refusal by person so employed to deliver up money, &c.

55. Every one who, being employed in the public service of Her Majesty, or of the Lieutenant Governor or government of any Province of Canada, or of any municipality, and intrusted by virtue of such employment with the keeping, receipt, custody, management or control of any chattel, money, valuable security, book, paper, account or document, refuses or fails to deliver up the same to any one authorized to demand it, is guilty of a fraudulent embezzlement thereof, and liable to fourteen years' imprisonment :

Other remedies not affected.

2. Nothing herein shall affect any remedy of Her Majesty, of the municipality, or of any person against the offender or his sureties, or any other person, nor shall the conviction of such offender be receivable in evidence in any suit or action against him. 41 V., c. 7, s. 70, *part*;—C. S. C., c. 16, s. 40, *part*;—29-30 V. (Can.), c. 51, s. 187, *part*.

Stealing election documents.

56. Every one who steals, or unlawfully or maliciously, either by violence or stealth, takes from any person having the lawful custody thereof, or from its lawful place of deposit for the time being, or aids, counsels or assists in so stealing or taking any writ of election, or any return to a writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report, or any document or paper made, prepared or drawn out according to or for the requirements of any law in regard to provincial, municipal or civic elections, is guilty of a felony, and liable to a fine, in the discretion of the court, or to seven

years' imprisonment, or to both fine and imprisonment. 29-30 V. (Can.), c. 51, s. 188, *part*;—R.S.B.C., c. 157, ss. 99 *and* 100, *parts*.

STEALING BY TENANTS OR LODGERS.

57. Every one who steals any chattel or fixture let to be used by him, or her, in or with any house or lodging, whether the contract has been entered into by him or her, or by her husband, or by any person on behalf of him or her or her husband, is guilty of felony, and liable to imprisonment for any term less than two years,—and if the value of such chattel or fixture exceeds the sum of twenty-five dollars, is liable to seven years' imprisonment. 32-33 V., c. 21, s. 75, *part*.

Tenant or lodger stealing chattel or fixture let to hire. [24-25 V., c. 96, s. 74.]

STEALING BY PARTNERS.

58. Every one who, being a member of any co-partnership owning any money or other property, or being one of two or more beneficial owners of any money or other property, steals, embezzles or unlawfully converts the same or any part thereof to his own use, or that of any person other than the owner, is liable to be dealt with, tried, convicted and punished as if he had not been or were not a member of such co-partnership, or one of such beneficial owners. 32-33 V., c. 21, s. 38.

Stealing property of partnership. [31-32 V., c. 116, s. 1.]

FRAUDS BY AGENTS, BANKERS OR FACTORS.

59. Every one who, being a cashier, assistant cashier, manager, officer, clerk or servant of any bank, or savings bank, secretes, embezzles or absconds with any bond, obligation, bill obligatory or of credit, or other bill or note, or any security for money, or any money or effects intrusted to him as such cashier, assistant cashier, manager, officer, clerk or servant, whether the same belongs to the bank or belongs to any person, body corporate, society or institution, and is lodged with such bank, is guilty of felony, and liable to imprisonment for life or for any term not less than two years. 34 V., c. 5, s. 60, *and* c. 7, s. 32.

Stealing or embezzling by bank officer. [24-25 V., c. 96, s. 73.]

60. Every one who,—

(a.) Having been intrusted, either solely or jointly with any other person, as a banker, merchant, broker, attorney or other agent, with any money or security for the payment of money, with any direction in writing to apply, pay or deliver such money or security, or any part thereof respectively, or the proceeds or any part of the proceeds of such security, for any purpose, or to any person specified in such direction,—in violation of good faith and contrary to the terms of such direction, in anywise converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so

Agent, &c., intrusted, converting money, &c., to his own use. [24-25 V., c. 96, s. 75.]

intrusted, such money, security or proceeds, or any part thereof respectively, or—

Or any chattel, valuable security or power of attorney.

(b.) Having been intrusted, either solely or jointly with any other person, as a banker, merchant, broker, attorney or other agent, with any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the United Kingdom or any part thereof, or of Canada, or of any Province thereof, or of any British colony or possession, or of any foreign state, or in any stock or fund of any body corporate, company or society, for safe custody or for any special purpose, without any authority to sell, negotiate, transfer or pledge,—in violation of good faith, and contrary to the object or purpose for which such chattel, security or power of attorney has been intrusted to him, sells, negotiates, transfers, pledges, or in any manner converts to his own use or benefit, or the use or benefit of any person other than the person by whom he has been so intrusted, such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney relates, or any part thereof,—

Punishment.

Is guilty of a misdemeanour, and liable to seven years' imprisonment :

Not to apply to trustees or mortgagees.

2. Nothing in this section contained relating to agents shall affect any trustee in or under any instrument whatsoever, or any mortgagee of any property, real or personal, in respect to any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage ; nor shall restrain any banker, merchant, broker, attorney or other agent from receiving any money due or to become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed ; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession, upon which he has any lien, claim or demand, entitling him by law so to do, unless such sale, transfer or other disposal extends to a greater number or part of such securities or effects than are requisite for satisfying such lien, claim or demand. 32-33 V., c. 21, s. 76.

Nor to bankers, &c., receiving money due on securities.

Or disposing of securities on which they have a lien.

Bankers, &c., fraudulently selling, &c., property intrusted to their care. [24-25 V., c. 96, s. 76.]

61. Every one who, being a banker, merchant, broker, attorney or agent, and being intrusted, either solely or jointly with any other person, with the property of any other person for safe custody,—with intent to defraud, sells, negotiates, transfers, pledges or in any other manner converts or appropriates the same, or part thereof, to or for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 77.

Persons under powers of attorney

62. Every one who, being intrusted, either solely or jointly with any other person, with any power of attorney, for the sale

or transfer of any property,—fraudulently sells or transfers, or otherwise converts the same or any part thereof to his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 78.

fraudulently
selling pro-
perty.
[24-25 V., c.
96, s. 77.]

63. Every one who, being a factor, or agent intrusted, either solely or jointly with any other person, for the purpose of sale or otherwise, with the possession of any goods, or of any document of title to goods,—contrary to or without the authority of his principal in that behalf, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, makes any consignment, deposit, transfer or delivery of any goods or document of title so intrusted to him as in this section before mentioned, as and by way of a pledge, lien or security for any money or valuable security borrowed or received by such factor or agent at or before the time of making such consignment, deposit, transfer or delivery, or intended to be thereafter borrowed or received,—or contrary to or without such authority, for his own use or benefit, or the use or benefit of any person other than the person by whom he was so intrusted, and in violation of good faith, accepts any advance of any money, or valuable security on the faith of any contract or agreement to consign, deposit, transfer or deliver any such goods or document of title, is guilty of a misdemeanour, and liable to seven years' imprisonment :

Factors ob-
taining
advances on
the property
of their prin-
cipals.
[24-25 V., c.
96, s. 78.]

2. Every one who knowingly and wilfully acts and assists in making any such consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid, is guilty of a misdemeanour, and liable to the same punishment :

Persons wil-
fully assist-
ing.

3. No such factor or agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods or documents of title, if the same are not made a security for or subject to the payment of any greater sum of money than the amount which, at the time of such consignment, deposit, transfer or delivery, was justly due and owing to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal and accepted by such factor or agent. 32-33 V., c. 21, s. 79.

Exception
when the
pledge does
not exceed
the amount of
their lien.

64. Any factor or agent intrusted, as aforesaid, and possessed of any such document of title, whether derived immediately from the owner of such goods or obtained by reason of such factor or agent having been intrusted with the possession of the goods, or of any other document of title thereto, shall be deemed to have been intrusted with the possession of the goods represented by such document of title ; and every contract pledging or giving a lien upon such document of title as aforesaid, shall be deemed to be a pledge of and lien upon the goods to which the same relates ; and such factor or agent shall be

When agent
shall be
deemed to be
intrusted with
the goods.
[24-25 V., c.
96, s. 79.]

What shall be
deemed a
pledge.

What shall be deemed possession.

What shall be deemed a loan or advance on such goods.

What shall be deemed a contract.

What shall be deemed an advance.

Possession to be evidence of intrusting.

Trustees fraudulently disposing of property. [24-25 V., c. 96, s. 80.]

No prosecution without sanction of the Attorney General.

When civil proceedings have been taken.

Directors, &c. of any body corporate or public company fraudu-

deemed to be possessed of such goods or document, whether the same are in his actual custody or held by any other person subject to his control, or for him, or on his behalf; and whenever any loan or advance is *bonâ fide* made to any factor or agent intrusted with and in possession of any such goods or document of title, on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods or document of title, and such goods or document of title is or are actually received by the person making such loan or advance, without notice that such factor or agent was not authorized to make such pledge or security, every such loan or advance shall be deemed to be a loan or advance on the security of such goods or document of title, within the meaning of the next preceding section, though such goods or document of title are not actually received by the person making such loan or advance till a period subsequent thereto; and any contract or agreement, whether made direct with such factor or agent or with any clerk or other person on his behalf, shall be deemed a contract or agreement with such factor or agent; and any payment made, whether by money or bill of exchange, or other negotiable security, shall be deemed to be an advance within the meaning of the next preceding section; and a factor or agent in possession, as aforesaid, of such goods or document, shall be taken, for the purpose of the next preceding section, to have been intrusted therewith by the owner thereof, unless the contrary is shown in evidence 32-33 V., c. 21, s. 80.

65. Every one who, being a trustee of any property for the use or benefit, either in whole or in part, of some other person, or for any public or charitable purpose, with intent to defraud, converts or appropriates the same, or any part thereof, to or for his own use or benefit or the use or benefit of any person other than such person as aforesaid, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise disposes of or destroys such property or any part thereof, is guilty of a misdemeanour, and liable to seven years' imprisonment:

2. No proceeding or prosecution for any offence mentioned in this section shall be commenced without the sanction of the Attorney General or Solicitor General for the Province in which the same is to be instituted:

3. When any civil proceeding has been taken against any person to whom the provisions of this section apply, no person who has taken such civil proceeding shall commence any prosecution under this section without the sanction of the court or judge before whom such civil proceeding has been had or is pending. 32-33 V., c. 21, s. 81.

66. Every one who, being a director, member, manager or officer of any body corporate or company, fraudulently takes or applies, for his own use or benefit, or for any use or purpose

other than the use or purpose of such body corporate or company, any of the property of such body corporate or company, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 82.

Or fraudulently appropriating property. [24-25 V., c. 96, s. 81.]

67. Every one who, being a director, member, manager or officer of any body corporate or company, as such receives or possesses himself of any of the property of such body corporate or company, otherwise than in payment of a just debt or demand, and, with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or company, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 83.

Or fraudulently keeping false accounts or books. [24-25 V., c. 96, s. 82.]

68. Every one who, being a director, manager, officer or member of any body corporate or company, with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or company, or makes or concurs in the making of any false entry, or omits or concurs in omitting any material particular in any book of account or document, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 84.

Or wilfully destroying or falsifying books or papers, &c. [24-25 V., c. 96, s. 83.]

69. Every one who, being a director, manager, officer or member of any body corporate or company, makes, circulates or publishes, or concurs in making, circulating or publishing any written statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member, shareholder, or creditor of such body corporate or company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any property to such body corporate or company, or to enter into any security for the benefit thereof, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 85.

Or fraudulently publishing false statements or accounts. [24-25 V., c. 96, s. 84.]

70. Every one who, being an officer or member of any unincorporated body or society, associated together for any lawful purpose, fraudulently takes or applies to his own use or benefit, or for any use or purpose other than the use or purpose of such body or society, the whole or any portion of the funds, moneys or other property of the society, and continues to withhold such property after due demand has been made for the restoration and payment of the same by some one or more of the members or officers duly appointed by and on behalf of the body or society, is guilty of a misdemeanour, and liable to three years' imprisonment. C. S. C., c. 71, s. 8;—R. S. B. C., c. 162, s. 9.

Embezzlement by officers, &c., of unincorporated societies.

No person to be exempt from answering questions in any court; but no person making a disclosure in any compulsory proceeding to be liable to prosecution.
[24-25 V., c. 96, s. 85.]

71. Nothing in any of the twelve sections next preceding shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matter in bankruptcy or insolvency; and no person shall be liable to be convicted of any of the misdemeanours in the said sections mentioned by any evidence whatsoever, in respect of any act done by him, if, at any time previously to his being charged with such offence, he has first disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit or proceeding *bonâ fide* instituted by any party aggrieved, or if he has first disclosed the same in any compulsory examination or deposition before any court, upon the hearing of any matter in bankruptcy or insolvency. 32-33 V., c. 21, s. 86.

No remedy at law or in equity to be affected.
[24-25 V., c. 96, s. 86.]

72. Nothing in the thirteen sections next preceding, nor any proceeding, conviction or judgment had or taken thereon against any person under any of the said sections shall prevent, lessen or impeach any remedy at law or in equity, which any person aggrieved by any offence against any of the said sections would have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action or suit against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into, or security given by any trustee, having for its object the restoration or payment of any trust property misappropriated. 32-33 V., c. 21, s. 87.

Keepers of warehouses, &c., giving false receipts.

73. Every one who,—

(a.) Being the keeper of any warehouse, or a forwarder, miller, master of a vessel, wharfinger, keeper of a cove, yard, harbour or other place for storing timber, deals, staves, boards or lumber, curer or packer of pork, or dealer in wool, carrier, factor, agent or other person, or a clerk or other person in his employ, knowingly and wilfully gives to any person a writing purporting to be a receipt for or an acknowledgment of any goods or other property as having been received into his warehouse, vessel, cove, wharf or other place, or in any such place about which he is employed, or in any other manner received by him, or by the person in or about whose business he is employed, before the goods or other property named in such receipt, acknowledgment or writing have been actually delivered to or received by him as aforesaid, with intent to mislead, deceive, injure or defraud any person whomsoever, although such person is then unknown to him, or—

(b.) Knowingly and wilfully accepts, transmits or uses any such false receipt or acknowledgment or writing,—

Is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 21, s. 88;—34 V., c. 5, s. 64.

Using false receipts.

Punishment.

74. Every one who,—

(a.) Having, in his name, shipped or delivered to the keeper of any warehouse, or to any other factor, agent or carrier, to be shipped or carried, any merchandise, upon which the consignee has advanced any money or given any valuable security, afterwards with intent to deceive, defraud or injure such consignee, in violation of good faith, and without the consent of such consignee, makes any disposition of such merchandise different from and inconsistent with the agreement made in that behalf between him and such consignee at the time of or before such money was so advanced, or such negotiable security so given, or—

Owners selling after advance by consignees.

(b.) Knowingly and wilfully acts and assists in making such disposition for the purpose of deceiving, defrauding or injuring such consignee,—

Persons wilfully assisting.

Is guilty of a misdemeanour, and liable to three years' imprisonment :—

Punishment.

2. No person shall be subject to prosecution under this section who, before making such disposition of the merchandise aforesaid, pays or tenders to the consignee the full amount of any advance made thereon. 32-33 V., c. 21, s. 89.

No prosecution if advances are paid.

75. Every one who,—

(a.) Wilfully makes any false statement in any receipt, certificate or acknowledgment for grain, timber or other goods or property, which can be used for any of the purposes mentioned in "*The Bank Act*," or—

Making false statements in receipts for grain, &c.

(b.) Having given, or after any clerk or person in his employ has, to his knowledge, given, as having been received by him in any mill, warehouse, vessel, cove or other place, any such receipt, certificate or acknowledgment for any such grain, timber or other goods or property,—or having obtained any such receipt, certificate or acknowledgment, and after having indorsed or assigned it to any bank or person,—afterwards, and without the consent of the holder or indorsee, in writing, or the production and delivery of the receipt, certificate or acknowledgment, wilfully alienates or parts with, or does not deliver to such holder or indorsee of such receipt, certificate or acknowledgment, the grain, timber, goods or other property therein mentioned,—

Fraudulently alienating or retaining property to which receipt refers.

Is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 21, s. 90, *part* ;—34 V., c. 5, s. 65.

Punishment.

76. If any misdemeanour mentioned in any of the three sections next preceding is committed by the doing of anything in the name of any firm, company, or co-partnership of persons, the person by whom such thing is actually done or who connives at the doing thereof, is guilty of the misdemeanour and not any other person. 32-33 V., c. 21, s. 91 ;—34 V., c. 5, s. 66.

As to partners.

OBTAINING MONEY BY FALSE PRETENCES.

False pre-
tences.
[24-25 V., c.
96, s. 88.]

77. Every one who, by any false pretence, obtains from any other person any chattel, money or valuable security, with intent to defraud, is guilty of a misdemeanour, and liable to three years' imprisonment :

When any
money, &c., is
paid to any
person other
than the per-
son making a
false pre-
tence.
[24-25 V., c.
96, s. 89.]

2. Every one who, by any false pretence, causes or procures any money to be paid, or any chattel or valuable security to be delivered to any other person, for the use or benefit or on account of the person making such false pretence or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel or valuable security within the meaning of the next preceding sub-section. 32-33 V., c. 21, s. 93, *part*, and s. 94.

Inducing
persons by
fraudulent
means to exe-
cute deeds
and other
instruments.
[24-25 V., c.
96, s. 90.]

78. Every one who, with intent to defraud or injure any other person, by any false pretence fraudulently causes or induces any other person to execute, make, accept, indorse or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person, or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon any paper or parchment, so that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 21, s. 95.

Pretending to
have inclosed
money or
other proper-
ty in a post
letter.

79. Every one who, for any purpose or with any intent, wrongfully and with wilful falsehood, pretends or alleges that he inclosed and sent or caused to be inclosed and sent in any post letter, any money, valuable security or chattel, which, in fact, he did not so inclose and send, or cause to be inclosed and sent therein, is guilty of a misdemeanour, and liable to be punished as if he had obtained the money, valuable security or chattel so pretended to be inclosed or sent by any false pretences. 32-33 V., c. 21, s. 96, *part*.

Winning
money by
cheating at
games.
[8-9 V., c. 109,
s. 17.]

80. Every one who, by any fraud or unlawful device or ill practice in playing any game of cards or dice, or of any other kind, or at any race, or in betting on any event, wins or obtains any money or property from any other person, shall be held to have unlawfully obtained the same by false pretences, and shall be punishable accordingly. 32-33 V., c. 21, s. 97.

Obtaining
passage in
steamers, &c.,
by false
tickets.

81. Every one who, by means of any false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any railway, or in any steam or other vessel, is guilty of a misdemeanour, and liable to six months' imprisonment. 32-33 V., c. 21, s. 98.

RECEIVING STOLEN GOODS.

82. Every one who receives any chattel, money, valuable security or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling and otherwise disposing whereof amounts to felony, either at common law or by virtue of this Act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled or disposed of, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 100, *part.*

Receiving where the principal is guilty of felony. [24-25 V., c. 96, s. 91.]

83. Every one who receives any chattel, money, valuable security or other property whatsoever, the stealing, taking, obtaining, converting or disposing whereof is made a misdemeanour by this Act, knowing the same to have been unlawfully stolen, taken, obtained, converted or disposed of, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 104, *part.*

Receiving where the principal is guilty of a misdemeanour. [24-25 V., c. 96, s. 95.]

84. Every one who receives any property whatsoever, knowing the same to be unlawfully come by, the stealing or taking of which property is by this Act punishable on summary conviction, either for every offence, or for the first and second offence only, shall, on summary conviction, be liable, for every first, second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second or subsequent offence of stealing or taking such property is by this Act liable. 32-33 V., c. 21, s. 106.

Receiving where the original offence is punishable on summary conviction. [24-25 V., c. 96, s. 97.]

OFFENCES NOT OTHERWISE PROVIDED FOR.

85. Every one who, unlawfully and with intent to defraud, by taking, by embezzling, by obtaining by false pretences, or in any other manner whatsoever, appropriates to his own use or to the use of any other person, any property whatsoever, so as to deprive any other person temporarily or absolutely of the advantage, use or enjoyment of any beneficial interest in such property in law or in equity, which such other person has therein, is guilty of a misdemeanour, and liable to be punished as in the case of simple larceny; and if the value of such property exceeds two hundred dollars, the offender shall be liable to fourteen years' imprisonment. 32-33 V., c. 21, s. 110, *part.*

Act by which a person is defrauded of the advantage, possession, or use of his property.

86. Every one who is convicted of an offence against this Act by stealing, embezzling or obtaining by false pretences any property whatsoever, the value of which is over two hundred dollars, is liable to seven years' imprisonment, in addition to any punishment to which he would otherwise be liable for such offence. 32-33 V., c. 21, s. 110, *part.*

Additional punishment if property stolen is worth more than \$200.

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

87. Every one who, without the consent of the owner thereof, takes, holds, keeps in his possession, collects, conceals, receives, appropriates, purchases, sells or causes or procures or assists to be taken possession of, collected, concealed, received, appropriated, purchased or sold, any timber, mast, spar, saw-log or other description of lumber which is found adrift in any river, stream or lake, or cast ashore on the bank or beach of any river, stream, or lake,—or, without the consent of the owner thereof, wholly or partially defaces or adds, or causes or procures to be defaced or added, any mark or number on any such timber, mast, spar, saw-log or other description of lumber, or makes or causes, or procures to be made any false or counterfeit mark on any such timber, mast, spar, saw-log or other description of lumber,—or refuses to deliver up to the proper owner thereof, or to the person in charge thereof, on behalf of such owner, or authorized by such owner to receive the same, any such timber, mast, spar, saw-log or other description of lumber, is guilty of a misdemeanour, and liable to be punished as in the case of simple larceny. 38 V., c. 40, s. 1, *part*.

Bringing into Canada property stolen, embezzled, or unlawfully obtained elsewhere.

[24-25 V., c. 96, s. 114.]

88. Every one who brings into Canada, or has in his possession therein, any property stolen, embezzled, converted or obtained by fraud or false pretences in any other country, in such manner that the stealing, embezzling, converting or obtaining it in like manner in Canada would, by the laws of Canada, be a felony or misdemeanour, knowing it to have been so stolen, embezzled or converted, or unlawfully obtained, is guilty of an offence of the same nature and punishable in like manner as if the stealing, embezzling, converting or unlawfully obtaining such property had taken place in Canada. 32-33 V., c. 21, s. 112, *part*.

Taking a reward for helping to the recovery of stolen property, without bringing the offender to trial.

[24-25 V., c. 96, s. 101.]

89. Every one who corruptly takes any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security or other property whatsoever, which, by any felony or misdemeanour, has been stolen, taken, obtained, extorted, embezzled, converted or disposed of, as in this Act before mentioned (unless he has used all due diligence to cause the offender to be brought to trial for the same), is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 21, s. 115.

Advertising a reward for the return of stolen property, &c.

[24-25 V., c. 96, s. 102.]

90. Every one who publicly advertises a reward for the return of any property whatsoever, which has been stolen or lost, and in such advertisement uses any words purporting that no questions will be asked, or makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost, without seizing or making any inquiry after the person producing such property, or promises or offers in any such public advertisement to return to any pawnbroker or other person who advanced

money by way of loan on, or has bought any property stolen or lost, the money so advanced or paid, or any other sum of money for the return of such property, or prints or publishes any such advertisement, shall incur a penalty of two hundred and fifty dollars for every such offence, recoverable with costs by any person who sues for the same in any court of competent jurisdiction :

2. No action to recover any forfeiture under this section shall be brought against the printer or publisher of a newspaper, defined as a newspaper for the purposes of the Acts, for the time being in force, relating to the carriage of newspapers by post, except within six months after the forfeiture is incurred. 32-33 V., c. 21, s. 116;—35 V., c. 35, ss. 2 and 3.

Time for prosecution in certain cases limited.

[33-34 V., c. 65, ss. 2-3.]

91. Every one who, being a seller or mortgagor of land, or of any chattel, real or personal or chose in action, or the solicitor or agent of any such seller or mortgagor, and having been served with a written demand of an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage, conceals any settlement, deed, will or other instrument, material to the title, or any incumbrance, from such purchaser or mortgagee, or falsifies any pedigree upon which the title depends, with intent to defraud and in order to induce him to accept the title offered or produced to him, is guilty of a misdemeanour and liable to a fine or to two years' imprisonment or to both :

Concealment of deeds, &c., or falsification of pedigree by vendor or mortgagor.

2. No prosecution for any such offence shall be commenced without the consent of the Attorney General of the Province within which the offence is committed, given after previous notice to the person intended to be prosecuted of the application to the Attorney General for leave to prosecute :

Consent of Attorney General to prosecution required.

3. Nothing in this section, and no proceeding, conviction or judgment had or taken thereon, shall prevent, lessen or impeach any remedy which any person aggrieved by any such offence would otherwise have had. 29 V. (Can.), c. 28, s. 20, *part*.

Other remedies not affected.

92. The three sections next following apply only to the Province of Quebec.

Provisions applicable to Quebec.

93. Every one who, knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or incumbrance, of or upon any real property, fraudulently makes any subsequent sale of the same, or of any part thereof, is guilty of a misdemeanour, and liable to a fine not exceeding two thousand dollars, and to one year's imprisonment. C.S.L. C., c. 37, s. 113.

Fraudulent sale of property.

94. Every one who pretends to hypothecate any real property to which he has no legal title, is guilty of a misdemeanour, and liable to a fine not exceeding one hundred dollars and to one year's imprisonment, and the proof of the ownership

Fraudulent hypothecation of property.

of the real estate shall rest with the person so pretending to hypothecate the same. C. S. L. C., c. 37, s. 114.

Knowingly seizing township lands not belonging to defendant.

95. Every person who, knowingly, wilfully and maliciously, causes or procures to be seized and taken in execution, any lands and tenements, or other real property, situate within any township in the Province of Quebec, not being, at the time of such seizure, the *bonâ fide* property of the person or persons against whom, or whose estate, the execution is issued knowing the same not to be the property of the person or persons against whom the execution is issued, is guilty of a misdemeanour, and liable to one year's imprisonment :

Other remedies not affected.

2. Nothing in this section, and no proceeding, conviction or judgment had or taken thereunder, shall prevent, lessen or impeach any remedy which any person aggrieved by any such offence would otherwise have had. C. S. L. C., c. 46, ss. 1 and 2.

Provisions applicable to B. C.

96. The following sections apply only to the Province of British Columbia.

False statements, &c., in relation to transactions in land.

97. Every one who, in any proceeding to obtain the registration of any title to land or otherwise, or in any transaction relating to land, which is or is proposed to be put on the register, acting either as principal or agent, knowingly and with intent to deceive, makes or assists or joins in, or is privy to the making of any material false statement or representation, or suppresses, conceals, assists or joins in, or is privy to the suppression, withholding or concealing from any judge or registrar, or any person employed by or assisting the registrar, any material document, fact or matter of information, is guilty of a misdemeanour, and liable to three years' imprisonment :

Other remedies not affected.

2. Nothing in this section, and no proceeding, conviction or judgment had or taken thereon, shall prevent, lessen or impeach any remedy which any person aggrieved by any such offence would otherwise have had :

Criminal liability not to protect against giving evidence.

3. Nothing in this section shall entitle any person to refuse to make a complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court ; but no answer to any such bill, question or interrogatory shall be admissible against any such person in evidence in any criminal proceeding. R. S. B. C., c. 143, ss. 81, 82, 83 and 85.

Injuring or removing anything from an Indian grave or purchasing such thing.

98. Every one who steals, or without the sanction of the Lieutenant Governor of the Province, cuts, breaks, destroys, damages or removes any image, bones, article or thing deposited in or near any Indian grave, or induces or incites any other person so to do, or purchases any such article or thing after the same has been so stolen, or cut or broken, destroyed

or damaged, knowing the same to have been so acquired or dealt with, shall, on summary conviction, be liable, for a first offence, to a penalty not exceeding one hundred dollars, or to three months' imprisonment, and for a subsequent offence to the same penalty and to six months' imprisonment with hard labour :

2. In any proceeding under this section it shall be sufficient to state that such grave, image, bones, article or thing, is the property of the Crown. R. S. B. C., c. 69, ss. 2, 3 and 4. Property may be stated to be in the Crown.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 165.

A. D. 1886.

An Act respecting Forgery.

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

INTERPRETATION.

Interpreta-
tion:
“Province of
“Canada.”

1. In this Act, unless the context otherwise requires, the expression “Province of Canada” includes the late Province of Canada and the late Provinces of Upper Canada and Lower Canada, also the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, as they respectively existed before they became part of Canada, and also the several Provinces, Territories and districts now or hereafter forming part of Canada.

Having in
custody or
possession.
[24-25 V., c.
98, s. 45.]

2. When the having any matter or thing in the custody or possession of any person is, in this Act, expressed to be an offence, if any person has any such matter or thing in his personal custody and possession, or knowingly and wilfully has any such matter or thing in the actual custody and possession of any other person, or knowingly and wilfully has any such matter or thing in any dwelling-house or other building, lodging, apartment, field or other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter or thing is so had for his own use, or for the use or benefit of another, every such person shall be deemed and taken to have such matter or thing in his custody or possession within the meaning of this Act. 32-33 V., c. 19, s. 52.

What shall be
deemed for-
gery.

3. The wilful alteration, for any purpose of fraud or deceit, of any document or thing written, printed or otherwise made capable of being read, or of any document or thing the forging of which is made punishable by this Act, shall be held to be a forging thereof. 32-33 V., c. 19, s. 45, *part*.

THE GREAT SEAL, ETC.

Forging the
great seal,
privy seal, &c.
[24-25 V., c.
98, s. 1.]

4. Every one who forges or counterfeits, or utters, knowing the same to be forged or counterfeited, the Great Seal of the United Kingdom, or the Great Seal of Canada, or of any Pro-

vince of Canada, or of any one of Her Majesty's colonies or possessions, Her Majesty's Privy Seal, any Privy Signet of Her Majesty, Her Majesty's Royal Sign Manual, or any of Her Majesty's seals, appointed by the twenty-fourth article of the union between England and Scotland to be kept, used and continued in Scotland, the Great Seal of Ireland, or the Privy Seal of Ireland, or the Privy Seal or Seal at Arms of the Governor General of Canada, or of the Lieutenant Governor of any Province of Canada, or of any person who administers or, at any time, administered the Government of any Province of Canada, or of the Governor or Lieutenant Governor of any one of Her Majesty's colonies or possessions,—or forges or counterfeits the stamp or impression of any of the seals aforesaid,—or utters any document or instrument whatsoever, having thereon or affixed thereto the stamp or impression of any such forged or counterfeited seal, knowing the same to be the stamp or impression of such forged or counterfeited seal, or any forged or counterfeited stamp or impression made or apparently intended to resemble the stamp or impression of any of the seals aforesaid, knowing the same to be forged or counterfeited,—or forges, or alters, or utters, knowing the same to be forged or altered, any document or instrument having any of the said stamps or impressions thereon, or affixed thereto, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 1.

Or uttering document with forged seal.

5. Every one who forges or fraudulently alters any document bearing or purporting to bear the signature of the Governor General of Canada, or of any deputy of the Governor General, or of the Lieutenant Governor of any Province of Canada, or of any person who administers or, at any time, administered the Government of any Province of Canada, or offers, utters, disposes of or puts off any such forged or fraudulently altered document as aforesaid, knowing the same to be so forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 2.

Forging or uttering any document bearing the forged signature of the Governor, Lieutenant Governor, &c.

LETTERS PATENT AND PUBLIC REGISTERS.

6. Every one who forges or alters, or in any way publishes, puts off, or utters as true, knowing the same to be forged or altered, any copy of letters patent, or of the enrolment or enrolment or registration of letters patent, or of any certificate thereof, made or given or purporting to be made or given by virtue of any Act of Canada or of any Province of Canada, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 3.

Forging or altering copies of letters patent, &c.

7. Every one who forges or counterfeits or alters any public register or book appointed by law to be made or kept or any entry therein, or wilfully certifies or utters any writing as and for a true copy of such public register or book or of any entry

Forging or altering any public register, &c.

therein, knowing such writing to be counterfeit or false, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 4.

TRANSFERS OF STOCK, ETC.

Forging
transfer of
stock, &c.
[24-25 V., c.
98, s. 2.]

8. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable in any of the books of the Dominion of Canada, or of any Province of Canada, or of any bank at which the same is transferable, or of or in the capital stock of any body corporate, company or society, which now is or hereafter may be established by charter, or by, under or by virtue of any Act of Parliament of the United Kingdom or of Canada, or by any Act of the Legislature of any Province of Canada,—or forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock, or any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of any such grant of land, or to receive any dividend or money payable in respect of any such share or interest,—or demands or endeavours to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, or any such grant of land, or scrip or payment or allowance in lieu thereof as aforesaid, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 5.

Forging
power of
attorney.

Personating
the owner of
certain stock,
&c., and
transferring
or receiving,
or endeavouring
to transfer
or receive the
dividends.
[24-25 V., c.
98, s. 3.]

9. Every one who falsely and deceitfully personates any owner of any share, or interest of or in any stock, annuity or other public fund, which now is or hereafter may be transferable in any of the books of the Dominion of Canada, or of any Province of Canada, or of any bank at which the same is transferable, or any owner of any share or interest of or in the capital stock of any body corporate, company or society which now is or hereafter may be established by charter, or by, under or by virtue of any Act of Parliament of the United Kingdom or of Canada, or by any Act of the Legislature of any Province of Canada, or of any claim for a grant of land from the Crown in Canada, or for any scrip or other payment or allowance in lieu of such grant of land, or any owner of any dividend or money payable in respect of any such share or interest as aforesaid,—and thereby transfers or endeavours to transfer any share or interest belonging to any such owner, or thereby receives or endeavours to receive any money due to any such owner, or to obtain any such grant of land, or such scrip or allowance in lieu

thereof as aforesaid, as if such offender were the true and lawful owner, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 6.

10. Every one who forges any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock, or grant of land or scrip or allowance in lieu thereof, as in either of the two sections next preceding mentioned, or to receive any dividend or money payable in respect of any such share or interest, —or offers, utters, disposes of or puts off any such power of attorney or other authority, with any such forged name, handwriting or signature thereon, knowing the same to be forged, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 7.

Forging attestation to power of attorney for transfer of stock, &c. [24-25 V., c. 98, s. 4.]

11. Every one who, with intent to defraud, wilfully makes any false entry in, or wilfully alters any word or figure in any of the books of account kept by the Government of Canada, or of any Province of Canada, or of any bank at which any of the books of account of the Government of Canada or of any Province of Canada are kept,—in which books the accounts of the owners of any stock, annuities or other public funds, which now are or hereafter may be transferable in such books, are entered and kept,—or in any manner wilfully falsifies any of the accounts of any of such owners in any of the said books, or wilfully makes any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferable as aforesaid, in the name of any person not being the true and lawful owner of such share or interest, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 8.

Making false entries in the books of public funds. [24-25 V., c. 98, s. 5.]

Or any fraudulent transfer.

12. Every one who, being a clerk, officer or servant of, or other person employed or intrusted by the Government of Canada or of any Province of Canada, or being a clerk or officer or servant of, or other person employed or intrusted by any bank in which any of such books and accounts as are mentioned in the next preceding section, are kept, knowingly and with intent to defraud, makes out, or delivers any dividend warrant, or warrant for payment of any annuity, interest or money payable as aforesaid, for a greater or less amount than the person on whose behalf such warrant is made out is entitled to, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 9.

Clerks making out false dividend warrants, &c. [24-25 V., c. 98, s. 6.]

DEBENTURES, STOCK, EXCHEQUER BILLS, ETC.

13. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to

Forging debentures, Dominion notes,

exchequer bills, bonds, &c., or indorsements thereon, or any coupon certificate, &c.

[24-25 V., c. 98, s. 8.]

be forged or altered, any debenture or other security, issued under the authority of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, or any exchequer bill or exchequer bond, or any Dominion or Provincial note, or any indorsement on or assignment of any such debenture, exchequer bill or exchequer bond or other security, issued under the authority of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, or any coupon, receipt or certificate for interest accruing thereon, or any scrip in lieu of land as aforesaid, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 10.

Making plates, &c., in imitation of those used for debentures, exchequer bills, &c.

[24-25 V., c. 98, s. 9.]

14. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, makes or causes or procures to be made, or aids or assists in making, or knowingly has in his custody or possession, any frame, mould or instrument, having therein any words, letters, figures, marks, lines or devices, peculiar to or appearing in the substance of any paper provided or to be provided and used for any such debentures, exchequer bills or exchequer bonds, Dominion notes or Provincial notes or other securities as aforesaid, or any machinery for working any threads into the substance of any such paper, or any such thread, and intended to imitate such words, letters, figures, marks, lines, threads or devices,—or any plate peculiarly employed for printing such debentures, exchequer bills or exchequer bonds, or such notes or other securities, or any die or seal peculiarly used for preparing any such plate, or for sealing such debentures, exchequer bills or exchequer bonds, notes or other securities, or any plate, die or seal, intended to imitate any such plate, die or seal as aforesaid, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 11.

Making paper in imitation of that used for debentures, exchequer bills, &c.

[24-25 V., c. 98, s. 10.]

15. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, makes, or causes, or procures to be made, or aids or assists in making any paper in the substance of which appear any words, letters, figures, marks, lines, threads or other devices peculiar to and appearing in the substance of any paper provided or to be provided or used for such debentures, exchequer bills or exchequer bonds, notes or other securities aforesaid, or any part of such words, letters, figures, marks, lines, threads or other devices, and intended to imitate the same,—or knowingly has in his custody or possession any paper whatsoever, in the substance whereof appear any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any part of such words, letters, figures, marks, lines, threads or other devices, and intended to imitate the same,—or causes or assists in causing any such words, letters, figures, marks, lines, threads or devices as aforesaid, or any part of such words, letters, figures, marks, lines, threads and other devices, and intended to imitate the same, to appear in the substance of any paper whatsoever,—or takes, or assists in

taking an impression of any such plate, die or seal, as in the next preceding section mentioned, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 12.

Taking impression from plate, die or seal.

16. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, purchases or receives, or knowingly has in his custody or possession, any paper manufactured and provided by or under the direction of the Government of Canada or of any Province of Canada, for the purpose of being used as such debentures, exchequer bills or exchequer bonds, notes or other securities as aforesaid, before such paper has been duly stamped, signed and issued for public use, or any such plate, die or seal, as in the two sections next preceding mentioned, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 19, s. 13.

Having in possession paper, &c., for debentures, exchequer bills, &c. [24-25 V., c. 98, s. 11.]

STAMPS.

17. Every one who forges, counterfeits or imitates, or procures to be forged, counterfeited or imitated any stamp or stamped paper, issued or authorized to be used by any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, by means whereof any duty thereby imposed may be paid, or any part or portion of any such stamp,—or knowingly uses, offers, sells or exposes for sale any such forged, counterfeited or imitated stamp,—or engraves, cuts, sinks or makes any plate, die or other thing whereby to make or imitate such stamp or any part or portion thereof, except by permission of an officer or person who, being duly authorized in that behalf by the Government of Canada or of any Province of Canada, may lawfully grant such permission,—or has possession of any such plate, die or thing, without such permission, or, without such permission, uses or has possession of any such plate, die or thing lawfully engraved, cut or made,—or tears off or removes from any instrument, on which a duty is payable, any stamp by which such duty has been wholly or in part paid, or removes from any such stamp any writing or mark indicating that it has been used for or towards the payment of any such duty, is guilty of felony, and liable to twenty-one years' imprisonment. 32-33 V., c. 19, s. 14.

Forging stamps or stamped paper. [33-34 V., c. 98, s. 18.]

Or tools for making the same.

Removing stamps from instruments.

BANK NOTES.

18. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any note or bill of exchange of any body corporate, company or person carrying on the business of bankers, commonly called a bank note, a bank bill of exchange or bank post bill, or any indorsement on or assignment of any bank note, bank bill of exchange or bank post bill, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 15.

Forging bank notes and bills. [24-25 V., c. 98, s. 12.]

Purchasing or receiving or having forged bank notes or bills. [24-25 V., c. 98, s. 13.]

19. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, purchases or receives from any other person, or has in his custody or possession any forged bank note, bank bill of exchange or bank post bill, or blank bank note, blank bank bill of exchange or blank bank post bill, knowing the same to be forged, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 16.

MAKING PAPER AND ENGRAVING PLATES FOR BANK NOTES, ETC.

Making or having moulds for making paper with words used for Dominion notes, bank notes, &c. [24-25 V., c. 98, s. 14.]

20. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, makes or uses, or knowingly has in his custody or possession, any frame, mould or instrument for the making of paper used for Dominion or Provincial notes, or for bank notes, with any words used in such notes, or any part of such words, intended to resemble or pass for the same, visible in the substance of the paper, or for the making of paper with curved or waving bar lines, or with laying wire lines thereof, in a waving or curved shape, or with any number, sum or amount, expressed in a word or words in letters, visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for such notes, respectively,—or makes, uses, sells, exposes for sale, utters or disposes of, or knowingly has in his custody or possession any paper whatsoever with any words used in such notes, or any part of such words, intended to resemble and pass for the same, visible in the substance of the paper, or any paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum or amount expressed in a word or words in letters appearing visible in the substance of the paper, or with any device or distinction peculiar to and appearing in the substance of the paper used for any such notes, respectively,—or, by any art or contrivance, causes any such words or any part of such words, intended to resemble and pass for the same, or any device or distinction peculiar to and appearing in the substance of the paper used for any such notes, respectively, to appear visible in the substance of any paper, or causes the numerical sum or amount of any such note, in a word or words in letters to appear visible in the substance of the paper, whereon the same is written or printed, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 17.

Or selling such paper or having it in possession.

Or causing distinctive marks to appear thereon.

Exception as to paper used for bills of exchange, &c. [24-25 V., c. 98, s. 15.]

21. Nothing in the next preceding section contained shall prevent any person from issuing any bill of exchange or promissory note, having the amount thereof expressed in a numerical figure or figures denoting the amount thereof in pounds or dollars, appearing visible in the substance of the paper upon which the same is written or printed, or shall prevent any person from making, using or selling any paper having waving or curved lines, or any other devices in the nature

of water marks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved, laying wire lines or bar lines, or the water-marks of the paper used for Dominion notes or Provincial notes or bank notes, as aforesaid. 32-33 V., c. 19, s. 18.

22. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any promissory note or part of a promissory note, purporting to be a Dominion or Provincial note, or bank note, or to be a blank Dominion or Provincial note, or bank note, or to be a part of any Dominion or Provincial note, or bank note, as aforesaid, or any name, word or character resembling, or apparently intended to resemble, any subscription to any such Dominion or Provincial note, or bank note, as aforesaid,—or uses any such plate, wood, stone, or other material, or any other instrument or device for the making or printing of any such note, or part of such note,—or knowingly has in his custody or possession any such plate, wood, stone or other material, or any such instrument or device,—or knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper upon which any blank Dominion or Provincial note, or bank note, or part of any such note, or any name, word or character resembling, or apparently intended to resemble, any such subscription, is made or printed, is guilty of felony, and liable to fourteen years' imprisonment. 31 V., c. 46, s. 14; —32-33 V., c. 19, s. 19.

Engraving or having plate for making Dominion or bank notes. [24-25 V., c. 98, s. 16.]

Unlawfully uttering such note or part thereof.

23. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, engraves or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any word, number, figure, device, character, or ornament, the impression taken from which resembles, or is apparently intended to resemble any part of a Dominion or Provincial note, or bank note, or uses or knowingly has in his custody or possession any such plate, wood, stone or other material, or any other instrument or device for the impressing or making upon any paper or any other material, any word, number, figure, character or ornament, which resembles, or is apparently intended to resemble any part of any such note as aforesaid,—or knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper or other material upon which there is an impression of any such matter as aforesaid, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 20.

Engraving on a plate, &c., any word, number, or device, resembling part of a note. [24-25 V., c. 98, s. 17.]

[24-25 V., c. 98, s. 17.]

Uttering or having any paper on which any such word, &c., is impressed.

24. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, makes or uses any frame, mould or instrument for the manufacture of paper, with the name or

Making or having mould for making paper with

the name of any bank, or making or having such paper.
[24-25 V., c. 98, s. 18.]

firm of any bank or body corporate, company or person carrying on the business of bankers, appearing visible in the substance of the paper, or knowingly has in his custody or possession any such frame, mould or instrument,—or makes, uses, sells, or exposes for sale, utters or disposes of, or knowingly has in his custody or possession any paper, in the substance of which the name or firm of any such bank, body corporate, company, or person appears visible,—or, by any art or contrivance causes the name or firm of any such bank, body corporate, company or person to appear visible in the substance of the paper upon which the same is written or printed is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 21.

Forging foreign bills and uttering the same.
[24-25 V., c. 98, s. 19.]

25. Every one who forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, promissory note, undertaking or order for payment of money, in whatsoever language or languages the same is expressed, and whether the same is or is not under seal, purporting to be the bill, note, undertaking or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons resident in any country not under the dominion of Her Majesty,—and every one who, without lawful authority or excuse, the proof whereof shall lie on him, engraves, or in anywise makes upon any plate whatsoever, or upon any wood, stone or other material, any bill of exchange, promissory note, undertaking or order for payment of money, or any part of any bill of exchange, promissory note, undertaking or order for payment of money, in whatsoever language the same is expressed and whether the same is or is not, or is or is not intended to be under seal, purporting to be the bill, note, undertaking or order, or part of the bill, note, undertaking or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons resident in any country not under the dominion of Her Majesty,—or uses or knowingly has in his custody or possession any plate, stone, wood or other material, upon which any such foreign bill, note, undertaking or order, or any part thereof is engraved or made,—or knowingly offers, utters, disposes of or puts off, or has in his custody or possession any paper upon which any part of any such foreign bill, note, undertaking or order is made or printed, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 22.

Engraving plates for foreign bills or notes, or using or having such plates.

Uttering paper on which any part of such bill or note is printed.

DEEDS, WILLS, BILLS OF EXCHANGE, ETC.

Forging deeds, bonds, &c., or uttering the same.

26. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be

forged or altered, any deed or any bond or writing obligatory, or any assignment at law or in equity of any such bond or writing obligatory, or forges any name, handwriting or signature purporting to be the name, handwriting or signature of a witness attesting the execution of any deed, bond or writing obligatory, or offers, utters, disposes of or puts off any deed, bond or writing obligatory, having thereon any such forged name, handwriting or signature, knowing the same to be forged, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 23. [24-25 V., c. 98, s. 20.]

27. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any will, testament, codicil or testamentary instrument, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 24. [24-25 V., c. 98, s. 21.] Forging wills.

28. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange, or any acceptance, indorsement or assignment of any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any such promissory note, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 25. [24-25 V., c. 98, s. 22.] Forging bills of exchange or promissory notes.

29. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any undertaking, warrant, order, authority or request for the payment of money or for the delivery or transfer of any goods or chattels, or of any note, bill or other security for the payment of money, or for procuring or giving credit, or any indorsement on or assignment of any such undertaking, warrant, order, authority or request, or any accountable receipt, acquittance or receipt for money or for goods, or for any note, bill or other security for the payment of money, or any indorsement on or assignment of any such accountable receipt, or any account, book or thing, written or printed or otherwise made capable of being read, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 26. [24-25 V., c. 98, s. 23.] Forging orders, receipts, &c., for money, goods, &c.

30. Every one who, with intent to defraud, draws, makes, signs, accepts or indorses any bill of exchange or promissory note, or any undertaking, warrant, order, authority or request for the payment of money, or for the delivery or transfer of goods or chattels, or of any bill, note or other security for money, by procuration or otherwise, for, in the name, or on the account of any other person, without lawful authority or excuse,—or offers, utters, disposes of or puts off any such bill, note, undertaking, warrant, order, authority or request, so drawn, made, signed, accepted or indorsed, by procuration or otherwise without [24-25 V., c. 98, s. 24.] Making or accepting any bill, &c., by procuration, without lawful authority, or uttering such bill.

lawful authority or excuse, knowing the same to have been so drawn, made, signed, accepted or indorsed, as aforesaid, is guilty of felony and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 27.

Obliterating
crossing on
cheques.
[24-25 V., c.
98, s. 25.]

31. Whenever any cheque or draft on any banker is crossed with the name of a banker, or with two transverse lines with the words "and company," or any abbreviation thereof, every one who, with intent to defraud, obliterates, adds to or alters any such crossing, or offers, utters, disposes of or puts off any cheque or draft whereon any such obliteration, addition or alteration has been made, knowing the same to have been made, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 28.

Forging
debentures.
[24-25 V., c.
98, s. 26.]

32. Every one who forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any debenture issued under any lawful authority whatsoever, either within Her Majesty's dominions or elsewhere, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 29.

PASSENGER TICKETS.

Forging rail-
way tickets,
&c.

33. Every one who, with intent to defraud, forges, offers or utters, disposes of or puts off, knowing the same to be forged, any ticket or order for a free or paid passage on any railway or any steam or other vessel, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 19, s. 32.

RECORDS, PROCESS, INSTRUMENTS OF EVIDENCE, ETC.

Forging pro-
ceedings of
courts.
[24-25 V., c.
98, s. 27.]

34. Every one who forges or fraudulently alters or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any record, writ, return, panel, process, rule, order, warrant, interrogatory, deposition, affidavit, affirmation, recognizance, *cognovit actionem*, warrant of attorney, bill, petition, process, notice, rule, answer, pleading, interrogatory, report, order or decree, or any original document whatsoever of or belonging to any court of justice, or any document or writing, or any copy of any document or writing, used or intended to be used as evidence in any such court, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 33.

Uttering false
copies or cer-
tificates of
records, or
process of
courts, or
using forged
process.

35. Every one who, being the clerk of any court or other officer having the custody of the records of any court, or being the deputy of any such clerk or officer, utters any false copy or certificate of any record, knowing the same to be false; and every one, other than such clerk, officer or deputy, who signs or certifies any copy or certificate of any record as such clerk,

officer or deputy,—and every one who forges or fraudulently alters or offers, utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any copy or certificate of any record, or offers, utters, disposes of or puts off any copy or certificate of any record having thereon any false or forged name, handwriting or signature, knowing the same to be false or forged,—and every one who forges the seal of any court of record, or forges or fraudulently alters any process of any court whatsoever, or serves or enforces any forged process of any court whatsoever, knowing the same to be forged, or delivers or causes to be delivered to any person any paper, falsely purporting to be any such process or a copy thereof, or to be any judgment, decree or order of any court whatsoever, or a copy thereof, knowing the same to be false, or acts or professes to act under any such false process, knowing the same to be false, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 34;—C. S. U. C., c. 16, s. 16, *part.*

36. Every one who forges or fraudulently alters, or offers, utters, disposes of, puts off, or tenders in evidence, knowing the same to be forged or fraudulently altered, any instrument, whether written or printed, or partly written and partly printed, which is made evidence by any Act of the Parliament of Canada or of the Legislature of any Province of Canada, and for which offence no other punishment is in this Act provided, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 35;—39 V., c. 26, s. 14;—C. S. C., c. 80, s. 7, *part.*

Forging instruments made evidence by any Act of Parliament, &c. [24-25 V., c. 98, s. 28.]

37. Every one who,—

(a.) Prints any proclamation, order, regulation or appointment, or notice thereof, and causes the same falsely to purport to have been printed by the Queen's Printer for Canada, or the Government Printer for any Province of Canada, as the case may be, or tenders in evidence any copy of any proclamation, order, regulation or appointment, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or—

Causing proclamation, &c., falsely to purport to be printed by Queen's Printer, &c. [31-32 V., c. 37, s. 4.]

(b.) Forges, or tenders in evidence, knowing the same to be forged, any certificate authorized to be made or given by any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, for the purpose of certifying or verifying any copy or extract of any proclamation, order, regulation, appointment, paper, document or writing, of which a certified copy may lawfully be offered as *prima facie* evidence,—

Forging or tendering forged certificate.

Is guilty of felony, and liable to seven years' imprisonment. 44 V., c. 28, s. 4. Punishment.

NOTARIAL ACTS, REGISTERS OF DEEDS, ETC.

38. Every one who forges or fraudulently alters, or offers, utters, disposes of or puts off, knowing the same to be forged

Forging notarial instruments, or

other authentic documents, or as to the registry of deeds. [24-25 V., c. 98, s. 31.]

or fraudulently altered, any notarial act or instrument or copy, purporting to be an authenticated copy thereof or any *procès verbal* of a surveyor, or like copy thereof,—or forges or fraudulently alters, or offers or utters, disposes of or puts off, knowing the same to be forged or fraudulently altered, any duplicate of any instrument, or any memorial, affidavit, affirmation, entry, certificate, indorsement, document or writing, made or issued under the provisions of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, for or relating to the registry of deeds or other instruments or documents respecting or concerning the title to or claims upon any real or personal property whatsoever, or forges, or counterfeits the seal of or belonging to any office for the registry of deeds or other instruments as aforesaid, or any stamp or impression of any such seal,—or forges any name, handwriting or signature, purporting to be the name, handwriting or signature of any person to any such memorial, affidavit, affirmation, entry, certificate, indorsement, document or writing required or directed to be signed by or by virtue of any such Act,—or offers, utters, disposes of or puts off any such memorial or other writing as in this section mentioned, having thereon any such forged stamp or impression of any such seal, or any such forged name, handwriting or signature, knowing the same to be forged, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 37.

Uttering such documents.

ORDERS OF JUSTICES OF THE PEACE.

Forging orders of justices, recognizances, affidavits, &c. [24-25 V., c. 98, s. 32.]

39. Every one who, with intent to defraud, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any summons, conviction, order or warrant, of any justice of the peace, or any recognizance purporting to have been entered into before any justice of the peace or other officer authorized to take the same, or any examination, deposition, affidavit, affirmation or solemn declaration, taken or made before any justice of the peace, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 19, s. 38.

NAMES OF JUDGES, ETC.

Forging name of judge, &c. [24-25 V., c. 98, s. 33.]

40. Every one who, with intent to defraud, forges or alters any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing made or purporting or appearing to be made by any judge, commissioner, clerk or other officer of any court in Canada, or the name, handwriting or signature of any such judge, commissioner, clerk, or other officer, as aforesaid,—or offers, utters, disposes of or puts off any such certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing, knowing the same to be forged or altered, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 39 ;—C. S. U. C., c. 16, s. 16, *part*.

RECOGNIZANCES, ETC.

41. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, in the name of any other person, acknowledges any recognizance of bail, or any *cognovit actionem*, or judgment, or any deed or other instrument, before any court, judge, notary or other person lawfully authorized in that behalf, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 40.

Acknowledging recognizance, bail, cognovit, &c., in the name of another. [24-25 V., c. 98, s. 34.]

MARRIAGE LICENSES.

42. Every one who forges or fraudulently alters any license or certificate for marriage, or offers, utters, disposes of or puts off any such license or certificate, knowing the same to be forged or fraudulently altered, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 19, s. 41.

Forging or uttering forged marriage license or certificate. [24-25 V., c. 98, s. 35.]

REGISTERS OF BIRTHS, MARRIAGES AND DEATHS.

43. Every one who unlawfully destroys, defaces or injures, or causes or permits to be destroyed, defaced or injured, any register of births, baptisms, marriages, deaths or burials, authorized or required to be kept in Canada, or in any Province of Canada, or any part of any such register, or any certified copy of any such register, or of any part thereof,—or forges or fraudulently alters in any such register any entry relating to any birth, baptism, marriage, death or burial, or any part of any such register, or any certified copy of such register, or of any part thereof,—or knowingly and unlawfully inserts, or causes or permits to be inserted in any such register, or in any certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death or burial,—or knowingly and unlawfully gives any false certificate relating to any birth, baptism, marriage, death or burial, or certifies any writing to be a copy or extract from any such register, knowing such writing, or the part of such register whereof such copy or extract is so given, to be false in any material particular,—or forges or counterfeits the seal of or belonging to any registry office or burial board,—or offers, utters, disposes of or puts off any such register, entry, certified copy, certificate or seal, knowing the same to be false, forged or altered, or offers, utters, disposes of, or puts off any copy or any entry in any such register, knowing such entry to be false, forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 42.

Forging or defacing, &c., registers of births, baptisms, marriages, deaths or burials. [24-25 V., c. 98, s. 36.]

Or uttering the same.

44. Every one who, knowingly and wilfully, inserts or causes or permits to be inserted, in any copy of any register directed or required by law to be transmitted to any registrar or other officer, any false entry of any matter relating to any

Making false entries in copies of register sent to registrar.

[24-25 V., c.
98, s. 37.]

Destroying or
concealing
such copies.

baptism, marriage or burial,—or forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any copy of any register so directed or required to be transmitted as aforesaid,—or knowingly or wilfully signs or verifies any copy of any register so directed or required to be transmitted as aforesaid, which copy is false in any part thereof, knowing the same to be false,—or unlawfully destroys, defaces or injures, or for any fraudulent purpose, takes from its place of deposit, or conceals any such copy of any register, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 43.

DEMANDING PROPERTY UPON FORGED INSTRUMENTS.

Demanding or
obtaining prop-
erty upon
forged instru-
ments.

[24-25 V., c.
98, s. 38.]

45. Every one who, with intent to defraud, demands, receives or obtains, or causes or procures to be delivered or paid to any person, or endeavours to receive or obtain, or to cause or procure to be delivered or paid to any person, any chattel, money, security for money or other property whatsoever, under, upon or by virtue of any forged or altered instrument whatsoever, knowing the same to be forged or altered, or under, upon or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration were obtained, to have been forged or altered, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation or affidavit, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 19, s. 44.

CASES NOT OTHERWISE PROVIDED FOR.

Forging any
document or
writing
whatsoever.

46. Every one who, for any purpose of fraud or deceit, forges or fraudulently alters any document or thing written, printed or otherwise made capable of being read, or offers, utters, disposes of or puts off any such forged or altered document or thing, knowing the same to be forged or altered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 19, s. 45, *part.*

Forging any
instrument,
however
designated,
which is in
law a will, bill
of exchange,
&c.
[24-25 V., c.
98, s. 39.]

47. If by this or any other Act any person is liable to punishment for forging or altering, or for offering, uttering, disposing of or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, is in law a will, testament, codicil or testamentary writing, or a deed, bond or writing obligatory, or a bill of exchange, or a promissory note for the payment of money, or an indorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, order, authority or request for the payment of money, or an

indorsement on or assignment of an undertaking, warrant, order, authority or request for the payment of money, within the true intent and meaning of this Act,—every one who forges or alters such instrument or writing, or offers, utters, disposes of or puts off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this Act, and punished accordingly. 32-33 V., c. 19, s. 46.

48. Every one who, in Canada, forges or alters, or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any writing or matter of which the forging or altering, or the offering, uttering, disposing of or putting off, knowing the same to be forged or altered, is, in this Act, expressed to be an offence,—in whatsoever country or place out of Canada, whether under the dominion of Her Majesty or not, such writing or matter purports to be made or has been made, and in whatsoever language the same or any part thereof is expressed,—and every one who aids, abets or counsels the commission of any such offence, shall be deemed to be an offender within the meaning of this Act, and shall be punishable in the same manner as if the writing or matter purported to be made or was made in Canada. 32-33 V., c. 19, s. 47, *part.*

Forging, &c.,
in Canada,
documents
purporting to
be made, or
actually made
out of
Canada.
[24-25 V., c.
98, s. 40.]

49. Every one who, in Canada, forges or alters or offers, utters, disposes of or puts off, knowing the same to be forged or altered, any bill of exchange or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, order, authority or request for the payment of money or for the delivery or transfer of any goods or security, or any deed, bond or writing obligatory for the payment of money, (whether such deed, bond or writing obligatory is made only for the payment of money, or for the payment of money together with some other purpose,) or any indorsement on or assignment of any such undertaking, warrant, order, authority, request, deed, bond or writing obligatory,—in whatsoever place or country out of Canada, whether under the dominion of Her Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, authority, request, deed, bond or writing obligatory is or purports to be payable, and in whatsoever language the same respectively or any part thereof is expressed, and whether such bill, note, undertaking, warrant, order, authority or request is or is not under seal,—and every one who aids, abets or counsels the commission of any such offence, shall be deemed to be an offender within the meaning of this Act, and shall be punishable in the same manner as if the money purported to be payable or was payable in Canada. 32-33 V., c. 19, s. 47, *part.*

Forging, &c.,
in Canada,
bills, &c.,
purporting to
be payable out
of Canada.
[24-25 V., c.
98, s. 40.]

Forgeries which were punishable more severely than under this Act, and are not otherwise punishable hereunder.

[24-25 V., c. 98, s. 48.]

50. Whenever, by any Act, any person falsely making, forging, counterfeiting, erasing or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting off or making use of any matter whatsoever, knowing the same to have been falsely made, forged, counterfeited, erased or altered, or any person demanding or endeavouring to receive or have anything, or to do or to cause to be done any act upon or by virtue of any matter whatsoever, knowing such matter to have been falsely made, forged, counterfeited, erased or altered,—or whenever, by any such Act, any person falsely personating another, or falsely acknowledging anything in the name of another, or falsely representing any other person than the real person to be such real person, or wilfully making a false entry in any book, account or document, or in any manner wilfully falsifying any part of any book, account or document, or wilfully making a transfer of any stock, annuity or fund in the name of any person not being the owner thereof, or knowingly taking any false oath, or knowingly making any false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate was obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation,—or whenever, by any such Act, any person making or using, or knowingly having in his custody or possession any frame, mould or instrument for the making of paper, with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any such Act, be guilty of felony, and be liable to any greater punishment than is provided by this Act,—if any person is convicted of any such felony as is in this section mentioned, or of aiding, abetting, counselling or procuring the commission thereof, and the same is not punishable under any of the other provisions of this Act, every such person shall be liable to imprisonment for life. 32-33 V., c. 19, s. 56.

Punishment in such cases.



CHAPTER 166.

An Act respecting the fraudulent marking of Mer- A.D. 1886.
chandise.

*This Act was repealed by 51 V., c. 41, "The Merchandise
Marks Offences Act, 1888," which is substituted for it.*

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
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CHAPTER 167.

A. D. 1886.

An Act respecting Offences relating to the Coin.

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

Interpretation.
“Current gold or silver coin.”
[24-25 V., c. 99, s. 1.]

1. In this Act, unless the context otherwise requires,—

(a.) The expression “current gold or silver coin” includes any gold or silver coined in any of Her Majesty’s mints, or gold or silver coin of any foreign prince or state, or country, or other coin lawfully current, by virtue of any proclamation or otherwise, in Canada, or in any other part of Her Majesty’s dominions ;

“Current copper coin.”

(b.) The expression “current copper coin” includes any copper coin and any coin of bronze or mixed metal coined in any of Her Majesty’s mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of Her Majesty’s dominions ;

“Copper or brass coin.”

(c.) The expression “copper or brass coin” includes coins and tokens of bronze, or of any other mixed metal, or other than gold or silver ;

“False or counterfeit coin.”

(d.) The expression “false or counterfeit coin, resembling or apparently intended to resemble or pass for current gold or silver coin,” or other similar expression, includes any of the current coin which has been gilt, silvered, washed, coloured or cased over, or in any manner altered so as to resemble or be apparently intended to resemble or pass for any of the current coin of a higher denomination ;

“Current coin.”

(e.) The expression “current coin” includes any coin coined in any of Her Majesty’s mints, or lawfully current, by virtue of any proclamation or otherwise, in Canada, or any other part of Her Majesty’s dominions ; and whether made of gold, silver, copper, bronze or mixed metal. 31 V., c. 47, s. 10 ;—32-33 V., c. 18. s. 1, *part.*

Having in custody or possession.
[24-25 V., c. 99, s. 1.]

2. Whenever the having any matter in the custody or possession of any person is mentioned in this Act, it shall include not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling-house or other building, lodging, apartment, field or

other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter is so had for his own use or benefit, or for that of any other person. 32-33 V., c. 18, s. 1, *part.*

3. Every one who falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current gold or silver coin, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 2. Counterfeiting current gold or silver coin. [24-25 V., c. 99, s. 2.]

4. Every one who gilds or silvers, or with any wash or materials capable of producing the colour or appearance of gold or of silver, or by any means whatsoever, washes, cases over or colours any coin whatsoever, resembling or apparently intended to resemble or pass for any current gold or silver coin,—or gilds or silvers, or with any wash or materials capable of producing the colour or appearance of gold or silver, or by any means whatsoever, washes, cases over or colours any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into false and counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin, —or gilds or, with any wash or materials capable of producing the colour and appearance of gold, or by any means whatsoever, washes, cases over or colours any current silver coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold coin,—or gilds or silvers or with any wash or materials capable of producing the colour or appearance of gold or silver, or by any means whatsoever, washes, cases over or colours any current copper coin, or files or in any manner alters such coin with intent to make the same resemble or pass for any current gold or silver coin, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 3. Colouring any coin or any pieces of metal with intent to make them pass for gold or silver coin. [24-25 V., c. 99, s. 3.]

5. Every one who impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished or lightened may pass for current gold or silver coin, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 18, s. 4. Colouring or altering genuine coin, with intent to make it pass for coin of a higher value.

6. Every one who unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which have been produced or obtained by impairing, diminishing or lightening any current gold or silver coin, knowing the same to have been so produced or obtained, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 5. Impairing the gold or silver coin. [24-25 V., c. 99, s. 4.]

7. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, buys, sells, receives, pays or Unlawful possession of filings or clippings of gold or silver coin. [24-25 V., c. 99, s. 5.]

8. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, buys, sells, receives, pays or Buying or selling, &c., counterfeit

gold or silver coin for lower value than its denomination imports.
[24-25 V., c. 99, s. 6.]

puts off, or offers to buy, sell, receive, pay or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, at or for a lower rate or value than the same imports, or was apparently intended to import, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 6, *part*.

Importing counterfeit coin.
[24-25 V., c. 99, s. 7.]

8. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, imports or receives into Canada any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 7.

Exporting counterfeit coin.
[24-25 V., c. 99, s. 8.]

9. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, exports or puts on board any ship, vessel or boat, or on any railway or carriage or vehicle of any description whatsoever, for the purpose of being exported from Canada, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current coin, or for any foreign coin of any prince, country or state, knowing the same to be false or counterfeit, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 18, s. 8.

Uttering counterfeit gold or silver coin.
[24-25 V., c. 99, s. 9.]

10. Every one who tenders, utters or puts off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit, is guilty of a misdemeanour, and liable to fourteen years' imprisonment. 32-33 V., c. 18, s. 9.

Passing light gold or silver coin.

11. Every one who tenders, utters or puts off as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, otherwise than by lawful wear, is guilty of a misdemeanour, and liable to one year's imprisonment. 32-33 V., c. 18, s. 10.

Having counterfeit gold or silver coin in possession, &c.
[24-25 V., c. 99, s. 11.]

12. Every one who has in his custody or possession any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, knowing the same to be false or counterfeit coin, and with intent to utter or put off any such false or counterfeit coin, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 18, s. 11.

Subsequent offence after a previous conviction.
[24-25 V., c. 99, s. 12.]

13. Every one who, having been convicted of any such misdemeanour as in any of the three sections next preceding mentioned, or of any misdemeanour or felony against this or any other Act relating to the coin, afterwards commits any of the misdemeanours in any of the said sections mentioned, is guilty

of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 12.

14. Every one who, with intent to defraud, tenders, utters or puts off, as or for any current gold or silver coin, any coin not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling, in size, figure and colour, the current coin as or for which the same is so tendered, uttered or put off, such coin, medal or piece of metal or mixed metals so tendered, uttered or put off, being of less value than the current coin as or for which the same is so tendered, uttered or put off, is guilty of a misdemeanour, and liable to one year's imprisonment. 32-33 V., c. 18, s. 13.

Uttering foreign coin, medals, &c., as current coin, with intent to defraud.

[24-25 V., c. 99, s. 13.]

15. Every one who falsely makes or counterfeits any coin resembling or apparently intended to resemble or pass for any current copper coin, or, without lawful authority or excuse, the proof of which shall lie on him, knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any instrument, tool or engine adapted and intended for the counterfeiting any current copper coin, or buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, at or for a lower rate of value than the same imports or was apparently intended to import, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 14.

Counterfeiting, &c., copper coin; or buying or selling it for less than its denomination imports, &c.

[24-25 V., c. 99, s. 14.]

16. Every one who tenders, utters or puts off any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, or has in his custody or possession three or more pieces of false or counterfeit coin, resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be false or counterfeit, with an intent to utter or put off the same, or any of them, is guilty of a misdemeanour, and liable to one year's imprisonment. 32-33 V., c. 18, s. 15.

Uttering base copper coin.

[24-25 V., c. 99, s. 15.]

17. Every one who defaces any current gold, silver or copper coin, by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, and afterwards tenders the same, is guilty of a misdemeanour, and liable to one year's imprisonment. 32-33 V., c. 18, s. 16.

Defacing the coin by stamping words thereon.

[24-25 V., c. 99, s. 16.]

18. Every one who tenders, utters or puts off any coin so defaced, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding ten dollars; but no person shall proceed for any such last mentioned penalty without the consent of the Attorney General for the Pro-

Uttering coin so defaced.

[24-25 V., c. 99, s. 17.]

vince in which such offence is alleged to have been committed. 32-33 V., c. 18, s. 17, *part.*

Counterfeit-
ing foreign
gold and
silver coin,
not current
in Canada.
[24-25 V., c.
99, s. 18.]

19. Every one who makes or counterfeits any kind of coin not being current gold or silver coin, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 18.

Bringing such
counterfeit
coin into
Canada.
[24-25 V., c.
99, s. 19.]

20. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, brings or receives into Canada any such false or counterfeit coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, not being current coin, knowing the same to be false or counterfeit, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, s. 19.

Penalty for
uttering such
counterfeit
foreign coin.
[24-25 V., c.
97, ss. 20-21.]

21. Every one who tenders, utters or puts off any such false or counterfeit coin, resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state or country, not being current coin, knowing the same to be false or counterfeit, is guilty of a misdemeanour, and liable to six months' imprisonment:

Second
offence.

2. Every one who, having been convicted of any such offence, afterwards commits the like offence of tendering, uttering or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years:

Subsequent
offence

3. Every one who, having been twice convicted of any such offence, afterwards commits the like offence of tendering, uttering or putting off any such false or counterfeit coin, as aforesaid, knowing the same to be false or counterfeit, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 18, ss. 20 and 21.

Having such
coin in pos-
session.

22. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, has in his possession or custody any forged, false or counterfeit piece or coin, counterfeited to resemble any foreign gold or silver coin described in the three sections next preceding, knowing the same to be false or counterfeit, with intent to put off any such false or counterfeit coin, is guilty of a misdemeanour, and liable to three years' imprisonment. 32-33 V., c. 18, s. 22.

Counterfeit-
ing foreign
coin, other
than gold and
silver coin.
[24-25 V., c.
99, s. 22.]

23. Every one who falsely makes or counterfeits any kind of coin, not being current coin, but resembling or apparently intended to resemble or pass for any copper coin, or any other coin made of any metal or mixed metals, of less value than the silver coin of any foreign prince, state or country, is guilty of

a misdemeanour, and liable, for the first offence, to one year's imprisonment; and for any subsequent offence, to seven years' imprisonment. 32-33 V., c. 18, s. 23.

24. Every one who, without lawful authority or excuse, the proof whereof shall lie on him,—

(a.) Knowingly makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession any puncheon, counter puncheon, matrix, stamp, die, pattern or mould, in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides,—

(b.) Makes or mends, or begins or proceeds to make or mend or buys or sells, or has in his custody or possession any edger, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures, apparently resembling those on the edges of any such coin as in this section aforesaid, knowing the same to be so adapted and intended as aforesaid, or—

(c.) Makes or mends or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin as in this section aforesaid,—

Is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 18, s. 24.

25. Every one who, without lawful authority or excuse, the proof whereof shall lie on him, knowingly conveys out of any of Her Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar, instrument, press or engine, used or employed in or about the coining of coin, or any useful part of any of the several articles aforesaid, or any coin, bullion, metal or mixture, of metals, is guilty of felony and liable to imprisonment for life. 32-33 V., c. 18, s. 25.

26. If any coin is tendered as current gold or silver coin to any person who suspects the same to be diminished otherwise than by reasonable wearing, or to be counterfeit, such person may cut, break, bend or deface such coin, and if any coin so cut, broken, bent or defaced appears to be diminished otherwise than by reasonable wearing, or to be counter-

Persons who—

Make, mend or have unlawfully possession of any coining tools. [24-25 V., c. 99, s. 24.]

Or any edging instrument.

Or any coinage press or cutting engine.

Punishment.

Conveying tools or moneys, or metal out of the mint without authority. [24-25 V., c. 99, s. 25.]

Coin suspected to be diminished or counterfeit may be cut.

Who shall bear the loss. [24-25 V., c. 99, s. 26.]

feit, the person tendering the same shall bear the loss thereof; but if the same is of due weight, and appears to be lawful coin, the person cutting, breaking, bending or defacing the same, shall be bound to receive the same at the rate for which it was coined :

Disputes, how decided.

2. If any dispute arises whether the coin so cut, broken, bent or defaced, is diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner by any justice of the peace, who may examine, upon oath, the parties as well as any other person, for the purpose of deciding such dispute, and if he entertains any doubt in that behalf, he may summon three persons, the decision of a majority of whom shall be final :

Revenue officers to destroy such coin.

3. Every officer employed in the collection of the revenue in Canada shall cut, break or deface, or cause to be cut, broken or defaced, every piece of counterfeit or unlawfully diminished gold or silver coin which is tendered to him in payment of any part of such revenue in Canada. 32-33 V., c. 18, s. 26.

When the offence of counterfeiting shall be deemed to be complete. [24-25 V., c. 99, s. 30.]

27. Every offence of falsely making or counterfeiting any coin, or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter or put off, any false or counterfeit coin, against the provisions of this Act, shall be deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, tendered, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected. 32-33 V., c. 18, s. 32.

MANUFACTURE AND IMPORTATION OF UNCURRENT COPPER COIN.

Unlawful manufacture or importation of copper coin.

28. Every one who manufactures in Canada any copper or brass coin, or imports into Canada any copper or brass coin, other than current copper coin, with the intention of putting the same into circulation as current copper coin, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars for every pound Troy of the weight thereof; and all such copper or brass coin so manufactured or imported shall be forfeited to Her Majesty, for the public uses of Canada. 31 V., c. 47, ss. 1 and 2.

Seizure of such coin.

29. Any two or more justices of the peace, on the oath of a credible person, that any copper or brass coin has been unlawfully manufactured or imported, shall cause the same to be seized and detained, and shall summon the person in whose possession the same is found, to appear before them; and if it appears to their satisfaction, on the oath of a credible witness, other than the informer, that such copper or brass coin has been manufactured or imported in violation of this Act, such justice shall declare the same forfeited, and shall place the same

Forfeiture on proof.

in safe keeping to await the disposal of the Governor General, for the public uses of Canada. 31 V., c. 47, s. 3.

30. If it appears, to the satisfaction of such justices, that the person in whose possession such copper or brass coin was found, knew the same to have been so unlawfully manufactured or imported, they may condemn him to pay the penalty aforesaid with costs, and may cause him to be imprisoned for a term not exceeding two months, if such penalty and costs are not forthwith paid. 31 V., c. 47, s. 4.

When the penalty shall be enforced.

31. If it appears, to the satisfaction of such justices, that the person in whose possession such copper or brass coin was found was not aware of it having been so unlawfully manufactured or imported, the penalty may, on the oath of any one credible witness, other than the plaintiff, be recovered, from the owner thereof, by any person who sues for the same in any court of competent jurisdiction. 31 V., c. 47, s. 5.

Recovery from the owner in certain cases.

32. Any officer of Her Majesty's customs may seize any copper or brass coin imported or attempted to be imported into Canada in violation of this Act, and may detain the same as forfeited, to await the disposal of the Governor General, for the public uses of Canada. 31 V., c. 47, s. 6.

Officer of customs may seize such coin.

33. Every one who utters, tenders or offers in payment any copper or brass coin, other than current copper coin, shall forfeit double the nominal value thereof :

Uttering unlawful coin per coin.

2. Such penalty may be recovered, with costs, in a summary manner, on the oath of one credible witness, other than the informer, before any justice of the peace, who, if such penalty and costs are not forthwith paid, may cause the offender to be imprisoned for a term not exceeding eight days. 31 V., c. 47, ss. 7 and 8.

Recovery of penalty.

34. A moiety of any of the penalties imposed by any of the five sections next preceding, but not the copper or brass coins forfeited under the provisions thereof, shall belong to the informer or person who sues for the same, and the other moiety shall belong to Her Majesty, for the public uses of Canada. 31 V., c. 47, s. 9.

Application of penalties.



CHAPTER 168.

A. D. 1886.

An Act respecting Malicious Injuries to Property.

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

Interpretation.
"Cattle."

1. In this Act, unless the context otherwise requires, the expression "cattle" includes any horse, mule, ass, swine, sheep, or goat, as well as any neat cattle or animal of the bovine species, and whatever is the age or sex of the animal, and whether castrated or not, and by whatever technical or trivial name it is known, and shall apply to one animal as well as to many. 32-33 V., c. 22, s. 44 ;—40 V., c. 29, s. 2.

INJURIES BY FIRE TO BUILDINGS AND GOODS THEREIN.

Setting fire to a church, chapel, &c.
[24-25 V., c. 97, s. 1.]

2. Every one who unlawfully and maliciously sets fire to any church, chapel, meeting-house or other place of divine worship, is guilty of felony and liable to imprisonment for life. 32-33 V., c. 22, s. 1.

Setting fire to a dwelling-house, any person being therein.
[24-25 V., c. 97, s. 2.]

3. Every one who unlawfully and maliciously sets fire to any dwelling-house, any person being therein, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 2.

Setting fire to a house, out-house, manufactory, farm building, &c.
[24-25 V., c. 97, s. 3.]

4. Every one who unlawfully and maliciously sets fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, hop-oast, barn, storehouse, granary, hovel, shed or fold, or to any farm building, or to any building or erection used in farming land, or in carrying on any trade or manufacture or any branch thereof, whether the same is then in the possession of the offender, or in the possession of any other person, with the intent thereby to injure or defraud any person, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 3 ;—35 V., c. 34, s. 1.

Setting fire to any railway station, &c.
[24-25 V., c. 97, s. 4.]

5. Every one who unlawfully and maliciously sets fire to any station, engine-house, warehouse or other building, belonging or appertaining to any railway, port, dock or harbour, or to any canal or other navigable water, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 4.

- 6.** Every one who unlawfully and maliciously sets on fire or burns, or otherwise destroys or causes to be set on fire or burnt, or otherwise destroyed, any of Her Majesty's ships or vessels of war, whether afloat or building, or begun to be built in any of Her Majesty's dock-yards, or building or repairing by contract in any private yard, for the use of Her Majesty,—or any of Her Majesty's arsenals, magazines, dock-yards, rope-yards, victualling offices, or any of the buildings erected therein or belonging thereto, or any timber or material there placed for building, repairing or fitting out of ships or vessels, or any of Her Majesty's military, naval or victualling stores or other ammunition of war,—or any place or places where any such military, naval, or victualling stores, or other ammunition of war, are kept, placed or deposited, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 5.
- Setting fire to any of Her Majesty's dock-yards, ships, &c., [12 G. III, c. 24, s. 1.]
- 7.** Every one who unlawfully and maliciously sets fire to any building, other than such as are in this Act before mentioned, belonging to Her Majesty or to any county, riding, division, city, town, village, parish or place, or belonging to any university or college, or hall of any university, or to any corporation, or to any unincorporated body or society of persons, associated together for any lawful purpose, or devoted or dedicated to public use or ornament, or erected or maintained by public subscription or contribution, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 6.
- Setting fire to any public building. [24-25 V., c. 97, s. 5.]
- 8.** Every one who unlawfully and maliciously sets fire to any building other than such as are in this Act before mentioned, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 7.
- Setting fire to other buildings. [24-25 V., c. 97, s. 6.]
- 9.** Every one who unlawfully and maliciously sets fire to any matter or thing, being in, against or under any building, under such circumstances that, if the building were thereby set fire to, the offence would amount to felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 8.
- Setting fire to anything in any building, the setting fire to which is felony. [24-25 V., c. 97, s. 7.]
- 10.** Every one who, unlawfully and maliciously, by any overt act, attempts to set fire to any building, or any matter or thing in the next preceding section mentioned, under such circumstances that if the same were thereby set fire to, the offender would be guilty of felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 12.
- Attempting to set on fire. [24-25 V., c. 97, s. 8.]
- 11.** Every one who, by such negligence as shows him to be reckless or wantonly regardless of consequences, or in violation of a municipal law of the locality, sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide on the Crown domain, or land leased or
- Setting fire by negligence to any forest, tree, lumber, &c.

lawfully held for the purpose of cutting timber, or on private property, on any creek or river, or rollway, beach or wharf, so that the same is injured or destroyed, is guilty of a misdemeanour, and liable to two years' imprisonment :

In certain cases magistrate may impose a fine, without committal for trial.

2. If, in the opinion of the magistrate investigating any charge under this section, the consequences have not been serious, he may, in his discretion, dispose of the matter summarily, without sending the offender for trial, by imposing a fine not exceeding fifty dollars, or in default of payment, by the committal of the offender to prison for any term not exceeding six months, with or without hard labour. 32-33 V., c. 22, ss. 9 and 10.

Setting fire maliciously to any forest, tree, lumber, &c.

12. Every one who unlawfully and maliciously sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide on the Crown domain, or on land leased or lawfully held for the purpose of cutting timber, or on private property, or on any creek, river, rollway, beach or wharf, so that the same is injured or destroyed, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 11.

INJURIES BY EXPLOSIVE SUBSTANCES.

Destroying, &c., a house with gunpowder, &c., any person being therein. [24-25 V., c. 97, s. 9.]

13. Every one who, unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroys, throws down or damages the whole or any part of any dwelling-house, any person being therein, or of any building whereby the life of any person is endangered, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 13.

Attempting to destroy buildings with gunpowder, &c. [24-25 V., c. 97, s. 10.]

14. Every one who unlawfully and maliciously places or throws in, into, upon, under, against or near any building, any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods or chattels, whether or not any explosion takes place, and whether or not any damage is caused, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 14.

INJURIES TO BUILDINGS BY TENANTS.

Tenants of houses, &c., maliciously injuring them. [24-25 V., c. 97, s. 13.]

15. Every one who, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, unlawfully and maliciously pulls down or demolishes, or unlawfully and maliciously begins to pull down or demolish the same or any part thereof, or unlawfully and maliciously pulls down or severs from the freehold any fixture fixed in or to such dwelling-house or building, or part of such dwelling-house or building, is guilty of a misdemeanour. 32-33 V., c. 22, s. 17.

INJURIES TO MANUFACTURES, MACHINERY, ETC.

16. Every one who unlawfully and maliciously cuts, breaks or destroys, or damages, with intent to destroy or to render useless, any goods or article of silk, woollen, linen, cotton, hair, mohair or alpaca, or of any one or more of those materials mixed with each other, or mixed with any other material, or any framework-knitted piece, stocking, hose or lace, being in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage, process or progress of manufacture,—or unlawfully and maliciously cuts, breaks, or destroys or damages with intent to destroy or render useless, any warp or shute of silk, woollen, linen, cotton, hair, mohair or alpaca, or of any one or more of those materials mixed with each other, or mixed with any other material,—or unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy or render useless, any loom, frame, machine, engine, rack, tackle, tool or implement, whether fixed or movable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing or otherwise manufacturing, or preparing any such goods or articles,—or by force enters into any house, shop, building or place, with intent to commit any of the offences in this section mentioned, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 18.

Destroying goods in process of manufacture.

[24-25 V., c. 97, s. 14.]

Or certain machinery used in such manufactures

17. Every one who unlawfully and maliciously cuts, breaks or destroys, or damages with intent to destroy or render useless, any machine or engine, whether fixed or movable, used or intended to be used for sowing, reaping, mowing, thrashing, ploughing or draining, or for performing any other agricultural operation, or any machine or engine, or any tool or implement whether fixed or movable, prepared for or employed in any manufacture whatsoever except the manufacture of silk, woollen, linen, cotton, hair, mohair or alpaca goods, or goods of any one or more of those materials mixed with each other, or mixed with any other material, or any framework-knitted piece, stocking, hose or lace, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 19.

Destroying machines in other manufactures, thrashing machines, &c.

[24-25 V., c. 97, s. 15.]

INJURY TO CORN, TREES AND VEGETABLE PRODUCTIONS.

18. Every one who unlawfully and maliciously sets fire to any crop of hay, grass, corn, grain or pulse, or of any cultivated vegetable produce, whether standing or cut down, or to any part of any wood, coppice or plantation of trees, or to any heath, gorse, furze or fern, wheresoever the same is growing, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 20.

Setting fire to crops of hay, corn, &c.

[24-25 V., c. 97, s. 16.]

19. Every one who unlawfully and maliciously sets fire to any stack of corn, grain, pulse, tares, hay, straw, haulm or

Setting fire to stacks of corn, &c.

[24-25 V., c. 97, s. 17.]

stubble, or of any cultivated vegetable produce, or of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood or bark, or to any stere or pile of wood or bark, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 21.

Attempting to set fire to any crops or stacks of corn, hay, &c.

[24-25 V., c. 97, s. 18.]

20. Every one who unlawfully and maliciously, by any overt act, attempts to set fire to any matter or thing mentioned in either of the two sections next preceding, under such circumstances that if the same were thereby set fire to, the offender would be, under either of such sections, guilty of felony, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 22.

Destroying hop-binds, grape-vines, &c.

[24-25 V., c. 97, s. 19.]

21. Every one who unlawfully and maliciously cuts or otherwise destroys any hop-binds growing on poles in any plantation of hops, or any grape vines growing in any vineyard, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 23.

Destroying, &c., trees, &c., worth more than \$5, growing in a pleasure ground, &c.

[24-25 V., c. 97, s. 20.]

22. Every one who unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house, if the amount of the injury done exceeds the sum of five dollars, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 22, s. 24.

Destroying, &c., trees, shrubs, &c., worth more than \$20, growing elsewhere.

[24-25 V., c. 97, s. 21.]

23. Every one who unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood growing in any public street or place or elsewhere than in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house, if the amount of injury done exceeds the sum of twenty dollars, is guilty of felony, and liable to three years' imprisonment. 32-33 V., c. 22, s. 25.

Damaging trees, &c., wheresoever growing to the amount of 25 cents.

[24-25 V., c. 97, s. 22.]

24. Every one who unlawfully and maliciously cuts, breaks, barks, roots up or otherwise destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same is growing, the injury done being to the amount of twenty-five cents at the least, shall, on summary conviction, be liable to a penalty not exceeding five dollars over and above the amount of the injury done, or to one month's imprisonment, with or without hard labour:

Second offence.

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars over and above the amount of the injury done, or to three months' imprisonment with hard labour:

3. Every one who, having been twice convicted of any such offence, afterwards commits any of the offences in this section mentioned, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 22, s. 26. Subsequent offence.

25. Every one who unlawfully and maliciously destroys, or damages with intent to destroy, any plant, root, fruit or vegetable production, growing in any garden, orchard, nursery ground, house, hot-house, green-house or conservatory, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars over and above the amount of the injury done, or to three months' imprisonment, with or without hard labour : Destroying any fruit or vegetable production in a garden, &c. [24-25 V., c. 97, s. 23.]

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, is guilty of felony, and liable to two years' imprisonment. 32-33 V., c. 22, s. 27. Subsequent offence.

26. Every one who unlawfully and maliciously destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard or nursery ground, shall, on summary conviction, be liable to a penalty not exceeding five dollars over and above the amount of the injury done, or to one month's imprisonment, with or without hard labour, and in default of payment of such penalty and costs, if any, to imprisonment for any term not exceeding one month : Destroying, &c., vegetable productions not growing in a garden, &c. [24-25 V., c. 97, s. 24.]

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, shall, on summary conviction, be liable to three months' imprisonment with hard labour. 32-33 V., c. 22, s. 28. Subsequent offence.

INJURIES TO FENCES.

27. * * * * *

1. *Repealed and new sub-section substituted by 53 V., c. 37, s. 15.*

2. Every one who, having been convicted of any such offence, either against this or any other Act or law, afterwards commits any of the offences in this section mentioned, shall, on summary conviction, be liable to three months' imprisonment with hard labour. 32-33 V., c. 22, s. 29. Subsequent offence.

INJURIES TO MINES.

28. Every one who unlawfully and maliciously sets fire to any mine of coal, cannel coal, anthracite or other mineral fuel, or to any mine or well of oil or other combustible substance, is Setting fire to a coal-mine, oil-well, &c. [24-25 V., c. 97, s. 26.]

guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 30.

Attempting to set fire to a mine, oil-well, &c.

[24-25 V., c. 97, s. 27.]

29. Every one who unlawfully and maliciously, by any overt act, attempts to set fire to any mine, or to any such oil well, under such circumstances that if the same were thereby set fire to, the offender would be guilty of felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 31.

Conveying water, earth, rubbish, &c., into a mine or oil-well, obstructing the shaft, &c.

[24-25 V., c. 97, s. 28.]

30. Every one who unlawfully and maliciously causes any water, earth, rubbish or other substance to be conveyed or to run or fall into any mine, or into any oil well, or into any subterraneous passage communicating therewith, with intent thereby to destroy or damage such mine or well, or to hinder or delay the working thereof,—or who, with the like intent, unlawfully and maliciously pulls down, fills up or obstructs or damages with intent to destroy, obstruct or render useless any airway, waterway, drain, pit, level or shaft of or belonging to any mine or well, is guilty of felony, and liable to seven years' imprisonment :

Exception.

2. This section shall not extend to any damage committed underground by any owner of any adjoining mine or well in working the same, or by any person duly employed in such working. 32-33 V., c. 22, s. 32.

Damaging steam engines, staiths, wagon-ways, &c., for working mines.

[24-25 V., c. 97, s. 29.]

31. Every one who, unlawfully and maliciously, pulls down or destroys or damages with intent to destroy or render useless any steam engine or other engine for sinking, draining, ventilating or working, or for in anywise assisting in sinking, draining, ventilating or working any mine or oil well or any appliance or apparatus in connection with any such steam or other engine, or any staith, building or erection used in conducting the business of any mine or oil well, or any bridge, wagon-way or track for conveying minerals or oil from any mine or well, whether such engine, staith, building, erection, bridge, wagon-way or track is completed or in an unfinished state,—or unlawfully and maliciously stops, obstructs or hinders the working of any such steam or other engine, or of any such appliances or apparatus as aforesaid, with intent thereby to destroy or damage any mine or oil well, or to hinder, obstruct or delay the working thereof,—or unlawfully and maliciously, wholly or partially, cuts through, severs, breaks or unfastens, or damages with intent to destroy or render useless any rope, chain or tackle, of whatsoever material the same is made, used in any mine or oil well, or in or upon any inclined plane, railway or other way or other work whatsoever, in anywise belonging or appertaining to or connected with or employed in any mine or oil well, or the working or business thereof, is guilty of felony and liable to seven years' imprisonment. 32-33 V., c. 22, s. 33.

Unlawfully obstructing machinery.

Damaging ropes, chains or tackle.

INJURIES TO SEA AND RIVER BANKS, AND TO WORKS ON RIVERS,
CANALS, ETC.

32. Every one who unlawfully and maliciously breaks down or cuts down, or otherwise damages or destroys any sea bank, sea wall, dike or aboiteau, or the bank, dam or wall of or belonging to any river, canal, drain, reservoir, pool or marsh, whereby any land or building is, or is in danger of being, overflowed or damaged, — or unlawfully and maliciously throws, breaks or cuts down, levels, undermines or otherwise destroys any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, watercourse or other work belonging to any port, harbour, dock or reservoir, or on or belonging to any navigable water or canal, or any dam or structure erected to create or utilize any hydraulic power, or any embankment for the support thereof, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 34.

Destroying any sea bank or wall on any canal, dam, &c., used for hydraulic purposes, &c. [24-25 V., c. 97, s. 30.]

33. Every one who unlawfully and maliciously cuts off, draws up or removes any piles, stone or other materials fixed in the ground and used for securing any sea bank or sea wall, or the bank, dam or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty or lock, — or unlawfully and maliciously opens or draws up any floodgate or sluice, or does any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing or maintaining the navigation thereof, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 35.

Removing piles of any sea bank, &c., or obstructing navigation of a river or canal. [24-25 V., c. 97, s. 31.]

INJURIES TO FISH PONDS.

34. Every one who unlawfully and maliciously cuts through, breaks down, or otherwise destroys the dam, floodgate or sluice of any fish-pond, or of any water which is private property, or in which there is any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, — or unlawfully and maliciously puts any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that are then or that may thereafter be put therein, — or unlawfully and maliciously cuts through, breaks down or otherwise destroys the dam or floodgate of any mill-pond, reservoir or pool, is guilty of a misdemeanour, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 36.

Breaking down the dam of a fishery, &c., or mill-dam, or poisoning fish. [24-25 V., c. 97, s. 32.]

INJURIES TO BRIDGES, VIADUCTS AND TOLL-BARS.

35. Every one who unlawfully and maliciously pulls or throws down, or in anywise destroys any bridge, whether over

Injuring a public bridge or viaduct.

[24-25 V., c.
97, s. 33.]

any stream of water or not, or any viaduct or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway or canal passes, or does any injury with intent and so as thereby to render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 37.

Destroying a
turnpike gate,
toll house, &c.
[24-25 V., c.
97, s. 34.]

36. Every one who unlawfully and maliciously throws down, levels or otherwise destroys, in whole or in part, any turnpike gate or toll-bar, or any wall, chain, rail, post, bar or other fence belonging to any turnpike gate or toll-bar, or set up or erected to prevent passengers passing by without paying any toll directed to be paid by any Act or law relating thereto, or any house, building or weighing engine erected for the better collection, ascertainment or security of any such toll, is guilty of a misdemeanour, and liable to fine or imprisonment, or both, in the discretion of the court. 32-33 V., c. 22, s. 38.

INJURIES TO RAILWAYS.

Certain in-
juries to rail-
ways.

[24-25 V., c.
97, s. 35.]

Obstructions.

Injuring or re-
moving rail,
&c.

Moving
points.

Lights.

Other acts.

Punishment.

Maliciously
injuring, ob-
structing use
of, or hinder-
ing the com-
pleting, &c.,
of any railway
or railway
works.

37. Every one who unlawfully and maliciously, and with intent to obstruct, endanger, upset, overthrow, injure or destroy any engine, tender, carriage, truck or vehicle, on any railway, or any property passing over or along any railway,—

(a.) Puts, places, casts or throws any wood, stone or other matter or thing upon or across any railway,—

(b.) Breaks, takes up, removes, displaces, injures or destroys any rail, railway switch, sleeper, bridge, fence or other matter or thing, or any portion thereof, belonging to any railway,—

(c.) Turns, moves or diverts any point or other machinery belonging to any railway,—

(d.) Makes or shows, hides or removes any signal or light upon or near any railway, or—

(e.) Does or causes to be done, any other matter or thing,—
Is guilty of a felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 39;—42 V., c. 9, s. 88, *part*;—44 V., c. 25, s. 116, *part*.

38. Every one who unlawfully and maliciously—

(a.) Breaks, throws down, injures or destroys, or does any other hurt or mischief to,—

(b.) Obstructs or interrupts the free use of, or—

(c.) Obstructs, hinders or prevents the carrying on, complet-
ing, supporting or maintaining of—

Any railway or any part thereof, or any building, structure, station, depot, wharf, vessel, fixture, bridge, fence, engine, tender, carriage, truck, vehicle, machinery or other work, device, matter or thing of such railway, or appertaining thereto or connected therewith,—

Is guilty of a misdemeanour, and liable to five years' imprisonment. 42 V., c. 9, ss. 87 and 90;—44 V., c. 25, ss. 115 and 118. Punishment.

39. Every one who, by any means, or in any manner or way whatsoever, or by any wilful omission or neglect, obstructs or interrupts, or causes to be obstructed or interrupted, or aids or assists in obstructing or interrupting, the free use of any railway or any part thereof, or any building, structure, station, depot, wharf, vessel, fixture, bridge, fence, engine, tender, carriage, truck, vehicle, machinery or other work, device, matter or thing of such railway, or appertaining thereto, or connected therewith, is guilty of a misdemeanour, and liable to two years' imprisonment. 32-33 V., c. 22, s. 40;—42 V., c. 9, s. 86;—44 V., c. 25, s. 114. Obstructing use of railway and railway works. [24-25 V., c. 97, s. 36.]

INJURIES TO ELECTRIC TELEGRAPHS, ETC.

40. Every one who unlawfully and maliciously cuts, breaks, throws down, destroys, injures or removes any battery, machinery, wire, cable, post or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, electric light, telephone or fire alarm, or in the working thereof, or for the transmission of electricity for other lawful purposes, or unlawfully and maliciously prevents or obstructs, in any manner whatsoever, the sending, conveyance or delivery of any communication by any such telegraph, telephone or fire alarm, or the transmission of electricity for any such electric light or for any such purpose as aforesaid is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 22, s. 41. Injuring electric or magnetic telegraphs, &c. [24-25 V., c. 97, s. 37.]

41. Every one who unlawfully and maliciously, by any overt act, attempts to commit any of the offences in the next preceding section mentioned, shall, on summary conviction, be liable to a penalty not exceeding fifty dollars, or to three months' imprisonment, with or without hard labour. 32-33 V., c. 22, s. 42. Attempts to injure such telegraphs, &c. [24-25 V., c. 97, s. 38.]

INJURIES TO WORKS OF ART.

42. Every one who unlawfully and maliciously destroys or damages any book, manuscript, picture, print, statue, bust or vase, or any other article or thing kept for the purposes of art, science or literature, or as an object of curiosity, in any museum, gallery, cabinet, library or other depository, which museum, gallery, cabinet, library or other depository is, either at all times or from time to time, open for the admission of the public or of any considerable number of persons to view the same, either by the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, Destroying or damaging works of art in museums, churches, &c., or in public places. [24-25 V., c. 97, s. 39.]

statue, monument or other memorial of the dead, painted glass or other monument or work of art in any church, chapel, meeting-house or other place of divine worship, or in any building belonging to Her Majesty, or to any county, riding, city, town, village, parish or place, or to any university, or college or hall of any university, or in any street, square, church-yard, burial ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing or fence surrounding such statue or monument, or any fountain, lamp, post, or other thing of metal, glass, wood or other material, in any street, square or other public place, is guilty of a misdemeanour, and liable to one year's imprisonment :

Civil remedy saved.

2. Nothing herein contained shall affect the right of any person to recover damages for the injury so committed. 32-33 V., c. 22, s. 43.

INJURIES TO CATTLE AND OTHER ANIMALS.

Killing or maiming cattle. [24-25 V., c. 97, s. 40.]

43. Every one who unlawfully and maliciously kills, maims, wounds, poisons or injures any cattle, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 45.

Wantonly attempting to poison, &c., cattle.

44. Every one who unlawfully and maliciously attempts to kill, maim, wound, poison or injure any cattle, or unlawfully and maliciously places poison in such a position as to be easily partaken of by any cattle, is guilty of a misdemeanour, and liable to fine or imprisonment, or both, in the discretion of the court. 32-33 V., c. 22, s. 46.

45. * * * * *

1. *Repealed and new sub-section substituted by 53 V., c. 37, s. 16.*

Subsequent offence.

2. Every one who, having been convicted of any such offence, afterwards commits any of the offences in this section mentioned, is guilty of a misdemeanour, and liable to fine or imprisonment, or both, in the discretion of the court. 32-33 V., c. 22, s. 47.

INJURIES TO SHIPS.

Setting fire to, casting away or destroying a ship. [24-25 V., c. 97, s. 42.]

46. Every one who unlawfully and maliciously sets fire to, casts away or in anywise destroys any ship or vessel, whether the same is complete or in an unfinished state, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 48.

Setting fire to, casting away, &c., ships to prejudice the owner or underwriters. [24-25 V., c. 97, s. 43.]

47. Every one who unlawfully and maliciously sets fire to or casts away or in anywise destroys any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person who has underwritten or who underwrites any policy of insu-

rance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 49.

48. Every one who unlawfully and maliciously, by any overt act, attempts to set fire to, cast away, or destroy any ship or vessel, under such circumstances that, if the ship or vessel were thereby set fire to, cast away or destroyed, the offender would be guilty of felony, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 50.

Attempting to commit such offences. [24-25 V., c. 97, s. 44.]

49. Every one who unlawfully and maliciously places or throws in, into, upon, against or near any ship or vessel, any gunpowder or other explosive substance, with intent to destroy or damage any ship or vessel, or any machinery, working-tools, goods or chattels, whether or not any explosion takes place, and whether or not any injury is effected, is guilty of felony, and liable to fourteen years' imprisonment. 32-33 V., c. 22, s. 51.

Placing gunpowder near a ship with intent to damage it. [24-25 V., c. 97, s. 45.]

50. Every one who unlawfully and maliciously damages, otherwise than by fire, gunpowder or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same or render the same useless, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 52.

Damaging ships otherwise. [24-25 V., c. 97, s. 46.]

51. Every one who unlawfully masks, alters, removes or extinguishes any light or signal, or unlawfully exhibits any false light or signal, with intent to bring any ship, vessel or boat into danger,—or unlawfully and maliciously does any thing tending to the immediate loss or destruction of any ship, vessel or boat, and for which no punishment is hereinbefore provided, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 22, s. 53 ;—33 V., c. 18, s. 4, *part.*

Exhibiting false signals, &c., or doing acts of like nature. [24-25 V., c. 97, s. 47.]

52. Every one who, unlawfully and maliciously, cuts away, casts adrift, removes, alters, defaces, sinks or destroys, or unlawfully and maliciously does any act with intent to cut away, cast adrift, remove, alter, deface, sink or destroy,—or in any other manner unlawfully and maliciously injures or conceals any lighthouse, light-ship, floating or other light, lantern or signal, or any boat, buoy, buoy-rope, beacon, anchor, perch or mark used or intended for the guidance of seamen, or for the purpose of navigation, is guilty of felony, and liable to seven years' imprisonment. 32-33 V., c. 22, s. 54 ;—33 V., c. 18, s. 4, *part.*

Injuring, removing, defacing or concealing lighthouses, buoys, &c. [24-25 V., c. 97, s. 48.]

53. Every one who makes fast any vessel or boat to any such buoy, beacon or sea mark, shall, on summary conviction, be liable to a penalty not exceeding ten dollars, and in default of payment, to one month's imprisonment. 32-33 V., c. 22, s. 55.

Making vessels fast to buoys, beacons, or sea marks.

Cutting booms or rafts adrift.

54. Every one who unlawfully and maliciously breaks, injures, cuts, loosens, removes or destroys, in whole or in part, any dam, pier, slide, boom or other such work, or any chain or other fastening attached thereto, or any raft, crib of timber or saw-logs, or unlawfully and maliciously impedes or blocks up any channel or passage intended for the transmission of timber, is guilty of a misdemeanour, and liable to a fine or to two years' imprisonment or to both. 32-33 V., c. 22, s. 56;—C.S.C., c. 68, s. 67.

Impeding channel.

INJURIES TO POLL BOOKS, ETC.

Destroying, injuring or altering election documents.

55. Every one who unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, or makes or causes to be made any erasure, addition of names or interlineation of names in or upon, or aids, consents or assists in so destroying, injuring or obliterating, or in making any erasure, addition of names or interlineation of names in or upon any writ of election, or any return to a writ of election, or any indenture, poll book, voters' list, certificate, affidavit or report, or any document or paper made, prepared or drawn out according to any law in regard to provincial, municipal or civic elections, is guilty of felony, and liable to a fine in the discretion of the court, or to seven years' imprisonment, or to both. 29-30 V. (Can.), c. 51, s. 188, *part*;—R.S.B.C., c. 157, ss. 99 and 100, *part*.

INJURIES TO LAND MARKS.

Defacing or removing land marks of Province, &c.

56. Every one who knowingly and wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected, planted or placed to mark or determine the boundaries of any province, county, city, town, township, parish or other municipal division, is guilty of felony, and liable to seven years' imprisonment. C. S. C., c. 77, s. 107, *part*;—C. S. U. C., c. 93, s. 4, *part*.

And of concession, range, &c.

57. Every one who knowingly and wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land, is guilty of a misdemeanour, and liable to a fine not exceeding one hundred dollars, or to three months' imprisonment, or to both:

Exception as to land surveyors.

2. Nothing herein shall prevent any land surveyor in his operation from taking up posts or other boundary marks when necessary, if he carefully replaces them as they were before. C. S. C., c. 77, s. 107, *part*;—C. S. U. C., c. 93, s. 4, *part*.

INJURIES NOT BEFORE PROVIDED FOR.

58. * * * * *
Repealed and new section substituted by 53 V., c. 37, s. 17.

59. * * * * *

1 *Repealed and new sub-section substituted by 53 V., c. 37, s. 18.*

2. Nothing herein contained shall extend to any case where the person acted under a fair and reasonable supposition that he had a right to do the act complained of, or to any trespass, not being wilful and malicious, committed in hunting or fishing, or in the pursuit of game; but every such trespass shall be punishable in the same manner as if this Act had not been passed:

Not to extend to certain cases.

3. The provisions of this section shall extend to any person who unlawfully and maliciously commits any injury to any tree, sapling, shrub or underwood, for which no punishment is hereinbefore provided. 32-33 V., c. 22, ss. 60 and 61.

This section to apply to trees, &c.

OTHER MATTERS.

60. Every punishment and penalty by this Act imposed on any person maliciously committing any offence, whether the same is punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence is committed from malice conceived against the owner of the property in respect of which it is committed, or otherwise. 32-33 V., c. 22, s. 66.

Malice against owner not necessary. [24-25 V., c. 97, s. 58.]

61. Every provision of this Act, not hereinbefore so applied, shall apply to every person who, with intent to injure or defraud any person, does any of the acts hereinbefore made punishable, although the offender is in possession of the property against or in respect of which such act is done. 32-33 V., c. 22, s. 67.

Application to persons in possession of property injured. [24-25 V., c. 97, s. 59.]



CHAPTER 169.

A. D. 1886. An Act respecting offences relating to the Army and Navy.

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

Enticing soldiers or sailors to desert.
[29-30 V., c. 109, ss. 25-26; 44-45 V., c. 58, s. 153.]

1. Every one who, not being an enlisted soldier in Her Majesty's service, or a seaman in Her Majesty's naval service, by words or with money or by any other means whatsoever, directly or indirectly persuades or procures, or goes about or endeavours to persuade, prevail on or procure any such soldier or seaman to desert from or leave Her Majesty's military or naval service, or conceals, receives or assists any deserter from Her Majesty's military or naval service, knowing him to be such deserter, is guilty of a misdemeanour, and liable, on summary conviction, to a penalty not exceeding two hundred dollars, and not less than eighty dollars and costs, and in default of payment, to imprisonment for any term not exceeding six months. 32-33 V., c. 25, s. 1, *part*.

Concealing or assisting deserter.

Receiving regimental necessaries, &c.
[44-45 V., c. 58, s. 156.]

2. Every one who buys, exchanges or detains or otherwise receives from any soldier or deserter any arms, clothing or furniture belonging to Her Majesty, or any such articles, belonging to any soldier or deserter, as are generally deemed regimental necessaries, according to the custom of the army, or causes the colour of such clothing or articles to be changed, or exchanges, buys or receives from any soldier any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier belongs, is guilty of a misdemeanour, and liable, on summary conviction, to a penalty not exceeding forty dollars, and not less than twenty dollars and costs, and in default of payment, to imprisonment for any term not exceeding six months. 32-33 V., c. 25, s. 2.

Receiving necessaries from a seaman or marine.

3. Every one who buys, exchanges or detains, or otherwise receives from any seaman or marine, upon any account whatsoever, or has in his possession any arms or clothing, or any such articles, belonging to any seaman, marine or deserter, as are generally deemed necessaries, according to the custom of the navy, is guilty of a misdemeanour, and liable, on summary conviction, to a penalty not exceeding one hundred and twenty dollars, and not less than sixty dollars and costs, and in default of payment to imprisonment for a term not exceeding six months. 32-33 V., c. 25, s. 3.

4. Every offender against the provisions of the preceding sections may be tried and convicted in a summary manner before any two justices of the peace, or before the mayor of any city and any one justice of the peace, or before any recorder, judge of the sessions of the peace or police magistrate, on the evidence of one credible witness, or he may be prosecuted by indictment for the misdemeanour, and shall then be liable to punishment by fine and imprisonment in the discretion of the court; and nothing in this Act shall be construed to prevent any person being prosecuted, convicted and punished under any Act of the Parliament of the United Kingdom in force in Canada; but no person shall be twice punished for the same offence. 32-33 V., c. 25, s. 1, *part*, and s. 5.

Prosecution of offender.

Prosecution may be under Imperial Act.

5. The examination of any soldier, seaman or marine liable to be ordered from the Province in which any offence against this Act is prosecuted, or of any witness, sick, infirm or about to leave such Province, may be taken *de bene esse* before any commissioner or other proper authority in like manner as depositions in civil cases are taken. 32-33 V., c. 25, s. 6.

Examination of witnesses about to leave the Province &c.

6. Every one who is reasonably suspected of being a deserter from Her Majesty's service may be apprehended and brought for examination before any justice of the peace, and if it appears that he is a deserter, he shall be confined in gaol until claimed by the military or naval authorities, or proceeded against according to law. 32-33 V., c. 25, s. 7.

Apprehension of suspected deserters.

[10-11 V., c. 62, s. 9;
44-45 V., c. 58, s. 154.]

7. No one shall break open any building to search for a deserter unless he has obtained a warrant for that purpose from a justice of the peace,—such warrant to be founded on affidavit that there is reason to believe that the deserter is concealed in such building, and that admittance has been demanded and refused; and every one who resists the execution of any such warrant shall incur a penalty of eighty dollars, recoverable on summary conviction in like manner as other penalties under this Act. 32-33 V., c. 25, s. 8.

Warrant required to enter a building in search of deserters.

8. Any justice of the peace, upon information on oath or affirmation, may issue a warrant for the apprehension of any person charged with an offence against this Act, as in the case of the offences against the law. 32-33 V., c. 25, s. 9.

Warrant to apprehend offenders.

9. One moiety of the amount of any penalty recovered under any of the preceding sections shall be paid over to the prosecutor or person by whose means the offender has been convicted, and the other moiety shall belong to the Crown. 32-33 V., c. 25, s. 4.

Application of penalties.



CHAPTER 170.

A.D. 1886.

An Act respecting Military and Naval Stores.

* * * * *

This Act was repealed by 50-51 V., c. 45, "The Public Stores Act," which is substituted for it.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 171.

An Act respecting the protection of the Property of A.D. 1886.
Seamen in the Navy.

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

1. In this Act, unless the context otherwise requires,—

(a.) The expression “Admiralty” means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral; Interpretation. “Admiralty.” [32-33 V., c. 57, s. 3.]

(b.) The expression “seaman” means every person, not being a commissioned, warrant or subordinate officer, who is in or belongs to Her Majesty’s Navy, and is borne on the books of any one of Her Majesty’s ships in commission, and every person, not being an officer as aforesaid, who, being borne on the books of any hired vessel in Her Majesty’s service, is, by virtue of any Act of the Parliament of the United Kingdom for the time being in force for the discipline of the Navy, subject to the provisions of such Act; “Seaman.” [32-33 V., c. 57, s. 3.]

(c.) The expression “seaman’s property” means any clothes, slops, medals, necessaries or articles usually deemed to be necessaries for sailors on board ship, which belong to any seaman. “Seaman’s property.” [32-33 V., c. 57, s. 3.]

2. Every one who detains, buys, exchanges, takes on pawn or receives, from any seaman or any person acting for a seaman, any seaman’s property, or solicits or entices any seaman, or is employed by any seaman to sell, exchange or pawn any seaman’s property, shall, unless he proves that he acted in ignorance of the same being seaman’s property, or of the person with whom he dealt being or acting for a seaman, or that the same was sold by order of the Admiralty or Commander-in-Chief, be liable, on summary conviction, to a penalty not exceeding one hundred dollars; and if convicted of a second offence, to the same penalty, or, in the discretion of the justice or justices, to imprisonment for a term not exceeding six months, with or without hard labour. Purchasing, selling, &c., seaman’s property. [32-33 V., c. 57, s. 4.]

3. If any seaman’s property is found in the possession or keeping of any person, and he is taken or summoned before a justice of the peace (which taking and summoning are hereby Having possession of seaman’s property and not

accounting
for it.
[32-33 V., c.
57, s. 5.]

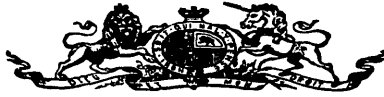
Penalty.

What shall be
deemed hav-
ing in pos-
session.

authorized), and the justice sees reasonable grounds for believing the property so found to have been stolen, or to have been detained, bought, exchanged, pawned or otherwise received, contrary to the provisions of this Act, then if such person does not satisfy the justice that he came by the seaman's property, so found, lawfully and without any violation of this Act, he shall be liable, on summary conviction before a justice or justices, to a penalty not exceeding twenty-five dollars; and for the purposes of this section, seaman's property shall be deemed to be in the possession or keeping of any person if he knowingly has any such property in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field or place, open or inclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit, or for the use or benefit of another. 33 V., c. 31, s. 4.

Nothing in
this Act shall
prevent in-
dictment
under this or
any other
Act.
[32-33 V., c.
57, s. 7.]

4. Nothing in this Act shall prevent any person from being indicted under this Act, or otherwise, for any indictable offence made punishable on summary conviction by this Act, or prevent any person from being liable under any other Act, or otherwise, to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person is punished twice for the same offence. 33 V., c. 31, s. 7.



CHAPTER 172.

An Act respecting Cruelty to Animals.

A. D. 1886.

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

1. In this Act, unless the context otherwise requires, the expression "cattle" includes any horse, mule, ass, swine, sheep or goat, as well as any neat cattle or animal of the bovine species, and whatever is the age or sex of the animal, and whether castrated or not, and by whatever technical or trivial name it is known, and shall apply to one animal as well as to many. Interpretation. "Cattle."
32-33 V., c. 27; s. 10 ;—38 V., c. 42, s. 1.

CRUELTY TO ANIMALS.

2. Every one who wantonly, cruelly or unnecessarily beats, binds, ill-treats, abuses, overdrives, or tortures any cattle, poultry, dog, domestic animal or bird,—or who, while driving any cattle or other animal is, by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal,—or who, in any manner, encourages, aids or assists at the fighting or baiting of any bull, bear, badger, dog, cock or other kind of animal, whether of domestic or wild nature, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars or to imprisonment for any term not exceeding three months, with or without hard labour, or to both. Cruelty to animals, how punishable. [12-13 V., c. 92, ss. 2-3.]
43 V., c. 38, s. 2.

3. Every one who builds, makes, maintains or keeps a cockpit on premises belonging to or occupied by him, or allows a cockpit to be built, made, maintained or kept on premises belonging to or occupied by him, shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding fifty dollars, or to imprisonment for any term not exceeding three months, with or without hard labour, or to both : Making or maintaining a cockpit.

2. All cocks found in any such cockpit, or on the premises wherein such cockpit is, shall be confiscated and sold for the benefit of the municipality in which such cockpit is situated. Forfeiture in such case.
43 V., c. 38, s. 3.

Apprehension
of offenders.
[12-13 V., c.
92, s. 13.]

4. If any such offence is committed, any constable or other peace officer, or the owner of any such cattle, animal or poultry, upon view thereof, or upon the information of any other person (who shall declare his name and place of abode to such constable or other peace officer), may seize and secure, and forthwith, and without any warrant, may convey any such offender before a justice of the peace within whose jurisdiction the offence was committed, to be dealt with according to law. 32-33 V., c. 27, s. 4.

If offender
refuses to dis-
close his
name, &c.

5. If any person apprehended for having committed any such offence refuses to disclose his name and place of abode to the justice of the peace before whom he is brought, such person shall be immediately delivered over to a constable or other peace officer, and shall, by him, be conveyed to the common gaol or place of confinement for the district, county or place within which the offence was committed, or in which the offender was apprehended, there to remain for any term not exceeding one month, or until he makes known his name and place of abode to the said justice. 32-33 V., c. 27, s. 5.

Time for
prosecution
limited.
[12-13 V., c.
92, s. 14.]

6. No prosecution for any such offence shall be brought, except within three months next after the commission of the offence. 32-33 V., c. 27, s. 6.

Application of
penalties.
[12-13 V., c.
92, s. 21.]

7. Every pecuniary penalty recovered with respect to any such offence shall be applied in the following manner, that is to say; one moiety thereof to the corporation of the city, town, village, township, parish or place in which the offence was committed, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such other person as to the justices of the peace seems proper. 32-33 V., c. 27, s. 8.

THE CONVEYANCE OF CATTLE.

Cattle to be
unladen for
food, rest, &c.,
at certain
intervals.

8. No railway company within Canada, whose railway forms any part of a line of road over which cattle are conveyed from one Province to another Province, or from the United States to or through any Province, or from any part of a Province to another part of the same, or owner or master of any vessel carrying or transporting cattle, from one Province to another Province, or within any Province, or from the United States through or to any Province, shall confine the same in any car or vessel of any description, for a longer period than twenty-eight consecutive hours, without unloading the same for rest, water and feeding for a period of at least five consecutive hours, unless prevented from so unloading and furnishing water and food by storm or other unavoidable cause, or by necessary delay or detention in the crossing of trains:

Exception.

Time, how
reckoned.

2. In reckoning the period of confinement, the time during which the cattle have been confined without such rest and

without the furnishing of food and water, on any connecting railways or vessels from which they are received, whether in the United States or in Canada, shall be included :

3. The foregoing provisions as to cattle being unladen shall not apply when cattle are carried in any car or vessel in which they have proper space and opportunity for rest and proper food and water. 38 V., c. 42, ss. 2 and 5, *part*. Exception, if proper food and space are furnished.

9. Cattle so unloaded shall be properly fed and watered during such rest by the owner or person having the custody thereof, or in case of his default in so doing, then by the railway company or owner or master of the vessel transporting the same, at the expense of the owner or person in custody thereof ; and such company, owner or master shall, in such case, have a lien upon such cattle for food, care and custody furnished, and shall not be liable for any detention of such cattle. 38 V., c. 42, s. 3. Cattle unladen to be fed and watered

10. Where cattle are unladen from cars for the purpose of receiving food, water and rest, the railway company then having charge of the cars in which they have been transported shall, except during a period of frost, clear the floors of such cars, and litter the same properly with clean sawdust or sand before reloading them with live stock. 38 V., c. 42, s. 4. Cars to be cleaned out.

11. Every railway company, owner or master of a vessel, having cattle in transit, as aforesaid, who knowingly and willfully fails to comply with the provisions contained in the eighth section of this Act, shall, for every such failure to comply with its provisions, incur a penalty not exceeding one hundred dollars. 38 V., c. 42, s. 5, *part*. Penalty for violation of section 8.

12. Every peace officer and constable may, at all times, enter any premises where he has reasonable grounds for supposing that any car, truck or vehicle, in respect whereof any company or person has failed to comply with the provisions of the four sections next preceding is to be found, or enter on board any vessel in respect whereof he has reasonable grounds for supposing that any company or person has, on any occasion, so failed : Constable may enter premises or vessel.

2. Every one who refuses admission to such peace officer or constable, shall be liable, on summary conviction, to a penalty not exceeding twenty dollars and not less than five dollars, and costs, and in default of payment, to imprisonment for any term not exceeding thirty days. 38 V., c. 42, ss. 6, 7 and 8. Penalty for refusing constable admission.

13. Every penalty recoverable under the two sections next preceding, shall belong to the Crown for the public uses of Canada ; and no proceeding for the recovery of such penalty shall be commenced except within one month next after the commission of the offence. 38 V., c. 42, s. 10. Application of penalties and limitation of suits.

GENERAL.

Right of suit
for damages
not affected.
[12-13 V., c.
92, s. 4.]

14. Nothing in this Act shall prevent or abridge any remedy by action which any person has against the offender or his employer. 32-33 V., c. 27, s. 3, *part*;—38 V., c. 42, s. 9, *part*.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 173.

An Act respecting Threats, Intimidation and other A. D. 1886.
Offences.

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

THREATS.

1. Every one who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security or other valuable thing, is guilty of felony and liable to imprisonment for life. Letters demanding money, &c., with menaces. [24-25 V., c. 96, s. 44.] 32-33 V., c. 21, s. 43.

2. Every one who, with menaces or by force, demands any property, chattel, money, valuable security or other valuable thing of any person, with intent to steal the same, is guilty of felony, and liable to two years' imprisonment. Demanding money, &c., with menaces or by force. [24-25 V., c. 96, s. 45.] 32-33 V., c. 21, s. 44.

3. Every one who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing, accusing or threatening to accuse or cause to be accused any other person of any crime punishable by law with death, or imprisonment for not less than seven years, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime as hereinafter defined, with a view or intent, in any of such cases, to extort or gain, by means of such letter or writing, any property, chattel, money, valuable security or other valuable thing from any person, is guilty of felony, and liable to imprisonment for life : Letters threatening to accuse of crime. [24-25 V., c. 96, s. 46.]

2. The crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said crime, and every attempt or endeavour to commit the said crime, and every solicitation, persuasion, promise or threat offered or made to any person whereby to move or induce such person to commit or permit the said crime, shall be deemed to be an infamous crime within the meaning of this Act : "Infamous crime" defined.

What shall be
sending such
letter.

3. Every species of parting with any such letter to the end that it may come, or whereby it comes into the hands of the person for whom it is intended, shall be deemed a sending of such letter. 32-33 V., c. 21, s. 45.

Accusing or
threatening
to accuse of
crime.

4. Every one who accuses, or threatens to accuse, either the person to whom such accusation or threat is made or any other person, of any of the infamous or other crimes lastly hereinbefore mentioned, with the view or intent, in any of the cases last aforesaid, to extort or gain from such person so accused or threatened to be accused, or from any other person, any property, chattel, money, valuable security or other valuable thing, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 46.

Inducing a
person by
threats or
violence to
execute
deeds, &c.

5. Every one who, with intent to defraud or injure any other person, by any unlawful violence to or restraint of, or threat of violence to or restraint of the person of another, or by accusing or threatening to accuse any person of any treason, felony or infamous crime, as hereinbefore defined, compels or induces any person to execute, make, accept, indorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person or of any company, firm or co-partnership, or the seal of any body corporate, company or society, upon or to any paper or parchment, in order that the same may be afterwards made or converted into or used or dealt with as a valuable security, is guilty of felony, and liable to imprisonment for life. 32-33 V., c. 21, s. 47.

Inmaterial
by whom
menaces are
to be execut-
ed.

6. It shall be immaterial whether the menaces or threats hereinbefore mentioned are of violence, injury or accusation, to be caused or made by the offender or by any other person. 32-33 V., c. 21, s. 48.

Letters
threatening
to murder.

7. Every one who maliciously sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 20, s. 15.

Letters
threatening
to burn or
destroy
houses, &c.

8. Every one who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any house, barn or other building, or any rick or stack of grain, hay or straw or other agricultural produce, or any grain, hay or straw, or other agricultural produce, in or under any building, or any ship or vessel, or to kill, maim, wound, poison or injure any cattle, is guilty of felony, and liable to ten years' imprisonment. 32-33 V., c. 22, s. 58.

INTIMIDATION.

9. Every one who, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with a view to hinder him from working or being employed at such trade, business or manufacture, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 20, s. 42.

Assaults arising from combination.

10. Every one who beats or uses any violence or threat of violence to any person, with intent to deter or hinder him from buying, selling or otherwise disposing of any wheat or other grain, flour, meal, malt or potatoes, or other produce or goods, in any market or other place, or beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, whilst on the way to or from any city, market, town or other place, with intent to stop the conveyance of the same, shall, on summary conviction before two justices of the peace, be liable to imprisonment, with hard labour, for any term not exceeding three months. 32-33 V., c. 20, s. 40.

Assaults with intent to obstruct the sale of grain, &c., or its free passage.

11. * * * * *

Repealed, and new section substituted by 50-51 V., c. 49, s. 1.

12. Every one who, wrongfully and without lawful authority, with a view to compel any other person to abstain from doing anything which he has a lawful right to do, or to do anything from which he has a lawful right to abstain,—

Certain acts contrary to free action.

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

Violence.

(b.) Intimidates such other person, or his wife or children, by threats of using violence to him, her or any of them, or of injuring his property,—

Intimidation.

(c.) Persistently follows such other person about from place to place,—

Following.

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

Hiding property.

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

Disorderly following.

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

Besetting house, &c.

Shall, on summary conviction before two justices of the peace, or on indictment, be liable to a fine not exceeding one hundred

Penalty.

dollars, or to imprisonment for a term not exceeding three months :

“Besetting house” defined.

2. Attending at or near or approaching to such house or other place as aforesaid, in order merely to obtain or communicate information shall not be deemed a watching or besetting within the meaning of this section :

Proceedings if person accused objects to being tried by justices. [38-39 V., c. 86, s. 9.]

3. Any person accused of any such offence may, on appearing before the justices, declare that he objects to being tried for such offence by such justices ; and thereupon such justices shall not proceed with such trial, but may deal with the case in all respects as if the accused was charged with an indictable offence and not with an offence punishable on summary conviction, and the accused may be prosecuted on indictment accordingly :

Description of offence, and proof of exceptions, &c.

4. It shall be sufficient to describe any such offence in the words of this section ; and any exception, proviso, excuse or qualification, whether it does or does not accompany the description of the offence, may be proved by the defendant, but need not be specified in the information or complaint, and if so specified and negatived, no proof in relation to the matter so specified and negatived shall be required on the part of the informant or prosecutor :

Certain persons not to act as magistrates.

5. No person who is a master, or the father, son or brother of a master in the particular manufacture, trade or business, in or in connection with which any offence under this section is charged to have been committed, shall act as a magistrate or justice in any case of complaint or information under this section, or as a member of any court for hearing any appeal in any such case. 35 V., c. 31, s. 2, part, and s. 4 ;—39 V., c.37, ss. 2 and 3.

“Trade combination” defined.

13. In this section the expression “trade combination” means any combination between masters or workmen or other persons, for regulating or altering the relations between any persons being masters or workmen, or the conduct of any master or workman, in or in respect of his business or employment, or contract of employment or service ; and the expression “act” includes a default, breach or omission :

“Act” defined.

2. * * * * *

Repealed and new sub-section substituted by 53 V., c. 37, s. 19.

Preventing bidding for public lands.

14. Every person who, before or at the time of the public sale of any Indian lands, or public lands of Canada, or of any Province of Canada, by intimidation, combination or unfair management, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale, is guilty of a misdemeanour, and liable to a fine not exceeding four hundred dollars or to two years' imprisonment, or to both. 23 V. (Can.) c. 2, s. 33 ;—43 V., c. 28, s. 55.

CRIMINAL BREACHES OF CONTRACT.

15. Every one who,—

(a.) Wilfully and maliciously breaks any contract made by him, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or to cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury,—

Breach of contract endangering life, person or property. [33-39 V., c. 86, s. 5.]

(b.) Being under any contract made by him with any municipal corporation or authority, or with any company bound, agreeing or assuming to supply any city or any other place, or any part thereof, with gas or water, wilfully and maliciously breaks such contract, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city or place, or part thereof, wholly or to a great extent, of their supply of gas or water, or—

Or cutting off supply of gas or water. [33-39 V., c. 86, s. 4.]

(c.) Being under any contract made by him with a railway company, bound, agreeing or assuming to carry Her Majesty's mails, or to carry passengers or freight; or with Her Majesty, or any one on behalf of Her Majesty, in connection with a Government railway on which Her Majesty's mails, or passengers or freight are carried, wilfully and maliciously breaks such contract, knowing or having reason to believe that the probable consequences of his so doing, either alone or in combination with others, will be to delay or prevent the running of any locomotive engine, or tender, or freight or passenger train or car, on the railway,—

Or delaying or hindering running of railway cars, engines, &c.

Shall, on summary conviction before two justices of the peace, or on indictment, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, with or without hard labour. 40 V., c. 35, s. 2.

Punishment.

16. Every municipal corporation or authority or company which, being bound, agreeing or assuming to supply any city, or any other place, or any part thereof, with gas or water, wilfully and maliciously breaks any contract made by such municipal corporation, authority, or company, knowing or having reason to believe that the probable consequences of its so doing will be to deprive the inhabitants of that city or place or part thereof, wholly, or to a great extent, of their supply of gas or water, is liable to a penalty not exceeding one hundred dollars. 40 V., c. 35, s. 3, *part*.

Breach of contract by a corporation.

17. Every railway company which, being bound, agreeing or assuming to carry Her Majesty's mails, or to carry passengers or freight, wilfully and maliciously breaks any contract made by such railway company, knowing or having reason to believe that the probable consequences of its so doing will be

Breach of contract by a railway company.

to delay or prevent the running of any locomotive engine or tender, or freight or passenger train or car, on the railway, is liable to a penalty not exceeding one hundred dollars. 40 V., c. 35, s. 3, *part.*

Malice need not be against a particular individual.

18. Every punishment under the three sections next preceding imposed on any person maliciously committing any offence, shall equally apply and be enforced, whether the offence is committed from malice conceived against the person, corporation, authority or company with which the contract is made or otherwise. 40 V., c. 35, s. 4.

Certain corporations to keep copies of these provisions posted up.

[38-39 V., c. 86, s. 4.]

19. Every such municipal corporation, authority or company, shall cause to be posted up at the gas works, or water-works, or railway stations, as the case may be, belonging to such corporation, authority or company, a printed copy of this section and the four sections next preceding, in some conspicuous place, where the same may be conveniently read by the public; and as often as such copy becomes defaced, obliterated or destroyed, shall cause it to be renewed with all reasonable despatch:

Penalty for default.

2. Every such municipal corporation, authority or company which makes default in complying with the provisions of this section in relation to such copy as aforesaid, shall be liable to a penalty not exceeding twenty dollars for every day during which such default continues; and every person unlawfully injuring, defacing or covering up any such copy so posted up, shall be liable, on summary conviction, to a penalty not exceeding ten dollars. 40 V., c. 35, s. 7.

And for injuring copies.

FRAUDS WITH RESPECT TO CONTRACTS AND BUSINESS WITH THE GOVERNMENT.

Making gift or offer for influence respecting a government contract.

20. Every one who makes any offer, proposal, gift, loan, promise, agreement, compensation or consideration, directly or indirectly, to any officer or person in the employment of the Government of Canada, or of any Province of Canada, with intent to secure the influence of such officer or person to promote either the obtaining or the execution of any contract with such government, or the payment of the consideration moneys therefor, and—

Accepting such gift or offer.

Every officer or person in the employment of such government, who accepts, or agrees to accept, any such offer, proposal, gift, loan, promise, agreement, compensation or consideration,—

Punishment.

Is guilty of a misdemeanour and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding one year and not less than one month, and in default of payment of such fine, to imprisonment for a further term not exceeding six months. 46 V., c. 32, s. 1.

21. Every one who, in the case of tenders being called for, by or on behalf of the Government of Canada, or of any Province of Canada, for any contract, directly or indirectly, by himself or by the agency of any other person on his behalf, with intent to obtain such contract, either for himself or for any other person, proposes or makes any gift, loan, offer, promise or agreement, or offers or gives any consideration or compensation whatsoever, to any person tendering for such contract, or to any officer or person in the employment of such government, and—

Making gift or offer to tenderer, &c., to obtain such contract.

Every person so tendering and every officer or person in the employment of the said government who accepts or agrees to accept any such gift, loan, offer, promise, agreement, consideration or compensation whatsoever—

Accepting such gift or offer.

Is guilty of a misdemeanour, and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding one year and not less than one month, and, in default of payment of such fine, to imprisonment for a further term not exceeding six months. 46 V., c. 32, s. 2.

Punishment.

22. Every one who, being a public officer or paid employee of the Government of Canada, or of any Province of Canada, receives, directly or indirectly, any promise, offer, gift, loan, compensation or consideration whatsoever, either in money or otherwise, from any person whomsoever, for fraudulently assisting or favouring any individual in the transaction of any business whatsoever connected with such government, or for doing so contrary to the duties of his special position as any officer or employee of the government, is guilty of a misdemeanour, and liable to a fine not exceeding two thousand dollars, and shall be incapable, for the term of five years, of holding any public office; and every one who makes such offer shall be liable to the same penalty. 46 V., c. 32, s. 3.

Public officers receiving gift, &c., for assistance in transaction of business with Government.

23. Every person convicted of any offence under the provisions of the three sections next preceding shall be incapable of contracting with or holding any contract under any of the said governments. 46 V., c. 32, s. 4.

Offenders disqualified.

24. No prosecution under the provisions of the four sections next preceding shall be commenced except within two years from the commission of the offence. 46 V., c. 32, s. 5.

Time for prosecution limited.

WILFUL VIOLATION OF STATUTES.

25. Every wilful violation of any Act of the Parliament of Canada, or of the Legislature of any Province of Canada, which is not made an offence of some other kind, shall be a misdemeanour, and punishable accordingly:

Violation of statutes.

2. Whenever any wilful violation of any Act is made an offence of any particular kind or name, the person guilty of such violation shall, on conviction thereof, be punishable in the

Punishment of violation of statutes.

manner in which such offence is, by law, punishable. 31 V., c. 1, s. 7, paragraphs 20 and 21 ;—31 V., c. 71, s. 3.

CONSPIRACIES—FRAUDS.

Fraud or cheating.

26. Every one who is convicted of fraud, or of cheating, or of conspiracy, shall, in any case in which no special punishment is provided by any statute, be liable to seven years' imprisonment. 32-33 V., c. 29, s. 86.

Destroying or altering books, &c., to defraud creditors.

27. Every one who destroys, alters, mutilates or falsifies any of his books, papers, writings or securities, or makes, or is privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, or any one or more of them, is guilty of a misdemeanour and liable to six months' imprisonment. C.S.U.C., c. 26, s. 19.

Making away with property to defraud creditors. [32-33 V., c. 62, s. 13.]

28. Every one who makes, or causes to be made, any gift, conveyance, assignment, sale, transfer or delivery of his lands, hereditaments, goods or chattels, or who removes, conceals or disposes of any of his goods, chattels, property or effects of any description, with intent to defraud his creditors or any of them, and every one who receives any such property, real or personal, with such intent, is guilty of a misdemeanour, and liable to a fine not exceeding eight hundred dollars, and to one year's imprisonment. C.S.U.C., c. 26, s. 20.

MISCONDUCT OF OFFICERS INTRUSTED WITH EXECUTION OF WRITS.

Misconduct of sheriffs and other officers.

29. Every one who, being a sheriff, deputy sheriff, coroner, elisor, bailiff, constable or other intrusted with the execution of any writ, warrant or process, wilfully misconducts himself in the execution of the same, or wilfully and without the consent of the person in whose favour the writ, warrant or process was issued, makes any false return thereto, is guilty of a misdemeanour, and liable to a fine and imprisonment, in the discretion of the court. 27-28 V. (Can.), c. 28, s. 31, *part.*

EMBRACERY.

Embracery. [6 G. 4, c. 50, s. 61.]

30. Every one who is guilty of the offence of embracery, and every juror who wilfully and corruptly consents thereto, is liable, on indictment, to fine and imprisonment. C.S.U.C., c. 31, s. 166.

QUI TAM ACTIONS—QUEBEC.

Discontinuing *qui tam* actions.

31. Every private prosecutor in the Province of Quebec who, being a plaintiff in a *qui tam* action, discontinues or suspends such action without the permission or direction of the Crown, is guilty of a misdemeanour. 27-28 V. (Can.), c. 43, s. 2, *part.*

NOTE.—53 V., c. 37, s. 20, gives a definition of the expression "valuable security" for the purposes of this Act.



CHAPTER 174.

An Act respecting Procedure in Criminal Cases. A. D. 1886.

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

SHORT TITLE.

1. This Act may by cited as "*The Criminal Procedure Act.*" Short title.

INTERPRETATION.

2. In this and in any other Act of Parliament containing any provision relating to criminal law, unless the context otherwise requires,—

(a.) The expression "any Act," or "any other Act," includes any Act passed or to be passed by the Parliament of Canada, or any Act passed by the legislature of the late Province of Canada, or passed or to be passed by the Legislature of any Province of Canada, or passed by the legislature of any Province included in Canada, before it was included therein ;

(b.) The expression "justice" means a justice of the peace, and includes two or more justices, if two or more justices act or have jurisdiction, and also any person having the power or authority of two or more justices of the peace,—and one justice may act, unless otherwise specially provided ;

(c.) The expression "indictment" includes information, inquisition and presentment as well as indictment, and also any plea, replication or other pleading, and any record ;

(d.) The expression "finding of the indictment" includes also the taking of an inquisition, the exhibiting an information and the making of a presentment ;

(e.) The expression "property" includes goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed ;

(f.) The expression "district, county or place" includes any division of any Province of Canada, for purposes relative to the administration of justice in criminal cases ;

(g.) The expression "territorial division" means county, union of counties, township, city, town, parish or other judicial division or place to which the context applies ;

“ Court for
“ Crown cases
“ reserved.”

(h.) The expression “ the court for Crown cases reserved ” means and includes,—

(1.) In the Province of Ontario any division of the High Court of Justice for Ontario ;

(2.) In the Province of Quebec, the Court of Queen’s Bench, on the appeal side thereof ;

(3.) In the Provinces of Nova Scotia, New Brunswick and British Columbia, the Supreme Court in and for each of the said Provinces, respectively ;

(4.) In the Province of Prince Edward Island, the Supreme Court of Judicature for that Province ;

(5.) In the Province of Manitoba, Her Majesty’s Court of Queen’s Bench for Manitoba ; and—

(6.) In the North-West Territories, the Supreme Court of the North-West Territories. 32-33 V., c. 29, s. 1, *part*, and c. 30, s. 65 ;—46 V., c. 10, s. 5, *part* ;—49 V., c. 25, s. 14 ;—C. S. L. C., c. 77, s. 57, *part* ;—R. S. N. S. (3rd S.), c. 171, s. 99, *part* ;—1 R. S. N. B., c. 159, s. 22, *part*.

(i.) *Sub-section added by* 51 V., c. 44, s. 1.

JURISDICTION.

Powers of
superior
courts.

3. Every superior court of criminal jurisdiction shall have power to try any treason, felony or other indictable offence. 34 V., c. 14, s. 2 ;—37 V., c. 42, s. 5 ;—40 V., c. 4, s. 4, *part*.

Certain
courts not to
try certain
offences.
[5-6 V., c. 38,
s. 1.]

4. No Court of General or Quarter Sessions or Recorder’s Court, nor any court but a superior court having criminal jurisdiction, shall have power to try any treason or any felony punishable with death, or any libel. 32-33 V., c. 29, s. 12.

Justices, &c.,
not to try
certain
offences by
explosives.

5. Neither the justices of the peace acting in and for any district, county, division, city or place, nor any judge of the Sessions of the Peace, nor the recorder of any city, shall, at any session of the peace, or at any adjournment thereof, try any person for any offence under sections twenty-one, twenty-two and twenty-three of the “ *Act respecting Offences against the Person.* ” 32-33 V., c. 20, s. 48.

Court of Ses-
sions not to
try certain
offences under
Larceny Act.
[24-25 V., c.
96, s. 87.]

6. No Court of General or Quarter Sessions of the Peace shall have power to try any offence under any of the provisions of sections sixty to seventy-six, both inclusive, of “ *The Larceny Act.* ” 32-33 V., c. 21, s. 92.

Certain
magistrates
may act alone.

7. The judge of the Sessions of the Peace for the city of Quebec, the judge of the Sessions of the Peace for the city of Montreal, and every police magistrate, district magistrate or stipendiary magistrate appointed for any territorial division, and every magistrate authorized by the law of the Province in which he acts, to perform acts usually required to be done by two or more justices of the peace, may do alone

whatever is authorized by this Act to be done by any two or more justices of the peace, and the several forms in this Act contained may be varied so far as necessary to render them applicable to such case. 32-33 V., c. 30, s. 59, and c. 36, s. 8.

PLACE OF COMMISSION AND TRIAL OF OFFENCES.

8. When any offence punishable under the laws of Canada has been committed within the jurisdiction of the Admiralty of England, the same may be dealt with, inquired of and tried and determined in the same manner as any offence committed within the jurisdiction of any court before which the offender is brought for trial. 32-33 V., c. 29, s. 136.

Offences committed within the jurisdiction of the Admiralty. [12-13 V., c. 96, s. 1.]

9. When any person, being feloniously stricken, poisoned, or otherwise hurt, upon the sea, or at any place out of Canada, dies of such stroke, poisoning or hurt, in Canada, or, being feloniously stricken, poisoned or otherwise hurt at any place in Canada, dies of such stroke, poisoning, or hurt, upon the sea, or at any place out of Canada, every offence committed in respect of any such case, whether the same amounts to murder or manslaughter, or of being accessory to murder or manslaughter, may be dealt with, inquired of, tried, determined and punished in the district, county or place in Canada in which such death, stroke, poisoning or hurt happens, in the same manner, in all respects, as if such offence had been wholly committed in that district, county or place. 32-33 V., c. 20, s. 9.

If death only or cause of death only happens in Canada. [24-25 V., c. 100, s. 10.]

10. When any felony or misdemeanour is committed on the boundary of two or more districts, counties or places, or within the distance of one mile of any such boundary, or in any place with respect to which it is uncertain within which of two or more districts, counties or places it is situate, or when any felony or misdemeanour is begun in one district, county or place, and completed in another, every such felony or misdemeanour may be dealt with, inquired of, tried, determined and punished, in any one of the said districts, counties or places, in the same manner as if it had been actually and wholly committed therein. 32-33 V., c. 29, s. 8.

Offences committed on the confines of districts, &c. [7 G. IV., c. 64, s. 12.]

11. When any felony or misdemeanour is committed on any person, or on or in respect of any property, in or upon any coach, wagon, cart or other carriage whatsoever, employed in any journey, or is committed on any person, or on or in respect of any property on board any vessel, boat or raft whatsoever, employed in any voyage or journey upon any navigable river, canal or inland navigation, such felony or misdemeanour may be dealt with, inquired of, tried, determined and punished, in any district, county or place, through any part whereof such coach, wagon, cart, carriage or vessel, boat or raft, passed in

Offences committed on persons or property in transit. [7 G. IV., c. 64, s. 13.]

the course of the journey or voyage during which such felony or misdemeanour was committed, in the same manner as if it had been actually committed in such district, county or place. 32-33 V., c. 29, s. 9.

Offences committed on highways, rivers, &c., dividing two districts. 4-5 V., c. 24, s. 41.

12. Whenever the side, centre, bank or other part of any highway or of any river, canal or navigation, constitutes the boundary of any two districts, counties or places, any felony or misdemeanour mentioned in the two sections next preceding may be dealt with, inquired of, tried, determined and punished in either of such districts, counties or places, through or adjoining to, or by the boundary of any part whereof such coach, wagon, cart, carriage or vessel, boat or raft, passed in the course of the journey or voyage during which such felony or misdemeanour was committed, in the same manner as if it had been actually committed in such district, county or place. 32-33 V., c. 29, s. 10.

Place of trial after dissolution of union of counties to be as ordered by the court.

13. If, upon the dissolution of a union of counties, any information, indictment or other criminal proceeding, in which the venue is laid in a county of the union is pending, the court in which such information, indictment or proceeding is pending, or any judge who has authority to make orders therein, may, by consent of parties, or on hearing the parties upon affidavit, order the venue to be changed to the new county, and all records and papers to be transmitted to the proper officers of such county,—and in the case of any such indictment found at any court of criminal jurisdiction, any judge of a superior court may make the order :

If no order is made.

2. If no such change is directed, all such informations, indictments and other proceedings shall be carried on and tried in the senior county :

Place of trial of indictable offence in such case.

3. Any person charged with an indictable offence who, at the time of the disuniting of a junior from a senior county, is imprisoned on the charge in the gaol of the senior county, or is under bail or recognizance to appear for trial at any court in the senior county, and against whom no indictment has been found before the disunion takes place, shall be indicted, tried and sentenced in the senior county, unless a judge of a superior court orders the proceedings to be conducted in the junior county,—in which event the prisoner or recognizance, as the case may be, shall be removed to the latter county and the proceedings shall be had therein ; and when, in any such case, the offence is charged to have been committed in a county other than that in which such proceedings are had, the venue may be laid in the proper county describing it as “formerly one of the united counties of .” 29-30 V. (Can.), c. 51, ss. 52, 53 and 55.

Where offences in unorganized

14. All crimes and offences committed in any of the unorganized tracts of country in the Province of Ontario, including

lakes, rivers and other waters therein, not embraced within the limits of any organized county, or within any provisional judicial district, may be laid and charged to have been committed and may be inquired of, tried and punished within any county of such Province; and such crime or offence shall be within the jurisdiction of any court having jurisdiction over crimes or offences of the like nature committed within the limits of such county,—before which court such crime or offence may be prosecuted; and such court shall proceed therein to trial, judgment and execution or other punishment for such crime and offence, in the same manner as if such crime or offence had been committed within the county where such trial is had :

tracts may be charged to have been committed, and be tried.

2. When any provisional judicial district or new county is formed and established in any of such unorganized tracts, all crimes and offences committed within the limits of such provisional judicial district or new county, shall be inquired of, tried and punished within the same, in like manner as such crimes or offences would have been inquired of, tried and punished if this section had not been passed :

Where to be tried when judicial districts or new counties are formed.

3. Any person accused or convicted of any offence in any such provisional district may be committed to any common gaol in the Province of Ontario; and the constable or other officer having charge of such person and intrusted with his conveyance to any such common gaol, may pass through any county in such Province with such person in his custody; and the keeper of the common gaol of any county in such Province, in which it is found necessary to lodge for safe-keeping any such person so being conveyed through such county in custody, shall receive such person and safely keep and detain him in such common gaol for such period as is reasonable or necessary; and the keeper of any common gaol in such Province, to which any such person is committed as aforesaid, shall receive such person and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed in cases in which bail may, by law, be taken. C. S. U. C., c. 128, ss. 100, 101 and 105.

Persons accused or convicted of crimes in any such provisional districts may be committed to any gaol in Ontario.

15. Whenever any offence is committed in the district of Gaspé, the offender, if committed to gaol before trial, may be committed to the common gaol of the county in which the offence was committed, or may, in law, be deemed to have been committed, and if tried before the Court of Queen's Bench, he shall be so tried at the sitting of such court held in the county to the gaol of which he has been committed, and if imprisoned in the common gaol after trial he shall be so imprisoned in the common gaol of the county in which he has been tried. C. S. L. C., c. 80, s. 6.

Commitment and trial in the district of Gaspé.

16. Every person accused of perjury, bigamy or any offence under the provisions of sections fifty-three, fifty-four and fifty-

Venue in the case of certain offences.

[24-25 V., c. 96, s. 70; c. 100, s. 57.]

five of "*The Larceny Act*," may be dealt with, indicted, tried and punished in the district, county or place in which the offence is committed, or in which he is apprehended or is in custody. 32-33 V., c. 20, s. 58, *part*, and c. 21, s. 72, *part*, and c. 23, s. 8;—33 V., c. 26, s. 1, *part*.

Place of trial of accessories.
[24-25 V., c. 94, s. 7.]

17. The offence of any person who is an accessory, either before or after the fact, to any felony, may be dealt with, inquired of, tried, determined and punished by any court which has jurisdiction to try the principal felony, or any felonies committed in any district, county or place in which the act, by reason whereof such person became such accessory, has been committed: Provided, that no person once duly tried, either as an accessory before or after the fact, or for a substantive felony, shall be liable to be afterwards prosecuted for the same offence. 31 V., c. 72, s. 8;—32-33 V., c. 17, s. 2.

No second prosecution.

Place of trial of forgery offences.
[24-25 V., c. 98, s. 41.]

18. Every one who commits any offence against the "*Act respecting Forgery*," or commits any offence of forging or altering any matter whatsoever, or of offering, uttering, disposing of or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case is indictable at common law, or by virtue of any Act, may be dealt with, indicted, tried and punished in any district, county or place in which he is apprehended or is in custody, in the same manner in all respects as if the offence had been actually committed in that district, county or place; and every accessory before or after the fact to any such offence, if the same is a felony, and every person aiding, abetting or counselling the commission of any such offence, if the same is a misdemeanour, may be dealt with, indicted, tried and punished in any district, county or place in which he is apprehended or is in custody, in the same manner in all respects as if his offence, and the offence of his principal, had been actually committed in such district, county or place. 32-33 V., c. 19, s. 48.

And of accessories in such cases.

Place of trial of offences by kidnapping.

19. Every one accused of any offence against the provisions of section forty-six of the "*Act respecting Offences against the Person*" may be tried either in the district, county or place in which the same was committed, or in any district, county or place into or through which the person kidnapped or confined was carried or taken while under such confinement; but no person who has been once duly tried for any such offence shall be liable to be again indicted or tried for the same offence. 32-33 V., c. 20, s. 71.

No second prosecution.

Place of trial for receiving stolen goods
[24-25 V., c. 96, s. 96.]

20. Every one who receives any chattel, money, valuable security or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, converted or disposed of, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a

misdemeanour only, may be dealt with, indicted, tried and punished in any county, district or place in which he has or has had any such property in his possession, or in any county, district or place in which the person guilty of the principal felony or misdemeanour may, by law, be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county, district or place where he actually received such property. 32-33 V., c. 21, s. 105.

21. Every one who brings into Canada, or has in his possession therein, any property stolen, embezzled, converted or obtained by fraud or false pretences in any other country, in such manner that the stealing, embezzling, converting or obtaining it in like manner in Canada, would, by the laws of Canada, be a felony or misdemeanour, may be tried and convicted in any district, county or place in Canada into or in which he brings such property, or has it in possession. 32-33 V., c. 21, s. 112, *part.*

Place of trial for bringing into Canada property stolen, &c.

22. If any person has in his possession in any one part of Canada, any chattel, money, valuable security or other property whatsoever, which he has stolen or otherwise feloniously or unlawfully taken or obtained, by any offence against "*The Larceny Act,*" in any other part of Canada, he may be dealt with, indicted, tried and punished for larceny or theft in that part of Canada where he so has such property, in the same manner as if he had actually stolen, or taken or obtained it in that part; and if any person in any one part of Canada receives or has any chattel, money, valuable security or other property whatsoever, which has been stolen or otherwise feloniously or unlawfully taken or obtained in any other part of Canada, such person knowing such property to have been stolen or otherwise feloniously or unlawfully taken or obtained, may be dealt with, indicted, tried and punished for such offence in that part of Canada where he so receives or has such property, in the same manner as if it had been originally stolen or taken or obtained in that part. 32-33 V., c. 21, s. 121.

Place of trial of persons who have stolen in one part of Canada and have the property in another part. [24-25 V., c. 96, s. 114.]

23. If any person tenders, utters, or puts off any false or counterfeit coin in any one Province of Canada, or in any one district, county or jurisdiction therein, and also tenders, utters or puts off any other false or counterfeit coin, in any other Province, district, county or jurisdiction, either on the day of such first mentioned tendering, uttering or putting off, or within the space of ten days next ensuing, or if two or more persons, acting in concert in different Provinces, or in different districts, counties or jurisdictions therein, commit any offence against the "*Act respecting Offences relating to the Coin,*" every such offender may be dealt with, indicted, tried and punished, and the offence laid and charged to have been committed, in any one of the said Provinces, or districts,

Place of trial of persons uttering counterfeit coin, &c. in more places than one. [24-25 V., c. 99, s. 28.]

counties or jurisdictions, in the same manner in all respects, as if the offence had been actually and wholly committed within one Province, district, county or jurisdiction. 32-33 V., c. 18, s. 29.

APPREHENSION OF OFFENDERS.

Apprehension
without war-
rant by an
officer in cer-
tain cases.
[24-25 V., c.
97, s. 61.]

24. Any person found committing an offence punishable either upon indictment or upon summary conviction, may be immediately apprehended without a warrant by any constable or peace officer, or by the owner of the property on or with respect to which the offence is being committed, or by his servant or any other person authorized by such owner, and shall be forthwith taken before some neighbouring justice of the peace, to be dealt with according to law. 32-33 V., c. 22, s. 69, *and* c. 29, s. 2.

And by any
person in cer-
tain other
cases.
[24-25 V., c.
96, s. 103.]

25. Any person found committing any offence punishable either upon indictment or upon summary conviction, by virtue of "*The Larceny Act*" or the "*Act respecting the protection of the Property of Seamen in the Navy*," may be immediately apprehended without a warrant by any person, and forthwith taken, together with the property, if any, on or with respect to which the offence is committed, before some neighbouring justice of the peace, to be dealt with according to law. 32-33 V., c. 21, s. 117, *part*;—33 V., c. 31, s. 5, *part*.

And by per-
son to whom
property is
offered for
sale, &c.
[24-25 V., c.
96, s. 103.]

26. If any person, to whom any property is offered to be sold, pawned or delivered, has reasonable cause to suspect that any such offence has been committed on or with respect to such property, he may, and, if in his power, he shall apprehend and forthwith carry before a justice of the peace, the person offering the same, together with such property, to be dealt with according to law. 32-33 V., c. 21, s. 117, *part*, *and* c. 29, s. 3;—33 V., c. 31, s. 5, *part*.

Apprehension
of offenders
caught in the
act in the
night time.
[14-15 V., c.
19, s. 11.]

27. Any person may apprehend any other person found committing any indictable offence in the night, and shall convey or deliver him to some constable or other person, so that he may be taken, as soon as conveniently may be, before a justice of the peace, to be dealt with according to law. 32-33 V., c. 29, s. 4.

Apprehension
in other cases
without war-
rant.
[24-25 V., c.
96, s. 104, c.
97, s. 57, c.
100, s. 66.]

28. Any constable or peace officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place, during the night, and whom he has good cause to suspect of having committed, or being about to commit, any felony, and may detain such person until he can be brought before a justice of the peace, to be dealt with according to law :

Detention of
person arrest-
ed, limited.

2. No person who has been so apprehended shall be detained after noon of the following day without being brought before a justice of the peace. 32-33 V., c. 29, ss. 5 *and* 6.

29. Any person may apprehend any other person who is found committing any indictable offence, against the "*Act respecting Offences relating to the Coin,*" and convey and deliver him to a peace officer, constable or officer of police, so that he may be conveyed, as soon as reasonably may be, before a justice of the peace, to be dealt with according to law. 32-33 V., c. 18, s. 33.

Apprehension of person committing coinage offence. [24-25 V., c. 96, s. 31.]

ENFORCING APPEARANCE OF ACCUSED.

30. Whenever a charge or complaint (A) is made before any justice of the peace for any territorial division in Canada, that any person has committed, or is suspected to have committed, any treason or felony, or any indictable misdemeanour or offence within the limits of the jurisdiction of such justice, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such justice, is or resides or is suspected to be or reside within the limits of the jurisdiction of such justice, then, and in every such case, if the person so charged or complained against is not in custody, such justice may issue his warrant (B), to apprehend such person, and to cause him to be brought before him or any other justice for the same territorial division. 32-33 V., c. 30, s. 1.

Justice may grant a warrant to cause persons charged with certain offences to be brought before him. [11-12 V., c. 42, s. 1.]

31. The justice to whom the charge or complaint is preferred, instead of issuing, in the first instance, his warrant to apprehend the person charged or complained against, may, if he thinks fit, issue his summons (C), directed to such person, requiring him to appear before him at the time and place therein mentioned, or before such other justice of the same territorial division as shall then be there; and if, after being served with the summons in manner hereinafter mentioned, he fails to appear at such time and place, in obedience to such summons, the justice or any other justice for the same territorial division may issue his warrant (D), to apprehend the person so charged or complained against, and cause such person to be brought before him, or before some other justice for the same territorial division, to answer to the charge or complaint, and to be further dealt with according to law; but any justice may, if he sees fit, issue the warrant hereinbefore first mentioned, at any time before or after the time mentioned in the summons for the appearance of the accused person. 32-33 V., c. 30, s. 2.

Justice may issue a summons instead of a warrant in the first instance. [11-12 V., c. 42, s. 1.]

Warrant if summons is disobeyed

Proviso.

32. Whenever any indictable offence is committed on the high seas, or in any creek, harbour, haven or other place, in which the Admiralty of England have or claim to have jurisdiction, and whenever any offence is committed on land beyond the seas for which an indictment may be preferred or the offender may be arrested in Canada, any justice for any territorial division in which any person charged with having com-

As to indictable offences committed on the high seas, &c. [11-12 V., c. 42, s. 2.]

mitted, or suspected of having committed any such offence, is or is suspected to be, may issue his warrant (D2), to apprehend such person, to be dealt with as therein and hereby directed. 32-33 V., c. 30, s. 3.

Warrant to apprehend person against whom an indictment is found.
[11-12 V., c. 42, s. 3.]

33. If an indictment is found by the grand jury in any court of criminal jurisdiction, against any person then at large, and whether such person has been bound by any recognizance to appear to answer to any such charge or not, and if such person has not appeared and pleaded to the indictment, the person who acts as clerk of the Crown or chief clerk of such court shall, at any time, at the end of the term or sittings of the court at which the indictment has been found, upon application of the prosecutor, or of any person on his behalf, and on payment of a fee of twenty cents, grant to such prosecutor or person a certificate (E) of such indictment having been found; and upon production of such certificate to any justice for the territorial division in which the offence is alleged in the indictment to have been committed, or in which the person indicted resides, or is supposed or suspected to reside or to be, such justice shall issue his warrant (F), to apprehend the person so indicted, and to cause him to be brought before him or any other justice for the same territorial division, to be dealt with according to law. 32-33 V., c. 30, s. 4.

Commitment of bail.
[11-12 V., c. 42, s. 3.]

34. If the person is thereupon apprehended and brought before any such justice, such justice, upon its being proved upon oath or affirmation before him that the person so apprehended is the person charged and named in the indictment, shall, without further inquiry or examination, commit (G) him for trial or admit him to bail as hereinafter mentioned. 32-33 V., c. 30, s. 5.

If person indicted is already in prison for some other offence, justice may order him to be detained.
[11-12 V., c. 42, s. 3.]

35. If the person so indicted is confined in any gaol or prison for any other offence than that charged in the indictment at the time of such application and production of such certificate to the justice, such justice, upon its being proved before him, upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, shall issue his warrant (H) directed to the gaoler or keeper of the gaol or prison in which the person so indicted is then confined, commanding him to detain such person in his custody until he is removed therefrom by writ of *habeas corpus*, or by order of the proper court, for the purpose of being tried upon the said indictment, or until he is otherwise removed or discharged out of his custody by due course of law. 32-33 V., c. 30, s. 6.

Bench warrants not prevented.

36. Nothing hereinbefore contained shall prevent the issuing or execution of bench warrants, whenever any court of competent jurisdiction thinks proper to order the issuing of any such warrant. 32-33 V., c. 30, s. 7.

37. Any justice may grant or issue any warrant as aforesaid, or any search warrant, on a Sunday or other statutory holiday, as well as on any other day. 32-33 V., c. 30, s. 8.

Warrant may be issued on Sunday, &c. [11-12 V., c. 42, s. 4.]

38. Whenever a charge or complaint for any indictable offence is made before any justice, if it is intended to issue a warrant in the first instance against the person charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such justice. 32-33 V., c. 30, s. 9.

If a warrant is to be issued, information to be upon oath, &c. [11-12 V., c. 42, s. 8.]

39. When it is intended to issue a summons instead of a warrant in the first instance, the information and complaint shall also be in writing, and be sworn to or affirmed in manner aforesaid, except whenever, by some Act or law, it is specially provided that the information and complaint may be by parol merely, and without any oath or affirmation to support or substantiate the same. 32-33 V., c. 30, s. 10.

And so in case of summons, unless otherwise provided.

40. The justice receiving any information and complaint as aforesaid, if he thinks fit, may issue his summons, or warrant as hereinbefore directed, to cause the person charged to be and appear as thereby directed; and every summons (C) shall be directed to the person so charged by the information, and shall state shortly the matter of such information, and shall require the person to whom it is directed to be and appear at a certain time and place therein mentioned, before the justice who issues the summons, or before such other justice for the same territorial division as shall then be there, to answer to the charge and to be further dealt with according to law. 32-33 V., c. 30, s. 13.

Upon complaint, justice may issue summons or warrant for appearance of person charged. [11-12 V., c. 42, s. 9.]

41. Every such summons shall be served by a constable or other peace officer, upon the person to whom it is directed, by delivering the same to such person, or if he cannot conveniently be so served, then by leaving the same for him with some person at his last or usual place of abode. 32-33 V., c. 30, s. 14.

Service of summons. [11-12 V., c. 42, s. 9.]

42. The constable or other peace officer who serves the same, shall attend at the time and place, and before the justice in the summons mentioned, to depose, if necessary, to the service of the summons. 32-33 V., c. 30, s. 15.

Constables, &c., to attend and prove service. [11-12 V., c. 42, s. 9.]

43. If the person served does not appear before the justice at the time and place mentioned in the summons, in obedience to the same, the justice may issue his warrant (D) for apprehending the person so summoned, and bringing him before such justice, or before some other justice for the same territorial division, to answer the charge in the information and complaint

If person summoned does not attend, justice may issue a warrant. [11-12 V., c. 42, s. 9.]

mentioned, and to be further dealt with according to law. 32-33 V., c. 30, s. 16.

Warrant to apprehend to be under the hand and seal of justice: to whom to be addressed, &c. [11-12 V., c. 42, s. 10.]

44. Every warrant (B) issued by any justice to apprehend any person charged with any indictable offence shall be under the hand and seal of the justice issuing the same, and may be directed to all or any of the constables or other peace officers of the territorial division within which the same is to be executed, or to any such constable and all other constables or peace officers in the territorial division within which the justice issuing the same has jurisdiction, or generally to all the constables or peace officers within such last mentioned territorial division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender; and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the justice issuing the warrant, or before some other justice for the same territorial division, to answer the charge contained in the information, and to be further dealt with according to law. 32-33 V., c. 30, s. 17.

What it shall set forth.

Affixing seal and effect thereof.

45. If, in any warrant or other instrument or document issued in any Province of Canada, at any time, by any justice. it is stated that the same is given under the hand and seal of any justice signing it, such seal shall be presumed to have been affixed by him, and its absence shall not invalidate the instrument, or such justice may, at any time thereafter, affix such seal, with the same effect as if it had been affixed when such instrument was signed. 32-33 V., c. 36, s. 4, *part*.

Warrant in force until executed. [11-12 V., c. 42, s. 10.]

46. It shall not be necessary to make the warrant returnable at any particular time, but the same shall remain in force until executed. 32-33 V., c. 30, s. 18.

How and where a warrant may be executed. [11-12 V., c. 42, s. 10.]

47. Such warrant may be executed by apprehending the offender at any place in the territorial division within which the justice issuing the same has jurisdiction, or in case of fresh pursuit, at any place in the next adjoining territorial division, and within seven miles of the border of the first mentioned territorial division, without having the warrant backed as hereinafter mentioned. 32-33 V., c. 30, s. 19.

When any constable, &c., may execute warrant. [11-12 V., c. 42, s. 10.]

48. If any warrant is directed to all constables or other peace officers in the territorial division within which the justice has jurisdiction, any constable or other peace officer for any place within such territorial division may execute the warrant at any place within the jurisdiction for which the justice acted when he granted such warrant, in like manner as if the warrant had been directed specially to such constable by name, and notwithstanding the place within which such warrant is executed is not within the place for which he is constable or peace officer. 32-33 V., c. 30, s. 20.

49. If the person against whom any warrant has been issued cannot be found within the jurisdiction of the justice by whom the same was issued, or if he escapes into, or is supposed or is suspected to be, in any place within Canada, out of the jurisdiction of the justice issuing the warrant, any justice within the jurisdiction of whom the person so escapes, or in which he is or is suspected to be, upon proof alone being made on oath or affirmation of the handwriting of the justice who issued the same, without any security being given, shall make an indorsement (I) on the warrant, signed with his name, authorizing the execution of the warrant within the jurisdiction of the justice making the indorsement; and such indorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables and other peace officers of the territorial division where the warrant has been so indorsed, to execute the same in such other territorial division, and to carry the person against whom the warrant issued, when apprehended, before the justice who first issued the warrant, or before some other justice for the same territorial division, or before some justice of the territorial division in which the offence mentioned in the warrant appears therein to have been committed. 32-33 V., c. 30, s. 23.

Provisions as to the indorsement of warrants. [11-12 V., c. 42, s. 11.]

Effect of such indorsement.

50. If the prosecutor or any of the witnesses for the prosecution are then in the territorial division where such person has been apprehended, the constable or other person or persons who have apprehended him may, if so directed by the justice backing the warrant, take him before the justice who backed the warrant, or before some other justice for the same territorial division or place; and the said justice may thereupon take the examination of such prosecutor or witnesses, and proceed in every respect in the manner hereinafter directed, with respect to persons charged before a justice with an offence alleged to have been committed in another territorial division than that in which such persons have been apprehended. 32-33 V., c. 30, s. 24.

Proceedings after arrest in such case. [11-12 V., c. 42, s. 11.]

SEARCH WARRANTS AND SEARCHES.

51. If a credible witness proves, upon oath (K) before a justice, that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any larceny or felony has been committed, is in any dwelling-house, out-house, garden, yard, croft or other place or places, the justice may grant a warrant (K 2), to search such dwelling house, garden, yard, croft or other place or places for such property, and if the same, or any part thereof, is then found, to bring the same and the person or persons in whose possession such house or other place then is, before the justice granting the warrant, or some other justice for the same territorial division. 32-33 V., c. 30, s. 12.

Search warrant may be granted in certain cases.

And in certain other cases.

[24-25 V., c. 306, s. 103.]

52. If any credible witness proves upon oath before any justice, a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any offence, punishable either upon indictment or upon summary conviction, by virtue of "*The Larceny Act*" or the "*Act respecting the protection of the Property of Seamen in the Navy*," has been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods. 32-33 V., c. 21, s. 117, *part*;—33 V., c. 31, s. 5, *part*.

Search warrant for gold, silver, quartz, &c.

53. On complaint in writing made to any justice of the county, district or place, by any person interested in any mining claim, that mined gold or gold-bearing quartz, or mined or unmanufactured silver or silver ore, is unlawfully deposited in any place, or held by any person contrary to law, a general search warrant may be issued by such justice, as in the case of stolen goods, including any number of places or persons named in such complaint; and if, upon such search, any such gold or gold-bearing quartz, or silver or silver ore is found to be unlawfully deposited or held, the justice shall make such order for the restoration thereof to the lawful owner as he considers right:

Order, if the same is found.

Appeal on certain conditions.

2. The decision of such justice shall be subject to appeal, as in ordinary cases on summary conviction; but before such appeal shall be allowed, the appellant shall enter into a recognizance in the manner provided by law in cases of appeal from summary convictions, to the value of the gold or other property in question, that he will prosecute his appeal at the next sittings of any court having jurisdiction in that behalf, and will pay the costs of the appeal in case of a decision against him,—and, if the defendant appeals, that he will pay such fine as the court may impose, with costs. 32-33 V., c. 21, ss. 33 and 34.

Search for timber, lumber, &c., unlawfully detained.

54. If any constable or peace officer has reasonable cause to suspect that any timber, mast, spar, saw-log or other description of lumber, belonging to any lumberman or owner of lumber, and bearing the registered trade mark of such lumberman or owner of lumber, is kept or detained in any saw-mill, mill-yard, boom or raft, without the knowledge or consent of the owner, such constable or peace officer may enter into or upon the same, and search or examine, for the purpose of ascertaining whether such timber, mast, spar, saw-log or other description of lumber is detained therein without such knowledge and consent. 38 V., c. 40, s. 1, *part*.

Search for paper or implements employed in any forgery and for forged instruments.

55. If it is made to appear, by information on oath or affirmation before a justice, that there is reasonable cause to believe that any person has in his custody or possession, without lawful authority or excuse, any Dominion or Provincial note,

or any note or bill of any bank or body corporate, company or person carrying on the business of bankers, or any frame, mould, or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone or other material, having thereon any words, forms, devices or characters capable of producing or intended to produce the impression of any such note or bill or any part thereof, or any tool, implement or material used or employed, or intended to be used or employed, in or about any of the operations aforesaid, or any forged security, document or instrument whatsoever, or any machinery, frame, mould, plate, die, seal, paper or other matter or thing used or employed, or intended to be used or employed, in the forgery of any security, document or instrument whatsoever, such justice may, if he thinks fit, grant a warrant to search for the same; and if the same is found upon such search, it shall be lawful to seize and carry the same before some justice of the district, county or place, to be by him disposed of according to law; and all such matters and things so seized as aforesaid shall, by order of the court by which any such offender is tried, or if there is no such trial, then by order of some justice of the peace, be defaced and destroyed, or otherwise disposed of as such court or justice directs. 32-33 V., c. 19, s. 53.

[24-25 V., c. 98, s. 46.]

The same may be destroyed by order of the court.

56. If any person finds or discovers, in any place whatsoever, or in the custody or possession of any person having the same without lawful authority or excuse, any false or counterfeit coin resembling or apparently intended to resemble or pass for any current gold, silver or copper coin, or any coin of any foreign prince, state or country, or any instrument, tool or engine whatsoever, adapted and intended for the counterfeiting of any such coin, or any filings or clippings, or any gold or silver bullion, or any gold or silver, in dust, solution or otherwise, which has been produced or obtained by diminishing or lightening any current gold or silver coin, the person so finding or discovering shall seize and carry the same forthwith before a justice :

Counterfeit coin, &c., and coining tools to be seized.

[24-25 V., c. 99, s. 27.]

2. If it is proved, on the oath of a credible witness, before any justice, that there is reasonable cause to suspect that any person has been concerned in counterfeiting current gold, silver or copper coin, or any foreign or other coin mentioned in the "*Act respecting Offences relating to the Coin*," or has in his custody or possession any such false or counterfeit coin, or any instrument, tool or engine whatsoever, adapted and intended for the making or counterfeiting of any such coin, or any other machine used or intended to be used for making or counterfeiting any such coin, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, any justice may, by warrant under his hand, cause any place whatsoever belonging to or in the occupation or under the control of such suspected person to be searched,

Search for counterfeit coin and coining tools.

either in the day or in the night, and if any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, is found in any place so searched, to cause the same to be seized and carried forthwith before a justice :

How counterfeit coin, &c., and coinage tools shall be disposed of in such case.

3. Whenever any such false or counterfeit coin, or any such instrument, tool or engine, or any such machine, or any such filings, clippings or bullion, or any such gold or silver, in dust, solution or otherwise, as aforesaid, is in any case seized and carried before a justice, he shall, if necessary, cause the same to be secured, for the purpose of being produced in evidence against any person prosecuted for an offence against such Act; and all such false and counterfeit coin, and all instruments, tools and engines adapted and intended for the making or counterfeiting of coin, and all such machines, and all such filings, clippings and bullion, and all such gold and silver, in dust, solution or otherwise, as aforesaid, after they have been produced in evidence, or when they have been seized and are not required to be produced in evidence, shall forthwith be defaced, by the order of the court, or otherwise disposed of as the court directs. 32-33 V., c. 18, s. 27.

PROCEEDINGS ON APPEARANCE.

Place of examination not an open court. [11-12 V., c. 42, s. 19.]

57. The room or building in which the justice takes the examination and statement shall not be deemed an open court; and the justice, in his discretion, may order that no person shall have access to or be or remain in such room or building without his consent or permission, if it appears to him that the ends of justice will be best answered by so doing. 32-33 V., c. 30, s. 35.

No objection allowed for alleged defect in substance or form. [11-12 V., c. 42, ss. 8, 9 and 10.]

58. No objection shall be taken or allowed to any information, complaint, summons or warrant, for any defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the justice who takes the examination of the witnesses in that behalf. 32-33 V., c. 30, ss. 11 and 21.

If variance is important case may be adjourned. [11-12 V., c. 42, ss. 9 and 10.]

59. If it appears to the justice that the person charged has been deceived or misled by any such variance in any summons or warrant, such justice, at the request of the person charged, may adjourn the hearing of the case to some future day, and in the meantime may remand such person, or admit him to bail, as hereinafter mentioned. 32-33 V., c. 30, s. 22.

Power to justices to summon witnesses to attend, and give evidence.

60. If it is made to appear to any justice, by the oath or affirmation of any credible person, that any person within Canada is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being ex-

mined as a witness at the time and place appointed for the examination of the witnesses against the accused, such justice shall issue his summons (L) to such person, requiring him to be and appear before him at a time and place therein mentioned, or before such other justice for the same territorial division as shall then be there, to testify what he knows concerning the charge made against the accused person. 32-33 V., c. 30, s. 25. [11-12 V., c. 42, s. 16.]

61. If any person so summoned neglects or refuses to appear at the time and place appointed by the summons, and no just excuse is offered for such neglect or refusal (after proof upon oath or affirmation of the summons having been served upon such person, personally or by being left with some person for him at his last or usual place of abode), the justice before whom such person should have appeared may issue a warrant (L 2), to bring such person, at a time and place therein mentioned, before the justice who issued the summons, or before such other justice for the same territorial division as shall then be there, to testify as aforesaid, and, if necessary, the said warrant may be backed as hereinbefore mentioned, so that it may be executed out of the jurisdiction of the justice who issued the same. 32-33 V., c. 30, s. 26. If summons is not obeyed, warrant may be issued to compel attendance. [11-12 V., c. 42, s. 16.]

62. If the justice is satisfied, by evidence upon oath or affirmation, that it is probable the person will not attend to give evidence unless compelled so to do, then, instead of issuing such summons, the justice may issue his warrant (L 3) in the first instance, and the warrant, if necessary, may be backed as aforesaid. 32-33 V., c. 30, s. 27. In certain cases warrant may issue in first instance. [11-12 V., c. 42, s. 16.]

63. If, on the appearance of the person so summoned, either in obedience to the summons or by virtue of the warrant, he refuses to be examined upon oath or affirmation concerning the premises, or refuses to take such oath or affirmation, or having taken such oath or affirmation refuses to answer the questions then put to him concerning the premises, without giving any just excuse for such refusal, any justice then present and there having jurisdiction may, by warrant (L 4) commit the person so refusing to the common gaol or other place of confinement, for the territorial division where the person so refusing then is, there to remain and be imprisoned for any term not exceeding ten days, unless he, in the meantime, consents to be examined and to answer concerning the premises. 32-33 V., c. 30, s. 28. Persons appearing on summons and refusing to be examined may be committed. [11-12 V., c. 42, s. 16.]

64. If, from the absence of witnesses or from any other reasonable cause, it becomes necessary or advisable to defer the examination or further examination of the witnesses for any time, the justice before whom the accused appears or has been brought may, by his warrant (M), from time to time, remand the person accused to the common gaol in the terri- Person accused may be remanded from time to time by warrant. [11-12 V., c. 42, s. 21.]

torial division for which such justice is then acting, for such time as he deems reasonable, not exceeding eight clear days at any one time. 32-33 V., c. 30, s. 41.

Or for three days only by verbal order.
[11-12 V., c. 42, s. 21.]

65. If the remand is for a time not exceeding three clear days, the justice may verbally order the constable or other person in whose custody the accused person then is, or any other constable or person named by the justice in that behalf, to keep the accused person in his custody, and to bring him before the same or such other justice as shall be there acting, at the time appointed for continuing the examination. 32-33 V., c. 30, s. 42.

Person accused may be brought upon an earlier day.
[11-12 V., c. 42, s. 21.]

66. Any such justice may order the accused person to be brought before him, or before any other justice for the same territorial division, at any time before the expiration of the time for which such person has been remanded, and the gaoler or officer in whose custody he then is shall duly obey such order. 32-33 V., c. 30, s. 43.

Admission to bail on recognizance.
[11-12 V., c. 42, s. 21.]

67. Instead of detaining the accused person in custody during the period for which he has been so remanded, any one justice, before whom such person has appeared or been brought, may discharge him, upon his entering into a recognizance (M 2, 3), with or without sureties, in the discretion of the justice, conditioned for his appearance at the time and place appointed for the continuance of the examination. 32-33 V., c. 30, s. 44.

Proceedings if accused does not appear according to his recognizance.
[11-12 V., c. 42, s. 21.]

68. If the accused person does not afterwards appear at the time and place mentioned in the recognizance, the said justice, or any other justice who is then and there present, having certified (M4) upon the back of the recognizance the non-appearance of such accused person, may transmit the recognizance to the clerk of the court where the accused person is to be tried, or other proper officer appointed by law, to be proceeded upon in like manner as other recognizances; and such certificate shall be *prima facie* evidence of the non-appearance of the accused person. 32-33 V., c. 30, s. 45.

Examination of witnesses to be in the presence of the accused, &c.
[11-12 V., c. 42, s. 17.]

69. Whenever any person appears or is brought before any justice charged with any indictable offence,—whether committed in Canada, or upon the high seas, or on land beyond the sea,—and whether such person appears voluntarily upon summons or has been apprehended, with or without warrant, or is in custody for the same or any other offence,—such justice, before he commits such accused person to prison for trial or before he admits him to bail, shall, in the presence of the accused person (who shall be at liberty to put questions to any witness produced against him), take the statements (N) on oath or affirmation of those who know the facts and circumstances of the case, and shall reduce the same to writing; and such

depositions shall be read over to and signed respectively by the witnesses so examined, and shall be signed also by the justice taking the same; and the justice shall, before any witness is examined, administer to such witness the usual oath or affirmation. 32-33 V., c. 30, ss. 29 and 30, part.

Witnesses to be sworn.

70. After the examinations of all the witnesses for the prosecution have been completed, the justice or one of the justices, by or before whom the examinations have been completed, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused, the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you at your trial;" and whatever the prisoner then says in answer thereto shall be taken down in writing (O) and read over to him, and shall be signed by the justice, and kept with the depositions of the witnesses, and shall be transmitted with them, as hereinafter mentioned. 32-33 V., c. 30, s. 31.

After examination, justice to read depositions taken against the accused, and caution him as to any statement he may make. [11-12 V., c. 42, s. 18.]

71. The justice shall, before the accused makes any statement, state to him and give him clearly to understand that he has nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial, notwithstanding such promise or threat. 32-33 V., c. 30, s. 32.

Explanations to be made to the accused person. [11-12 V., c. 42, s. 18.]

72. Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement, made at any time by the person accused or charged, which by law would be admissible as evidence against him. 32-33 V., c. 30, s. 33.

Not to prevent giving in evidence confession, &c. [11-12 V., c. 42, s. 18.]

73. When all the evidence offered upon the part of the prosecution against the accused has been heard, if the justice is of opinion that it is not sufficient to put the accused upon his trial for any indictable offence, such justice shall forthwith order the accused, if in custody, to be discharged as to the information then under inquiry; but if in the opinion of such justice the evidence is sufficient to put the accused upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce him to commit the accused for trial without bail, or if the offence with which the person is accused is a misdemeanour, then the justice shall admit the accused to bail, as hereinafter provided; but if the offence is a felony, and the evidence given is such as to raise a

Discharge if evidence is insufficient. [11-12 V., c. 42, s. 25.]

Admission to bail.

Committal in certain cases.

strong presumption of guilt, then the justice shall, by his warrant (P), commit the accused to the common gaol for the territorial division to which, by law, he may be committed,—or in the case of an indictable offence committed on the high seas or on land beyond the sea, to the common gaol of the territorial division within which such justice has jurisdiction, to be there safely kept until delivered in due course of law : Provided, that in cases of misdemeanour the justice who has committed the accused for trial may, at any time before the first day of the sitting of the court at which the accused is to be tried, admit him to bail in manner aforesaid, or may certify on the back of the warrant of committal the amount of bail to be required, in which case any justice for the same territorial division may admit such person to bail in such amount, at any time before such first day of the sitting of the court aforesaid. 32-33 V., c. 30, s. 56.

As to bail after committal for trial.

Person accused entitled to a copy of depositions. [11-12 V., c. 42, s. 27.]

74. At any time after all the examinations have been completed, and before the first sitting of the court at which any person so committed to prison or admitted to bail is to be tried, such person may require and shall be entitled to have from the officer or person having the custody of the same, copies of the depositions on which he has been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of five cents for each folio of one hundred words. 32-33 V., c. 30, s. 58.

RECOGNIZANCES TO PROSECUTE OR GIVE EVIDENCE.

Justice may bind over the prosecutors and witnesses. [11-12 V., c. 42, s. 20.]

75. Any justice before whom any witness is examined, may bind, by recognizance (Q), the prosecutor and every such witness (except married women and infants, who shall find security for their appearance, if the justice sees fit) to appear at the next court of competent criminal jurisdiction at which the accused, is to be tried, then and there to prosecute, or prosecute and give evidence, or to give evidence, as the case may be, against the person accused,—which recognizance shall particularly specify the place of residence and the addition or occupation of each person entering into the same. 32-33 V., c. 30, s. 36.

Recognizances to be subscribed by justice, &c. [11-12 V., c. 42, s. 20.]

76. The recognizance, being duly acknowledged by the person entering into the same, shall be subscribed by the justice before whom the same is acknowledged, and a notice (Q 2) thereof, signed by the said justice, shall, at the same time, be given to the person bound thereby. 32-33 V., c. 30, s. 37.

Recognizances, &c., to be transmitted to the court in which the

77. The several recognizances so taken, together with the written information, if any, the depositions, the statement of the accused, and the recognizance of bail, if any, shall be delivered by the justice, or he shall cause the same to be delivered

to the proper officer of the court in which the trial is to be had, before or at the opening of the court on the first day of the sitting thereof, or at such other time as the judge, justice or person who is to preside at such court, or at the trial, orders and appoints. 32-33 V., c. 30, s. 38.

trial is to be had.
[11-12 V., c. 42, s. 20.]

78. If any witness refuses to enter into recognizance, the justice, by his warrant (R), may commit him to the common gaol for the territorial division in which the person accused is to be tried, there to be imprisoned and safely kept until after the trial of such accused person, unless in the meantime such witness duly enters into a recognizance before a justice for the territorial division in which such gaol is situate. 32-33 V., c. 30, s. 39.

Witness refusing to enter into recognizances may be committed.
[11-12 V., c. 42, s. 20.]

79. If afterwards, for want of sufficient evidence in that behalf, or other cause, the justice before whom the accused person has been brought does not commit him or hold him to bail for the offence charged, such justice or any other justice for the same territorial division, by his order (R 2) in that behalf, may order and direct the keeper of the gaol where the witness is in custody to discharge him from the same; and such keeper shall thereupon forthwith discharge him accordingly. 32-33 V., c. 30, s. 40.

Release if person accused is discharged.
[11-12 V., c. 42, s. 20.]

80. If any charge or complaint is made before any justice that any person has committed, within the jurisdiction of such justice, any of the offences following, that is to say: perjury, subornation of perjury, conspiracy, obtaining money or other property by false pretences, forcible entry or detainer, nuisance, keeping a gambling house, keeping a disorderly house, or any indecent assault, and such justice refuses to commit or to bail the person charged with such offence, to be tried for the same, then, if the prosecutor desires to prefer an indictment respecting the said offence, the said justice shall take the recognizance of such prosecutor, to prosecute the said charge or complaint, and transmit the recognizance, information and depositions, if any, to the proper officer, in the same manner as such justice would have done in case he had committed the person charged to be tried for such offence. 32-33 V., c. 29, s. 29;—40 V., c. 26, s. 2.

Proceedings in the case of certain offences.
[22-23 V., c. 17, ss. 1-2.]

BAIL.

81. When any person appears before any justice charged with a felony, or suspicion of felony, other than treason or felony punishable with death, or felony under the "*Act respecting Treason and other Offences against the Queen's authority*," and the evidence adduced is, in the opinion of such justice, sufficient to put the accused on his trial, but does not furnish such a strong presumption of guilt as to warrant his

Two justices may admit to bail persons charged with felony not capital, &c.
[11-12 V., c. 42, s. 23.]

committal for trial, the justice, jointly, with some other justice, may admit the accused to bail upon his procuring and producing such surety or sureties as, in the opinion of the two justices, will be sufficient to insure his appearance at the time and place when and where he ought to be tried for the offence; and thereupon the two justices shall take the recognizances (S and S 2) of the accused and his sureties, conditioned for his appearance at the time and place of trial, and that he will then surrender and take his trial and not depart the court without leave; and when the offence committed or suspected to have been committed is a misdemeanour, any one justice before whom the accused appears may admit to bail in manner aforesaid,—and such justice may, in his discretion, require such bail to justify upon oath as to their sufficiency,—which oath the said justice may administer; and in default of such person procuring sufficient bail, such justice may commit him to prison, there to be kept until delivered according to law. 32-33 V., c. 30, s. 52.

And one justice in cases of misdemeanour.

Superior or county judge may order a person committed for trial to be admitted to bail.

52. In all cases of felony or suspicion of felony, other than treason or felony punishable with death, or felony under the "*Act respecting Treason and other Offences against the Queen's authority*," and in all cases of misdemeanour, where the accused has been finally committed as herein provided, any judge of any superior or county court, having jurisdiction in the district or county within the limits of which the accused is confined, may, in his discretion, on application made to him for that purpose, order the accused to be admitted to bail on entering into recognizance with sufficient sureties before two justices, in such amount as the judge directs, and thereupon the justices shall issue a warrant of deliverance (S 3) as hereinafter provided, and shall attach thereto the order of the judge directing the admitting of the accused to bail. 32-33 V., c. 30, s. 53.

Certain offences not bailable except by judge's order.
[11-12 V., c. 42, s. 23.]

53. No judge of a county court or justices shall admit any person to bail accused of treason or felony punishable with death, or felony under the "*Act respecting Treason and other Offences against the Queen's authority*," nor shall any such person be admitted to bail, except by order of a superior court of criminal jurisdiction for the Province in which the accused stands committed, or of one of the judges thereof, or in the Province of Quebec, by order of a judge of the Court of Queen's Bench or Superior Court; and nothing herein contained shall prevent such courts or judges admitting any person accused of felony or misdemeanour to bail when they think it right so to do. 32-33 V., c. 30, s. 54.

Justice bailing after committal to issue a warrant of deliverance.

54. Whenever any justice or justices admit to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, such justice or justices shall, send to or cause to be lodged with the keeper of such prison,

a warrant of delivrance (S 3) under his or their hands and seals, requiring the said keeper to discharge the person so admitted to bail if he is detained for no other offence, and upon such warrant of delivrance being delivered to or lodged with such keeper, he shall forthwith obey the same. 32-23 V., c. 30, s. 55. [11-12 V., c. 42, s. 24.]

DELIVERY OF ACCUSED TO PRISON.

85. The constable or any of the constables, or other person to whom any warrant of commitment authorized by this or any other Act or law is directed, shall convey the accused person therein named or described to the goal or other prison mentioned in such warrant, and there deliver him, together with the warrant, to the keeper of such gaol or prison, who shall thereupon give the constable or other person delivering the prisoner into his custody, a receipt (T) for the prisoner, setting forth the state and condition of the prisoner when delivered into his custody. 32-33 V., c. 30, s. 57. Conveyance of prisoners to gaol. [11-12 V., c. 42, s. 26.]

PROCEEDINGS WHERE OFFENDER IS APPREHENDED IN A DISTRICT IN WHICH THE OFFENCE WAS NOT COMMITTED.

86. Whenever a person appears or is brought before a justice in the territorial division, wherein such justice has jurisdiction, charged with an offence alleged to have been committed within any territorial division in Canada wherein such justice has not jurisdiction, such justice shall examine such witnesses and receive such evidence in proof of the charge as may be produced before him within his jurisdiction; and if in his opinion, such testimony and evidence are sufficient proof of the charge made against the accused, the justice shall thereupon commit him to the common gaol for the territorial division where the offence is alleged to have been committed, or shall admit him to bail as hereinbefore mentioned, and shall bind over the prosecutor (if he has appeared before him) and the witnesses, by recognizance as hereinbefore mentioned. 32-33 V., c. 30, s. 46. If a person is apprehended in one division for an offence committed in another, he may be examined in the former, and committed in the latter. [11-12 V., c. 42, s. 22.]

87. If the testimony and evidence are not, in the opinion of the justice, sufficient to put the accused upon his trial for the offence with which he is charged, the justice shall, by recognizance, bind over the witness or witnesses whom he has examined to give evidence as hereinbefore mentioned; and such justice shall, by warrant (U), order the accused to be taken before any justice in and for the territorial division where the offence is alleged to have been committed, and shall, at the same time, deliver up the information and complaint, and also the depositions and recognizances so taken by him to the constable who has the execution of the last mentioned warrant, to be by him delivered to the justice before whom he If evidence is not deemed sufficient, it may be transmitted to the proper division, &c. [11-12 V., c. 42, s. 22.]

Transmission of record in such case.

takes the accused, in obedience to the warrant; and the depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the last mentioned justice,—and shall, together with the depositions and recognizances taken by the last mentioned justice in the matter of the charge against the accused, be transmitted to the clerk of the court or other proper officer where the accused ought to be tried, in the manner and at the time herein mentioned, if the accused is committed for trial upon the charge, or is admitted to bail. 32-33 V., c. 30, s. 47.

Expenses of constable conveying the accused to be repaid him. [11-12 V., c. 42, s. 22.]

88. If the accused is taken before the justice last aforesaid, by virtue of the said last mentioned warrant, the constable or other person or persons to whom the said warrant is directed, and who has conveyed the accused before such last mentioned justice, shall, upon producing the accused before such justice and delivering him into the custody of such person as the said justice directs or names in that behalf, be entitled to be paid his costs, and expenses of conveying the accused before such justice. 32-33 V., c. 30, s. 48.

Justice to furnish constable with a receipt or certificate, &c.

89. Upon the constable delivering to the justice the warrant, information, if any, depositions and recognizances, and proving on oath or affirmation, the handwriting of the justice who has subscribed the same, such justice, before whom the accused is produced, shall thereupon furnish such constable with a receipt or certificate (U 2) of his having received from him the body of the accused, together with the warrant, information, if any, depositions and recognizances, and of his having proved to him, upon oath or affirmation, the handwriting of the justice who issued the warrant. 32-33 V., c. 30, s. 49.

Constable to be paid by proper officer. [11-12 V., c. 42, s. 22.]

90. The said constable, on producing such receipt or certificate to the proper officer for paying such charges, shall be entitled to be paid all his reasonable charges, costs and expenses of conveying the accused into such other territorial division, and returning from the same. 32-33 V., c. 30, s. 50.

Recognizances void in certain cases. [11-12 V., c. 42, s. 22.]

91. If such justice does not commit the accused for trial, or hold him to bail, the recognizances taken before the first mentioned justice shall be void. 32-33 V., c. 30, s. 51.

DUTIES OF CORONERS AND JUSTICES.

Duty of coroner, in cases of murder or manslaughter. [7 G. IV., c. 64, s. 4.]

92. Every coroner, upon any inquisition taken before him, whereby any person is indicted for manslaughter or murder, or as an accessory to murder before the fact, shall, in presence of the accused, if he can be apprehended, reduce to writing the evidence given to the jury before him, or as much thereof as is material, giving the accused full opportunity of cross-

examination; and the coroner shall have authority to bind by recognizance all such persons as know or declare anything material touching the manslaughter or murder, or the offence of being accessory to murder, to appear at the next court of oyer and terminer, or gaol delivery, or other court or term or sitting of a court, at which the trial is to be, then and there to prosecute or give evidence against the person charged; and every coroner shall certify and subscribe the evidence and all the recognizances, and also the inquisition taken before him, and shall deliver the same to the proper officer of the court at the time and in the manner specified in the seventy-seventh section of this Act. 32-33 V., c. 30, s. 60.

Recognizances, &c., to be sent to proper officer.

93. When any person has been committed for trial by any justice or coroner, the prisoner, his counsel, attorney or agent may notify the committing justice or coroner, that he will, as soon as counsel can be heard, move before a superior court of the Province in which such person stands committed, or one of the judges thereof, or the judge of the county court, if it is intended to apply to such judge, under the eighty-second section of this Act, for an order to the justice or coroner for the territorial division where such prisoner is confined, to admit such prisoner to bail,—whereupon such committing justice or coroner shall, as soon as may be, transmit to the office of the clerk of the Crown, or the chief clerk of the court, or the clerk of the county court or other proper officer, as the case may be, close under his hand and seal, a certified copy of all informations, examinations and other evidences, touching the offence where-with the prisoner has been charged, together with a copy of the warrant of commitment and inquest, if any such there is; and the packet containing the same shall be handed to the person applying therefor, for transmission, and it shall be certified on the outside thereof to contain the information concerning the case in question. 32-33 V., c. 30, s. 61.

When person committed wishes to be bailed, justices to forward all information to the proper officer.

How transmitted.

94. Upon such application to any such court or judge, as in the next preceding section mentioned, the same order concerning the prisoner being bailed or continued in custody, shall be made as if the prisoner was brought up upon a *habeas corpus*. 32-33 V., c. 30, s. 62.

Same order to be made as upon *habeas corpus*.

95. If any justice or coroner neglects or offends in anything contrary to the true intent and meaning of any of the provisions of the three sections next preceding, the court to whose officer any such examination, information, evidence, bailment, recognizance or inquisition ought to have been delivered, shall, upon examination and proof of the offence, in a summary manner, impose such fine upon every such justice or coroner as the court thinks fit. 32-33 V., c. 30, s. 63.

Penalty on justices and coroners disobeying foregoing provisions.

[7 G. IV, c. 64, s. 5.]

96. The provisions of this Act relating to justices and coroners, shall apply to the justices and coroners not only of dis-

Provisions to apply to all

justices and coroners.
[7 G. IV., c. 64, s. 6.]

districts and counties at large, but also of all other territorial divisions and jurisdictions. 32-23 V., c. 30, s. 64.

REMOVAL OF PRISONERS.

Removal of prisoners to another gaol may be ordered if gaol is insecure.
[28-29 V., c. 26, s. 64.]

97. The Governor in Council or the Lieutenant Governor in Council of any Province may, if, from the insecurity or unfitness of any gaol of any county or district for the safe custody of prisoners, or for any other cause, he deems it expedient so to do, order any person charged with treason or felony confined in such gaol or for whose arrest a warrant has been issued, to be removed to any other gaol of any other county or district in the same Province, to be named in such order, there to be detained until discharged in due course of law, or removed for the purpose of trial to the gaol of the county or district in which the trial is to take place; and a copy of such order, certified by the clerk of the Queen's Privy Council for Canada, or the clerk of the Executive Council, or by any person acting as such clerk of the Privy Council or Executive Council, shall be sufficient authority to the sheriffs and gaolers of the counties or districts respectively named in such order, to deliver over and to receive the body of any person named in such order. 31 V., c. 74, s. 1;—47 V., c. 44, ss. 1 *and* 2, *parts*.

Authority for such removal.

Sheriff may be directed to remove prisoner.
[28-29 V., c. 126, s. 65.]

98. The Governor in Council or a Lieutenant Governor in Council may, in any such order, direct the sheriff in whose custody the person to be removed then is, to convey the said person to the gaol of the county or district in which he is to be confined, and the sheriff or gaoler of such county or district to receive the said person, and to detain him until he is discharged in due course of law, or is removed for the purpose of trial to any other county or district. 31 V., c. 74, s. 2;—47 V., c. 44, ss. 1 *and* 2, *parts*.

Removal for trial into county where indictment is found.

99. If a true bill for treason or felony is afterwards returned by any grand jury of the county or district from which any such person is removed, against any such person, the court into which such true bill is returned, may make an order for the removal of such person, from the gaol in which he is then confined, to the gaol of the county or district in which such court is sitting, for the purpose of his being tried in such county or district. 31 V., c. 74, s. 3;—47 V., c. 44, s. 2, *part*.

When sentence of death or of imprisonment has been pronounced.

100. The Governor in Council or a Lieutenant Governor in Council may make an order as hereinbefore provided in respect of any person under sentence of imprisonment or under sentence of death,—and, in the latter case, the sheriff to whose gaol the prisoner is removed shall obey any direction given by the said order or by any subsequent order in council, for the return of such prisoner to the custody of the sheriff by whom the sentence is to be executed. 47 V., c. 44, s. 3.

101. When an indictment is found against any person and such person is confined in any penitentiary or gaol within the jurisdiction of such court, under warrant of commitment or under sentence for some other offence, the court may, by order in writing, direct the warden of the penitentiary or the keeper of such gaol, to bring up such person to be arraigned on such indictment, without a writ of *habeas corpus*, and the warden or keeper shall obey such order. 32-33 V., c. 29, s. 14.

When indictment is found against a person already in custody. [30-31 V., c. 35, s. 10.]

CHANGE OF VENUE.

102. Whenever it appears to the satisfaction of the court or judge hereinafter mentioned, that it is expedient to the ends of justice that the trial of any person charged with felony or misdemeanour should be held in some district, county or place other than that in which the offence is supposed to have been committed, or would otherwise be triable, the court before which such person is or is liable to be indicted may, at any term or sitting thereof, and any judge who might hold or sit in such court may, at any other time, either before or after the presentation of a bill of indictment, order that the trial shall be proceeded with in some other district, county or place within the same Province, named by the court or judge in such order; but such order shall be made upon such conditions as to the payment of any additional expense thereby caused to the accused, as the court or judge thinks proper to prescribe:

Change of venue in certain cases.

Payment of expenses.

2. Forthwith upon the order of removal being made by the court or judge, the indictment, if any has been found against the prisoner, and all inquisitions, informations, depositions, recognizances and other documents whatsoever, relating to the prosecution against him, shall be transmitted by the officer having the custody thereof to the proper officer of the court at the place where the trial is to be had, and all proceedings in the case shall be had, or, if previously commenced, shall be continued in such district, county or place, as if the case had arisen or the offence had been committed therein:

Transmission of record, &c., to place of trial.

3. The order of the court, or of the judge, made under this section, shall be a sufficient warrant, justification and authority, to all sheriffs, gaolers and peace officers, for the removal, disposal and reception of the prisoner, in conformity with the terms of such order; and the sheriff may appoint and empower any constable to convey the prisoner to the gaol in the district, county or place in which the trial is ordered to be had:

Removal of prisoners to new place of trial.

4. Every recognizance entered into for the prosecution of any person, and every recognizance, as well of any witness to give evidence, as of any person for any offence, shall, in case any such order, as provided by this section, is made, be obligatory on each of the persons bound by such recognizance as to all things therein mentioned with reference to the said trial, at the place where such trial is so ordered to be had, in like manner as if such recognizance had been originally entered into

Recognizances to apply to such place.

Proviso :
notice to
cognizors.

for the doing of such things at such last mentioned place : Provided that notice in writing shall be given either personally or by leaving the same at the place of residence of the persons bound by such recognizance, as therein described, to appear before the court, at the place where such trial is ordered to be had. 32-33 V., c. 29, s. 11.

INDICTMENTS.

Indictment
need not be on
parchment.

103. It shall not be necessary that any indictment or any record or document relative to any criminal case be written on parchment. 32-33 V., c. 29, s. 13.

Not necessary
to state the
venue in the
body of the
indictment.
[14-15 V., c.
100, s. 23.]

104. It shall not be necessary to state any venue in the body of any indictment ; and the district, county or place named in the margin thereof, shall be the venue for all the facts stated in the body of the indictment ; but if local description is required, such local description shall be given in the body thereof. 32-33 V., c. 29, s. 15.

As to aboli-
tion of benefit
of clergy.
[7-8 G. IV., c.
28, s. 6.]

105. The abolition of the benefit of clergy shall not prevent the joinder in any indictment of any counts which might have been joined but for such abolition. 32-33 V., c. 29, s. 16.

In cases speci-
fied more than
one overt act
may be
charged.
[11-12 V., c.
12, s. 5.]

106. Any number of the matters, acts or deeds by which any compassings, imaginations, inventions, devices or intentions, or any of them, have been expressed, uttered or declared, may be charged against the offender, for any felony, under the "*Act respecting Treason and other Offences against the Queen's authority.*" 31 V., c. 69, s. 7.

Form of in-
dictment for
perjury.
[14-15 V., c.
100, s. 20.]

107. In any indictment for perjury, or for unlawfully, illegally, falsely, fraudulently, deceitfully, maliciously or corruptly taking, making, signing or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient to set forth the substance of the offence charged against the accused, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding, either in law or equity, and without setting forth the commission or authority of the court or person before whom such offence was committed. 32-33 V., c. 23, s. 9.

Form of in-
dictment for
subornation
of perjury.
[14-15 V., c.
100, s. 21.]

108. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly, to take, make, sign or subscribe

any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing, it shall be sufficient, whenever such perjury or other offence aforesaid has been actually committed, to allege the offence of the person who actually committed such perjury or other offence, in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, wilfully and corruptly did cause and procure the said person to do and commit the said offence in manner and form aforesaid; and whenever such perjury or other offence aforesaid has not actually been committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury. 32-33 V., c. 23, s. 10.

109. In any indictment for murder or manslaughter, or for being an accessory to any murder or manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused; but it shall be sufficient in any indictment for murder to charge that the accused did feloniously, wilfully, of his malice aforethought, kill and murder the deceased,—and it shall be sufficient in any indictment for manslaughter to charge that the accused did feloniously kill and slay the deceased; and it shall be sufficient in any indictment against any accessory to any murder or manslaughter to charge the principal with the murder or manslaughter, as the case may be, in the manner hereinbefore specified, and then to charge the accused as an accessory, in the manner heretofore used and accustomed, or by law provided. 32-33 V., c. 20, s. 6.

Form of indictment for murder or manslaughter. [24-25 V., c. 100, s. 6.]

110. In any indictment for stealing, or, for any fraudulent purpose, destroying, cancelling, obliterating or concealing the whole or any part of any document of title to land, it shall be sufficient to allege such document to be or contain evidence of the title, or of part of the title, or of some matter affecting the title, of the person or of some one of the persons having an interest, whether vested or contingent, legal or equitable, in the real property to which the same relates, and to mention such real property or some part thereof. 23-33 V., c. 21, s. 16, *part.*

Form of indictment for stealing, &c., document of title to lands. [24-25 V., c. 96, s. 28.]

111. Any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, committed by the offender, against Her Majesty, or against the same municipality, master or employer, within the space of six months from the first to the last of such acts, may be charged in any indictment,—and if the offence relates to any money or any valuable security, it shall be sufficient to allege the embezzlement or fraudulent application or disposition to be of

Distinct acts of embezzlement, &c., may be charged in the same indictment. [24-25 V., c. 96, s. 71.]

money, without specifying any particular coin or valuable security ; and such allegation, so far as regards the description of the property, shall be sustained if the offender is proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security of which such amount was composed is not proved, or if he is proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security was delivered to him in order that some part of the value thereof should be returned to the person delivering the same or to some other person, and such part has been returned accordingly. 32-33 V., c. 21, s. 73.

Form of indictment for obtaining property by false pretences.

[24-25 V., c. 96, s. 88.]

112. In any indictment for obtaining or attempting to obtain any property by false pretences it shall be sufficient to allege that the person accused did the act with intent to defraud, and without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, money or valuable security ; and on the trial of any such indictment, it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with an intent to defraud. 32-33 V., c. 21, s. 93, *part*.

Intent to defraud need not be stated in case specified.

113. It shall not be necessary to allege, in any indictment against any person for wrongfully and wilfully pretending or alleging that he inclosed and sent, or caused to be inclosed and sent, in any post letter, any money, valuable security or chattel, or to prove on the trial that the act was done with intent to defraud. 32-33 V., c. 21, s. 96, *part*.

Form of indictment for forgery, &c.

[24-25 V., c. 98, s. 44.]

114. In any indictment for forging, altering, uttering, offering, disposing of or putting off any instrument whatsoever, where it is necessary to allege an intent to defraud, it shall be sufficient to allege that the person accused did the act with intent to defraud, without alleging an intent to defraud any particular person ; and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with an intent to defraud. 32-33 V., c. 19, s. 51.

Form of indictment for buying or selling counterfeit coin, &c.

[24-25 V., c. 99, s. 6.]

115. In any indictment against any person for buying, selling, receiving, paying or putting off, or offering to buy, sell, receive, pay or put off, without lawful authority or excuse, any false or counterfeit coin, resembling or apparently intended to resemble or pass for any current gold or silver coin, at or for a lower rate or value than the same imports or was apparently intended to import, it shall be sufficient to allege that the person accused did buy, sell, receive, pay or put off, or did

offer to buy, sell, receive, pay or put off the false or counterfeit coin, at or for a lower rate or value than the same imports, or was apparently intended to import, without alleging at or for what rate, price or value the same was bought, sold, received, paid or put off, or offered to be bought, sold, received, paid or put off. 32-33 V., c. 18, s. 6, *part*.

116. It shall be sufficient in any indictment for any offence against the "*Act respecting Malicious Injuries to Property*," where it is necessary to allege an intent to injure or defraud, to allege that the person accused did the act with intent to injure or defraud, as the case may be, without alleging an intent to injure or defraud any particular person; and on the trial of any such offence, it shall not be necessary to prove an intent to injure or defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged, with an intent to injure or defraud, as the case may be. 32-33 V., c. 22, s. 68.

Form of indictment for malicious injury to property. [24-25 V., c. 97, s. 60.]

117. In any indictment for any offence committed in or upon or with respect to,—

(a.) Any church, chapel, or place of religious worship, or anything made of metal fixed in any square or street, or in any place dedicated to public use or ornament, or in any burial-ground,—

In case of offences with respect to— churches, &c. [24-25 V., c. 96, s. 31.]

(b.) Any highway, bridge, court-house, gaol, house of correction, penitentiary, infirmary, asylum, or other public building,—

Public buildings, &c. [7 G. IV, c. 64, s. 15.]

(c.) Any railway, canal, lock, dam or other public work, erected or maintained in whole or in part at the expense of Canada, or of any of the Provinces of Canada, or of any municipality, county, parish or township, or other sub-division thereof,—

Public works.

(d.) Any materials, goods or chattels belonging to or provided for, or at the expense of Canada, or of any such Province, or of any municipality or other sub-division thereof, to be used for making, altering or repairing any highway or bridge, or any court-house or other such building, railway, canal, lock, dam or other public work as aforesaid, or to be used in or with any such work, or for any other purpose whatsoever,—

Materials for such buildings or works.

(e.) The whole or any part of any record, writ, return, affirmation, recognizance, *cognovit actionem*, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever, of or belonging to any court of justice, or relating to any cause or matter, begun, depending or terminated in any such court, or of any original document in any wise relating to the business of any office or employment under Her Majesty, and being or remaining in any office appertaining to any court of justice, or in any Government or public office,—

Records of courts, &c. [24-25 V., c. 96, s. 30.]

Wills.
[24-25 V., c.
96, s. 29.]
Election
documents.

(f.) The whole or any part of any will, codicil or other testamentary instrument, or—

(g.) Any writ of election, return to a writ of election, indenture, poll-book, voters' list, certificate, affidavit, report, document or paper, made, prepared or drawn out according to any law respecting provincial, municipal or civic elections,—

Allegations
as to property.

It shall not be necessary to allege that any such property, instrument or article is the property of any person. 32-33 V., c. 21, ss. 17, *part*, 18, *part*, 20, *part*, and c. 29, s. 19;—29-30 V. (Can.), c. 51, s. 188, *part*.

If property
is owned by
partners, &c.,
it shall be
sufficient to
name one of
such part-
ners, &c.
[7 G. IV., c.
64, s. 14.]

118. If, in any indictment for any offence, it is requisite to state the ownership of any property, real or personal, which belongs to or is in possession of more than one person, whether such persons are partners in trade, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named, and another or others, as the case may be. 32-33 V., c. 29, s. 17.

Case of joint
tenants, joint
stock com-
panies, &c.
[7 G. IV., c.
65, s. 14.]

119. If, in any indictment for any offence, it is necessary for any purpose to mention any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision and that of the next preceding section shall extend to all joint stock companies and trustees. 32-33 V., c. 29, s. 18.

Property in
roads, &c., to
be laid in
trustees or
commis-
sioners with-
out naming
them.
[7 G. IV., c.
64, s. 17.]

120. In any indictment, for any offence committed on or with respect to any house, building, gate, machine, lamp, board, stone, post, fence or other thing erected or provided by any trustees or commissioners, in pursuance of any Act in force in Canada or in any Province thereof, for making any turnpike road, or to any conveniences or appurtenances thereunto respectively belonging, or to any materials, tools or implements provided for making, altering or repairing any such road, it shall be sufficient to state any such property to belong to the trustees or commissioners of such road, without specifying the names of such trustees or commissioners. 32-33 V., c. 29, s. 20.

Ownership of
property in
possession of
public officers,
how to be
stated.
[7 G. IV., c.
64, s. 16.]

121. In any indictment for any offence committed on or with respect to any buildings, or any goods or chattels, or any other property, real or personal, in the occupation or under the superintendence, charge or management of any public officer or commissioner, or any county, parish, township or municipal officer or commissioner, it shall be sufficient to state any such property to belong to the officer or commissioner in whose occupation or under whose superintendence, charge or management such property is, and it shall not be necessary to specify the names of any such officers or commissioners. 32-33 V., c. 29, s. 21.

122. All property, real and personal; whereof any body corporate has, by law, the management, control or custody, shall, for the purpose of any indictment or proceeding against any other person for any offence committed on or in respect thereof, be deemed to be the property of such body corporate. 32-33 V., c. 29, s. 22.

Property under management of body corporate.

123. In any indictment against any person for stealing any oysters or oyster brood from any oyster bed, laying or fishery, it shall be sufficient to describe, either by name or otherwise, the bed, laying or fishery in respect of which any of the said offences has been committed, without stating the same to be in any particular county, district or local division. 32-33 V., c. 21, s. 14, *part*.

County or district need not be stated in indictment for stealing oysters, &c. [24-25 V., c. 96, s. 26.]

124. In any indictment for any offence mentioned in sections twenty-five to twenty-nine, both inclusive, of "*The Larceny Act*," it shall be sufficient to lay the property in Her Majesty, or in any person or corporation, in different counts in such indictment; and any variance in the latter case, between the statement in the indictment and the evidence adduced, may be amended at the trial; and if no owner is proved the indictment may be amended by laying the property in Her Majesty. 32-33 V., c. 21, s. 36.

In whom property may be laid in indictment for stealing minerals, &c.

125. In any indictment for any offence committed in respect of any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the Legislature of any Province of Canada, for the payment of any fee, rate or duty whatsoever, the property therein may be laid in the person in whose possession, as the owner thereof, it was when the larceny or offence was committed, or in Her Majesty, if it was then unissued, or in the possession of any officer or agent of the Government of Canada or of the Province, by authority of the Legislature whereof it was issued or prepared for issue. 35 V., c. 33, s. 1, *part*.

In indictment for stealing postage stamps, &c.

126. In every case of larceny, embezzlement or fraudulent application or disposition of any chattel, money or valuable security, under sections fifty-three, fifty-four and fifty-five of "*The Larceny Act*," the property in any such chattel, money or valuable security may, in the warrant of commitment by the justice of the peace before whom the offender is charged, and in the indictment preferred against such offender, be laid in Her Majesty, or in the municipality, as the case may be. 32-33 V., c. 21, s. 72, *part*.

In indictment for embezzlement by persons in the public service. [24-25 V., c. 96, s. 70.]

127. An indictment in the common form for larceny may be preferred against any person who steals any chattel let to be used by him in or with any house or lodging,—and in every case of stealing any fixture so let to be used, an indictment in

Form of indictment in case of stealing by lodgers.

[24-25 V., c.,
56, s. 74.]

the same form as if the offender was not a tenant or lodger may be preferred,—and in either case the property may be laid in the owner or person letting to hire. 32-33 V., c. 21, s. 75, *part.*

Omission of certain averments, &c., not fatal to indictment.
[14-15 V., c. 100, s. 24.]

128. No indictment shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words “as appears upon the record” or “as appears by the record,” or of the words “with force and arms,” or of the words “against the peace,”—or for the insertion of the words “against the form of the statute” instead of the words “against the form of the statutes,” or *vice versâ*, or for the omission of such words,—or for the want of an addition or for an imperfect addition of any person mentioned in the indictment, or because any person mentioned in the indictment is designated by a name of office or other descriptive appellation instead of his proper name,—or for omitting to state the time at which the offence was committed in any case in which time is not of the essence of the offence, or for stating the time imperfectly, or for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened,—or for want of a proper or perfect venue, or for want of a proper or formal conclusion, or for want of or imperfection in the addition of any defendant,—or for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil, in any case in which the value or price or amount of damage, injury or spoil is not of the essence of the offence. 32-33 V., c. 29, s. 23.

What necessary to state in describing money or bank notes.
[14-15 V., c. 100, s. 18.]

129. Whenever, in any indictment, it is necessary to make an averment as to any money or to any note of any bank, or Dominion or Provincial note, it shall be sufficient to describe such money or note simply as money, without any allegation, so far as regards the description of the property, specifying any particular coin or note; and such averment shall be sustained by proof of any amount of coin or of any such note, although the particular species of coin of which such amount was composed or the particular nature of the note is not proved. 32-33 V., c. 29, s. 25.

Description of instruments generally.
[14-15 V., c. 100, s. 7.]

130. Whenever it is necessary to make an averment in an indictment, as to any instrument, whether the same consists wholly or in part of writing, print or figures, it shall be sufficient to describe such instrument by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac simile* of the whole or of any part thereof. 32-33 V., c. 29, s. 24.

Description of instrument in indictment for forgery.

131. In any indictment for forging, altering, offering, uttering, disposing of or putting off any instrument, stamp, mark

or thing, it shall be sufficient to describe the same by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac simile* thereof, or otherwise describing the same or the value thereof. 32-33 V., c. 19, s. 49.

[14-15 V., c. 100, s. 5; 24-25 V., c. 98, s. 42.]

132. In any indictment for engraving or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful custody or possession of any plate or other material upon which the whole or any part of any instrument, matter or thing whatsoever has been engraved or made, or for having the unlawful custody or possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever has been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same is usually known, without setting out any copy or *fac simile* of the whole or any part of such instrument, matter or thing. 32-33 V., c. 19, s. 50.

And in indictment for unlawful engraving. [24-25 V., c. 98, s. 43.]

133. Any number of accessories at different times to any felony may be charged with substantive felonies, in the same indictment, and may be tried together, notwithstanding the principal felon is not included in the same indictment, or is not in custody or amenable to justice. 31 V., c. 72, s. 7, *part*.

Several accessories may be included in one indictment. [24-25 V., c. 94, s. 6.]

134. Several counts may be inserted in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, committed by him against the same person, within six months from the first to the last of such acts, and all or any of them may be proceeded upon. 32-33 V., c. 21, s. 5.

Three larcenies may be charged in one indictment. [24-25 V., c. 96, s. 5.]

135. In any indictment containing a charge of feloniously stealing any property, a count, or several counts, for feloniously receiving the same or any part or parts thereof, knowing the same to have been stolen may be added, and in any indictment for feloniously receiving any property, knowing it to have been stolen, a count for feloniously stealing the same may be added. 32-33 V., c. 21, s. 101, *part*.

Indictment for stealing may have a count for receiving. [24-25 V., c. 96, s. 92.]

136. Every one who receives any chattel, money, valuable security or other property whatsoever, the stealing, taking, extorting, obtaining, embezzling and otherwise disposing whereof, amounts to a felony, either at common law or by statute, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled or disposed of, may be indicted and convicted, either as an accessory after the fact or for a substantive felony, and in the latter case, whether the principal felon has or has not been previously convicted, or is or is not amenable to justice: Provided, that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted

How receiver of stolen goods may be indicted, &c. [24-25 V., c. 96, s. 91.]

a second time for the same offence. 32-33 V., c. 21, s. 100, *part.*

If stealing, &c., is a misdemeanour. [24-25 V., c. 96, s. 95.]

137. Every such receiver may, if the offence is a misdemeanour, be indicted and tried for the misdemeanour, whether the person guilty of the principal misdemeanour has or has not been previously convicted thereof, or is or is not amenable to justice. 32-33 V., c. 21, s. 104, *part.*

Separate receivers may be included in the same indictment. [24-25 V., c. 94, s. 6 ; c. 96, s. 93.]

138. Any number of receivers at different times, of property, or any part or parts thereof, so stolen, taken, extorted, obtained, embezzled or otherwise disposed of at one time, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding that the principal felon is not included in the same indictment, or is not in custody or amenable to justice. 31 V., c. 72, s. 7, *part.*;—32-33 V., c. 21, s. 102.

Indictment, &c., for subsequent offences : what statements shall be sufficient. [24-25 V., c. 96, s. 116 ; c. 99, s. 37.]

139. In any indictment for any indictable offence, committed after a previous conviction or convictions for any felony, misdemeanour, or offence or offences punishable upon summary conviction (and for which a greater punishment may be inflicted on that account), it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of felony or of a misdemeanour, or of an offence or offences punishable upon summary conviction, as the case may be, and to state the substance and effect only, omitting the formal part of the indictment and conviction, or of the summary conviction, as the case may be, for the previous offence, without otherwise describing the previous offence or offences. 32-33 V., c. 29, s. 26, *part.*

PRELIMINARY REQUIREMENTS AS TO CERTAIN INDICTMENTS.

Requirements as to indictments for certain offences. [22-23 V., c. 17, s. 1.]

140. No bill of indictment for any of the offences following, that is to say: perjury, subornation of perjury, conspiracy, obtaining money or other property by false pretences, forcible entry or detainer, nuisance, keeping a gambling house, keeping a disorderly house, or any indecent assault, shall be presented to or found by any grand jury, unless the prosecutor or other person presenting such indictment has been bound by recognizance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognizance to appear to answer to an indictment to be preferred against him for such offence, or unless the indictment for such offence is preferred by the direction of the Attorney General or Solicitor General for the Province, or by the direction or with the consent of a court or judge having jurisdiction to give such direction or to try the offence :

Amended by 51 V. c. 44 s. 3 and 52 V., c. 41, s. 3.

2. Nothing herein shall prevent the presentment to or finding by a grand jury of any bill of indictment, containing a count or counts for any of such offences, if such count or counts are such as may now be lawfully joined with the rest of such bill of indictment, and if the same count or counts are founded, in the opinion of the court in or before which the said bill of indictment is preferred, upon the facts or evidence disclosed in any examination or deposition taken before a justice in the presence of the person accused or proposed to be accused by such bill of indictment, and transmitted or delivered to such court in due course of law. 32-33 V., c. 29, s. 28;—40 V., c. 26, ss. 1 and 2.

Indictment may contain counts for such offences upon certain conditions.

PLEAS.

141. No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him in any court, or to imparl, or to have time allowed him to plead or demur to any such indictment: Provided always, that if the court, before which any person is so indicted, upon the application of such person, or otherwise, is of opinion that he ought to be allowed a further time to plead or demur or to prepare for his defence, or otherwise, such court may grant such further time to plead or demur, or may adjourn the receiving or taking of the plea or demurrer and the trial, or, as the case may be, the trial of such person, to a future time of the sittings of the court or to the next or any subsequent session or sittings of the court, and upon such terms, as to bail or otherwise, as to the court seem meet, and may, in the case of adjournment to another session or sitting, respite the recognizances of the prosecutor and witnesses accordingly,—in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session or sittings, without entering into any fresh recognizances for that purpose. 32-33 V., c. 29, s. 30.

No person entitled of right to traverse or to have time to plead.

Court may postpone trial, upon terms, &c.

[60 G. III and 1 G. IV, c. 4, ss. 1-2; 14-15 V., c. 100, s. 27.]

142. No indictment shall be abated by reason of any dilatory plea of misnomer, or of want of addition, or of wrong addition of any person offering such plea; but if the court is satisfied, by affidavit or otherwise, of the truth of such plea, the court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such person to plead thereto, and shall proceed as if no such dilatory plea had been pleaded. 32-33 V., c. 29, s. 31.

Indictment not to be abated by reason of dilatory plea of misnomer, &c. [7 G. IV., c. 64, s. 19.]

143. Every objection to any indictment for any defect apparent on the face thereof, shall be taken by demurrer or motion to quash the indictment, before the defendant has pleaded, and not afterwards; and every court before which any such objection is taken may, if it is thought necessary, cause the indictment to be forthwith amended in such particu-

When objection to indictment is to be taken.

[14-15 V., c. 100, s. 25.]

How defects may be amended.

lar, by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared ; and no motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or amended under the authority of this Act. 32-33 V., c. 29, s. 32.

Effect of plea of "Not guilty."
[7-8 G. IV, c. 28, s. 1.]

144. If any person, being arraigned upon any indictment for any indictable offence, pleads thereto a plea of "not guilty," he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court may, in the usual manner, order a jury for the trial of such person accordingly. 32-33 V., c. 29, s. 33.

Court may order a plea of "Not guilty" to be entered, in case of refusal to plead.
[7-8 G. IV, c. 28, s. 2.]

145. If any person, being arraigned upon any indictment for any indictable offence, stands mute of malice, or will not answer directly to the indictment, the court may order the proper officer to enter a plea of "not guilty," on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same. 32-33 V., c. 29, s. 34.

Form of plea of *autrefois convict* or *autrefois acquit*.
[14-15 V., c. 100, s. 28.]

146. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment. 32-33 V., c. 29, s. 35.

Attainder of another crime not pleadable.
[7-8 G. IV., c. 28, s. 4.]

147. No plea setting forth any attainder shall be pleaded in bar of any indictment, unless the attainder is for the same offence as that charged in the indictment. 32-33 V., c. 29, s. 36.

LIBEL.

What may be pleaded in a case of libel.
[6-7 V., c. 96, s. 6.]

148. Every one accused of publishing a defamatory libel may plead that the defamatory matter was true, and that it was for the public benefit that such matter should be published, to which plea the prosecutor may reply generally, denying the whole thereof. 37 V., c. 38, s. 5, *part*, and s. 6, *part*.

Truth not to be inquired into unless specially pleaded.
[6-7 V., c. 96, s. 6.]

149. Without such plea, the truth of the matters charged as libellous in any such indictment or information, or that it was for the public benefit that such matters should have been published, shall in no case be inquired into. 37 V., c. 38, s. 7.

Effect of plea of justification.
[6-7 V., c. 96, s. 6.]

150. If, after such plea, the defendant is convicted on such indictment or information, the court, in pronouncing sentence, may consider whether the guilt of the defendant is aggravated or mitigated by such plea, and by the evidence given to prove or disprove the same. 37 V., c. 38, s. 8.

151. In addition to such plea of justification, the defendant may plead not guilty; and no defence otherwise open to the defendant under the plea of not guilty shall be taken away or prejudiced by reason of such special plea. 37 V., c. 38, s. 9.

Plea of not guilty in addition. [6-7 V., c. 96, s. 6.]

152. On the trial of any indictment or information for the making or publishing of any defamatory libel, on the plea of not guilty pleaded, the jury sworn to try the issue may give a general verdict of guilty or not guilty, upon the whole matter put in issue upon such indictment or information, and shall not be required or directed, by the court or judge before whom such indictment or information is tried, to find the defendant guilty, merely on the proof of publication by such defendant of the paper charged to be a defamatory libel, and of the sense ascribed to the same in such indictment or information; but the court or judge before whom such trial is had shall, according to the discretion of such court or judge, give the opinion and direction of such court or judge to the jury, on the matter in issue, as in other criminal cases; and the jury may, on such issue, find a special verdict if they think fit so to do; and the defendant, if found guilty, may move in arrest of judgment on such ground and in such manner as he might have done before the passing of this Act. 37 V., c. 38, s. 4.

Proceedings on indictment for libel. [32 G. III, c. 60, ss. 1, 2, 3 and 4.]

153. In the case of an indictment or information by a private prosecutor for the publication of a defamatory libel, if judgment is given against the defendant he shall be liable for the costs sustained by the prosecutor, by reason of such indictment or information; and if judgment is given for the defendant he shall be entitled to recover from such prosecutor the costs incurred by him, by reason of such indictment or information; and such costs, so to be recovered by the prosecutor or defendant respectively, shall be taxed by the court, judge or the proper officer of the court before which such indictment or information is tried. 37 V., c. 38, s. 12.

a. As between private prosecutor and defendant, costs to follow the judgment. [6-7 V., c. 96, s. 8.]

154. The costs mentioned in the next preceding section shall be recoverable either by warrant of distress issued out of the said court, or by action or suit as for an ordinary debt. 37 V., c. 38, s. 13.

Enforcing payment of such costs.

CORPORATIONS.

155. Every corporation against which a bill of indictment for a misdemeanour is found, at any court having criminal jurisdiction, shall appear by attorney in the court in which such indictment is found, and plead or demur thereto. 46 V., c. 34, s. 1.

Corporation indicted to appear and plead by attorney.

156. No writ of *certiorari* shall be necessary to remove any such indictment into any superior court with the view of com-

Certiorari not required, &c.

pling the defendant to plead thereto; nor shall it be necessary to issue any writ of *distringas*, or other process, to compel the defendant to appear and plead to such indictment. 46 V., c. 34, s. 2.

What notice shall be served on the corporation.

157. The prosecutor, when any such indictment is found against any corporation, or the clerk of the court, when such indictment is founded on a presentment of the grand jury, may cause a notice thereof to be served on the mayor or chief officer of such corporation, or upon the clerk or secretary thereof, stating the nature and purport of such indictment, and that, unless such corporation appears and pleads thereto in two days after the service of such notice, a plea of not guilty will be entered thereto for the defendant by the court, and that the trial thereof will be proceeded with in like manner as if the said corporation had appeared and pleaded thereto. 46 V., c. 34, s. 3.

On default to appear, court may order plea of not guilty to be entered.

158. If such corporation does not appear, in the court in which the indictment has been found, and plead or demur thereto within the time specified in the said notice, the judge presiding at such court may, on proof to him by affidavit of the due service of such notice, order the clerk or proper officer of the court to enter a plea of "not guilty" on behalf of such corporation; and such plea shall have the same force and effect as if such corporation had appeared by its attorney and pleaded such plea. 46 V., c. 34, s. 4.

Trial may be proceeded with in absence of defendant.

159. The court may,—whether such corporation appears and pleads to the indictment, or whether a plea of "not guilty" is entered by order of the court,—proceed with the trial of the indictment in the absence of the defendant, in the same manner as if the corporation had appeared at the trial and defended the same; and, in case of conviction, may award such judgment and take such other and subsequent proceedings to enforce the same as are applicable to convictions against corporations. 46 V., c. 34, s. 5.

JURIES AND CHALLENGES.

Who are qualified to serve as grand or petit jurors.

160. Every person qualified and summoned as a grand juror or as a petit juror, according to the laws in force for the time being in any Province of Canada, shall be and shall be held to be duly qualified to serve as such grand or petit juror in criminal cases in that Province, whether such laws were in force or were or are enacted by the Legislature of the Province before or after such Province became a part of Canada, but subject always to any provision in any Act of the Parliament of Canada, and in so far as such laws are not inconsistent with any such Act. 32-33 V., c. 29, s. 44;—46 V., c. 10, s. 3.

161. No alien shall be entitled to be tried by a jury *de medietate lingue*, but shall be tried as if he was a natural born subject. 32-33 V., c. 29, s. 39;—44 V., c. 13, s. 8.

Juries de medietate lingue.
[33-34 V., c. 14, s. 5.]

162. Any quaker or other person allowed by law to affirm instead of swearing in civil cases, or solemnly declaring that the taking of any oath is, according to his religious belief, unlawful, who is summoned as a grand or petit juror in any criminal case shall, instead of being sworn in the usual form, be permitted to make a solemn affirmation beginning with the words following: "I, A. B., do solemnly, sincerely and truly affirm," and then may serve as a juror as if he had been sworn, and his declaration or affirmation shall have the same effect as an oath to the like effect; and in any record or proceeding relating to the case, it may be stated that the jurors were sworn or affirmed; and in any indictment, the words "upon their oath present," shall be understood to include the affirmation of any juror affirming instead of swearing. 32-33 V., c. 29, s. 43.

Certain persons may make affirmation and act as jurors.
[30-31 V., c. 35, s. 8.]

163. If any person arraigned for treason or felony challenges peremptorily a greater number of persons returned to be of the jury than twenty, in a case of indictment for treason or felony punishable with death, or twelve, in a case of indictment for any other felony, or four, in a case of indictment for misdemeanour, every peremptory challenge beyond the number so allowed in the said cases respectively, shall be void, and the trial of such person shall proceed as if no such challenge had been made; but nothing herein contained shall be construed to prevent the challenge of any number of jurors for cause. 32-33 V., c. 29, s. 37.

Peremptory challenge by the prisoner; to what extent allowed and when void.
[6 G IV, c. 50, s. 29; 7-8 G. IV, c. 28, s. 3.]

164. In all criminal trials, four jurors may be peremptorily challenged on the part of the Crown; but this shall not be construed to affect the right of the Crown to cause any juror to stand aside until the panel has been gone through, or to challenge any number of jurors for cause. 32-33 V., c. 29, s. 38.

Challenges on part of the Crown.

165. The right of the Crown to cause any juror to stand aside until the panel has been gone through, shall not be exercised on the trial of any indictment or information by a private prosecutor for the publication of a defamatory libel. 37 V., c. 38, s. 11.

As to right to set jurors aside in cases of libel.

166. In those districts in the Province of Quebec in which the sheriff is required by law to return a panel of petit jurors, composed one half of persons speaking the English language, and one half of persons speaking the French language, he shall, in his return, specify separately those jurors whom he returns as speaking the English language, and those whom he returns as speaking the French language respectively; and the

As to juries half English and half French in Quebec.

names of the jurors so summoned shall be called alternately from such lists :

Peremptory challenges to be divided.

2. Whenever any person accused of treason or felony elects to be tried by a jury composed one half of persons skilled in the language of the defence, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one half of such number from among the English speaking jurors and one half from among the French speaking jurors :

Application of section.

3. This section applies only to the Province of Quebec. 32-33 V., c. 29, s. 40.

As to juries half English and half French in Manitoba.

167. Whenever any person who is arraigned before the Court of Queen's Bench for Manitoba, demands a jury composed for the one half at least of persons skilled in the language of the defence, if such language is either English or French, he shall be tried by a jury composed for the one half at least of the persons whose names stand first in succession upon the general panel, and who, on appearing, and not being lawfully challenged, are found, in the judgment of the court, to be skilled in the language of the defence :

Provision if the panel is exhausted.

2. Whenever, from the number of challenges, or any other cause, there is, in any such case, a deficiency of persons skilled in the language of the defence, the court shall fix another day for the trial of such case, and the sheriff shall supply the deficiency by summoning, for the day so fixed, such additional number of jurors skilled in the language of the defence as the court orders, and as are found inscribed next in succession on the list of petit jurors :

Peremptory challenges to be divided.

3. Whenever a person accused of treason or felony elects to be tried by a jury composed one half of persons skilled in the language of the defence, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one half of such number from among the English speaking jurors, and one half from among the French speaking jurors :

Application of section.

4. This section applies only to the Province of Manitoba. 34 V., c. 14, ss. 3, 4 and 5.

Supplying jurors if the panel is exhausted. [6 G. IV, c. 50 s. 37.]

168. Whenever, in any criminal case, the panel has been exhausted by challenge, or by default of jurors by non-attendance or not answering when called, or from any other cause, and a complete jury for the trial of such case cannot be had by reason thereof, then, upon request made on behalf of the Crown, the court may, in its discretion, order the sheriff or other proper officer forthwith to summon such number of good men of the district, county or place, whether on the roll of jurors or otherwise qualified as jurors or not, as the court deems necessary and directs, in order to make up a full jury :

How such jurors shall be summoned.

2. Such sheriff or officer shall forthwith summon by word of mouth or in writing, the number of persons he is so required

to summon, and add their names to the general panel of jurors returned to serve at that court, and, subject to the right of the Crown and of the accused respectively, as to challenge or direction to stand aside, the persons whose names are so added to the panel shall, whether otherwise qualified or not, be deemed duly qualified as jurors in the case, and so until a complete jury is obtained, and the trial shall then proceed as if such jurors were originally returned duly and regularly on the panel; and if, before such order, one or more persons have been sworn or admitted unchallenged on the jury, he or they may be retained on the jury, or the jury may be discharged, as the court directs:

3. Every person so summoned as a juror shall forthwith attend and act in obedience to the summons, and if he makes default shall be punishable in like manner as a juror summoned in the usual way; and such jurors so newly summoned shall be added to the panel for such case only. 32-33 V., c. 29, s. 41.

Person so summoned shall attend.

169. In all criminal cases, less than felony, the jury may, in the discretion of the court, and under its direction as to the conditions, mode and time, be allowed to separate during the progress of the trial. 32-33 V., c. 29, s. 57.

Jury may be allowed to separate.

170. Nothing in this Act shall alter, abridge or affect any power or authority which any court or judge has when this Act takes effect, or any practice or form in regard to trials by jury, jury process, juries or jurors, except in cases where such power or authority is expressly altered by or is inconsistent with the provisions of this Act 32-33 V., c. 29, s. 42.

Saving of powers not expressly altered.

VIEW.

171. Whenever it appears to any court having criminal jurisdiction or to any judge thereof, that it will be proper and necessary that the jurors, or some of them, who are to try the issues in such case, should have a view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues, whether such place is situate within the county or united counties in which the venue in any such case is laid, or without such county or united counties, in any other county, such court or judge may order a rule to be drawn up, containing the usual terms,—and, if such court or judge thinks fit, also requiring the person applying for the view to deposit in the hands of the sheriff of the county or united counties in which the venue in any case is laid, a sum of money to be named in the rule, for payment of the expenses of the view. 29-30 V. (Can.), c. 46, s. 1.

Court may order a view within or out of the county in which the venue is laid. [6 G. IV., c. 50, s. 23.]

Rule.

Deposit by person requiring the view.

172. All the duties and obligations now imposed by law on the several sheriffs and other persons when the place to be

Duties of sheriffs, &c., in such cases.

viewed is situate in the county or united counties in which the venue in any such case is laid, shall be imposed upon and attach to such sheriffs and other persons when the place to be viewed is situate out of the county or united counties in which the venue in any such case is laid. 29-30 V. (Can.), c. 46, s. 2.

SWEARING WITNESSES BEFORE GRAND JURY.

Witness before grand jury need not be sworn in court.

[19-20 V., c. 54, s. 2.]

How such witness may be sworn.

[19-20 V., c. 54, ss. 1 & 3.]

173. It shall not be necessary for any person to take an oath in open court in order to qualify him to give evidence before any grand jury. C.S.U.C., c. 109, s. 1.

174. The foreman of the grand jury and any member of the grand jury who may, for the time being, act on behalf of the foreman in the examination of witnesses, may administer an oath to every person who, under the circumstances hereinafter enacted, appears before such grand jury to give evidence in support of any bill of indictment; and every such person may be sworn and examined upon oath by such grand jury touching the matters in question. C.S.U.C., c. 109, ss. 2 and 6, *part*; —C.S.L.C., c. 105, s. 2.

Name to be indorsed on the bill and marked with initials of the foreman.

[19-20 V., c. 54, s. 1.]

175. The name of every witness examined, or intended to be so examined, shall be indorsed on the bill of indictment; and the foreman of the grand jury, or any member of the grand jury so acting for him, shall write his initials against the name of each witness sworn by him and examined touching such bill of indictment. C.S.U.C., c. 109, s. 3.

Who may be examined before grand jury.

176. The name of every witness intended to be examined on any bill of indictment shall be submitted to the grand jury by the officer prosecuting on behalf of the Crown, and no others shall be examined by or before such grand jury, unless upon the written order of the presiding judge. C.S.U.C., c. 109, s. 4.

As to fees.

[19-20 V., c. 54, s. 1.]

177. Nothing in this Act shall affect any fees by law payable to any officer of any court for swearing witnesses, but such fees shall be payable as if the witnesses had been sworn in open court. C.S.U.C., c. 109, s. 5.

TRIAL.

Full defence allowed.

[7-8 W. III, c. 3, s. 1; 20 G. II, c. 30; 6-7 W. IV, c. 114, s. 1.]

178. Every person tried for any indictable offence shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by counsel learned in the law. 32-33 V., c. 29, s. 45, *part*.

How addresses of counsel to jury shall be regulated.

179. Upon the trial the addresses to the jury shall be regulated as follows: the counsel for the prosecution, in the event of the defendant or his counsel not announcing, at the

close of the case for the prosecution, his intention to adduce evidence, shall be allowed to address the jury a second time at the close of such case, for the purpose of summing up the evidence ; and the accused, or his counsel, shall then be allowed to open his case and also to sum up the evidence, if any is adduced for the defence ; and the right of reply shall be according to the practice of the courts in England : Provided always, that the right of reply shall be always allowed to the Attorney General or Solicitor General, or to any Queen's counsel acting on behalf of the Crown. 32-33 V., c. 29, s. 45, *part*.

Proviso.

180. Every person under trial shall be entitled, at the time of his trial, to inspect, without fee or reward, all depositions, or copies thereof, taken against him, and returned into the court before which such trial is had. 32-33 V., c. 29, s. 46.

Inspection of depositions by prisoners. [6-7 W. IV, c. 114, s. 4.]

181. Every person indicted for any crime or offence shall, before being arraigned on the indictment, be entitled to a copy thereof, on paying the clerk ten cents per folio for the same, if the court is of opinion that the same can be made without delay to the trial, but not otherwise. 32-33 V., c. 29, s. 47.

Copy of indictment to persons under trial.

182. Every person indicted shall be entitled to a copy of the depositions returned into court on payment of ten cents per folio for the same, provided, if the same are not demanded before the opening of the assizes, term, sittings or sessions, the court is of opinion that the same can be made without delay to the trial, but not otherwise ; but the court may, if it sees fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged. 32-33 V., c. 29, s. 48.

Also copies of depositions, under certain conditions. [11-12 V., c. 42, s. 27.]

183. If, on the trial of any person charged with any felony or misdemeanour, it appears to the jury, upon the evidence, that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanour charged, but is guilty of an attempt to commit the same ; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanour charged in the indictment ; and no person tried as lastly mentioned shall be liable to be afterwards prosecuted for committing or attempting to commit the felony or misdemeanour for which he was so tried. 32-33 V., c. 29, s. 49.

Verdict and punishment in cases where offences are not completed. [14-15 V., c. 100, s. 9.]

184. If, upon the trial of any person for any misdemeanour, it appears that the facts given in evidence, while they include such misdemeanour, amount in law to a felony, such person shall

Persons tried for misdemeanour and found guilty

of felony not to be acquitted. [14-15 V., c. 100, s. 12.]

not, by reason thereof, be entitled to be acquitted of such misdemeanour, unless the court before which such trial is had thinks fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony,—in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanour; and the person tried for such misdemeanour if convicted, shall not be liable to be afterwards prosecuted for felony on the same facts. 32-33 V., c. 29, s. 50.

Non-liability for attempt after trial for commission.

185. No person shall be tried or prosecuted for an attempt to commit any felony or misdemeanour, who has been previously tried for committing the same offence. 32-33 V., c. 29, s. 52.

Indictment for felony valid, though facts amount to treason. [11-12 V., c. 12, s. 7.]

186. If the acts or matters alleged in an indictment for any felony under the "*Act respecting Treason and other Offences against the Queen's authority*," amount in law to treason, such indictment shall not, by reason thereof, be deemed void, erroneous or defective; and if the facts or matters proved on the trial of any person indicted for felony under the said Act amount in law to treason, such person shall not, by reason thereof, be entitled to be acquitted of such felony; but no person tried for such felony shall be liable to be afterwards prosecuted for treason upon the same facts. 31 V., c. 69, s. 8.

No inquiry concerning lands. [7-8 G. IV, c. 28, s. 5.]

187. The jury empanelled to try any person for treason or felony shall not be charged to inquire concerning his lands, tenements or goods, nor whether he fled for such treason or felony. 32-33 V., c. 29, s. 53.

On trial for murder of a child, conviction may be for concealment of birth. [24-25 V., c. 100, s. 60.]

188. If any person tried for the murder of any child is acquitted thereof, the jury by whose verdict such person is acquitted may find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of such child or of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of birth. 32-33 V., c. 20, s. 61, *part*.

On trial for felony, conviction may be for causing grievous bodily harm. [14-15 V., c. 19, s. 5.]

189. If, upon the trial of any indictment for any felony, except in cases of murder or manslaughter, the indictment alleges that the accused did wound or inflict grievous bodily harm on any person with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with the intent to resist or prevent the lawful apprehension or detainer of any person, and the jury is satisfied that the accused is guilty of the wounding, or inflicting grievous bodily harm, charged in the indictment, but is not satisfied that the accused is guilty of the felony charged in such indictment, the jury may acquit of the felony, and find

the accused guilty of unlawfully and maliciously wounding, or inflicting grievous bodily harm; and such accused shall be liable to three years' imprisonment. 32-33 V., c. 20, s. 19, *part.*

190. If, upon the trial of any person for unlawfully and maliciously administering to or causing to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, the jury is not satisfied that such person is guilty of such felony, but is satisfied that he is guilty of the misdemeanour of unlawfully and maliciously administering to, or causing to be administered to or taken by such person, any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person, the jury may acquit the accused of such felony, and find him guilty of such misdemeanour; and thereupon he shall be punished in the same manner as if convicted upon an indictment for such misdemeanour. 32-33 V., c. 20, s. 24.

On trial for felony by poisoning, conviction may be of misdemeanour. [24-25 V., c. 100, s. 23, 24 and 25.]

191. If, upon the trial of any person for any felony whatsoever, the crime charged includes an assault against the person, although an assault is not charged in terms, the jury may acquit of the felony, and find a verdict of guilty of assault against the person indicted, if the evidence warrants such finding, and the person so convicted shall be liable to five years' imprisonment. 32-33 V., c. 29, s. 51.

Verdict of assault in cases of felony including assault. [7 W. IV, and 1 V, c. 85, s. 11.]

192. If, upon the trial of any person upon an indictment for robbery, it appears to the jury, upon the evidence, that the accused did not commit the crime of robbery, but that he did commit an assault with intent to rob, the accused shall not, by reason thereof, be entitled to be acquitted, but the jury may find him guilty of an assault with intent to rob; and thereupon he shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried, as is herein lastly mentioned, shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried. 32-33 V., c. 21, s. 40.

On trial for robbery, conviction may be of assault with intent to rob. [24-25 V., c. 96, s. 41.]

193. Every one who is indicted for any burglary, where the breaking and entering are proved at the trial to have been made in the day-time and no breaking out appears to have been made in the night-time, or where it is left doubtful whether such breaking and entering or breaking out took place in the day or night-time, shall be acquitted of the burglary, but may be convicted of the offence of breaking and entering the dwelling-house with intent to commit a felony therein. 32-33 V., c. 21, s. 57.

On trial for burglary, conviction may be of house-breaking.

Proof of burglary not a defence on charge of house-breaking.

194. It shall not be available, by way of defence, to a person charged with the offence of breaking and entering any dwelling-house, church, chapel, meeting-house or other place of divine worship, or any building within the curtilage, school-house, shop, warehouse or counting-house, with intent to commit any felony therein, to show that the breaking and entering were such as to amount in law to burglary: Provided, that the offender shall not be afterwards prosecuted for burglary upon the same facts; but it shall be open to the court before which the trial for such offence takes place, upon the application of the person conducting the prosecution, to allow an acquittal on the ground that the offence, as proved, amounts to burglary; and if an acquittal takes place on such ground, and is so returned by the jury in delivering its verdict, the same shall be recorded together with the verdict, and such acquittal shall not then avail as a bar or defence upon an indictment for such burglary. 32-33 V., c. 21, s. 58.

Offender in such case may be indicted for burglary.

On trial for embezzlement, &c., conviction may be of larceny and *vice versa*. [24-25 V., c. 96, s. 72.]

195. If, upon the trial of any person indicted for embezzlement or fraudulent application or disposition of any chattel, money or valuable security, it is proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury may acquit the accused of embezzlement or fraudulent application or disposition, and find him guilty of simple larceny or larceny as a clerk, servant or person employed for the purpose or in the capacity of a clerk or servant, or as a person employed in the public service, as the case may be, and thereupon the accused shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny; and if, upon the trial of any person indicted for larceny, it is proved that he took the property in question in any such manner as to amount in law to embezzlement or fraudulent application or disposition as aforesaid, he shall not, by reason thereof, be entitled to be acquitted, but the jury may acquit the accused of larceny, and find him guilty of embezzlement or fraudulent application or disposition, as the case may be, and thereupon the accused shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, fraudulent application or disposition; and no person so tried for embezzlement, fraudulent application or disposition, or larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition, or embezzlement, upon the same facts. 32-33 V., c. 21, s. 74.

No acquittal of obtaining property by false pretences because offence amounts to larceny.

196. If, upon the trial of any person indicted for obtaining from any other person, by any false pretence, any chattel, money or valuable security, with intent to defraud, it is proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not, by reason thereof,

be entitled to be acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable to be afterwards prosecuted for larceny upon the same facts. 32-33 V., c. 21, s. 93, *part*.

[24-25 V., c. 96, s. 88.]

197. If, upon the trial of any person for any misdemeanour, under any of the provisions of sections sixty to seventy-six, both inclusive, of "*The Larceny Act*," it appears that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of the misdemeanour. 32-33 V., c. 21, s. 92, *part*.

The like in cases of frauds by agents, &c.

198. If, upon the trial of any person for larceny, it appears that the property taken was obtained by such person by fraud, under circumstances which do not amount to such taking as constitutes larceny, such person shall not by reason thereof be entitled to be acquitted, but the jury may acquit the accused of larceny, and find him guilty of obtaining such property by false pretences, with intent to defraud, if the evidence proves such to have been the case; and thereupon the accused shall be punished in the same manner as if he had been convicted upon an indictment for obtaining property by false pretences; and no person so tried for larceny as aforesaid, shall be afterwards prosecuted for obtaining property by false pretences upon the same facts: 32-33 V., c. 21, s. 99.

On trial for larceny, conviction may be of obtaining property by false pretences.

199. If any indictment containing counts for feloniously stealing any property, and for feloniously receiving the same, or any part or parts thereof, knowing the same to have been stolen, has been preferred and found against any person, the prosecutor shall not be put to his election, but the jury may find a verdict of guilty, either of stealing the property or of receiving the same, or any part or parts thereof, knowing the same to have been stolen; and if such indictment has been preferred and found against two or more persons, the jury may find all or any of the said persons guilty either of stealing the property or receiving the same, or any part or parts thereof, knowing the same to have been stolen, or may find one or more of the said persons guilty of stealing the property, and the other or others of them guilty of receiving the same, or any part or parts thereof, knowing the same to have been stolen. 32-33 V., c. 21, s. 101, *part*.

When indictment for stealing contains a count for receiving [24-25 V., c. 96, s. 92.]

If two or more persons are included.

200. If, upon the trial of two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part or parts of such property, the jury may convict, upon such indictment, such of the said persons as are proved to have received any part or parts of such property. 32-33 V., c. 21, s. 103.

Conviction on indictment for jointly receiving. [24-25 V., c. 96, s. 94.]

On trial for larceny, &c., conviction may be of fraudulent appropriation.

201. If, on the trial of any person for larceny, for embezzlement, or for obtaining any property by false pretences, the jury is of opinion that such person is not guilty of the offence charged in the indictment, but is of opinion that he is guilty of an offence against section eighty-five of "*The Larceny Act*," it may find him so guilty, and he shall be liable to be punished as therein provided, as if he had been convicted on an indictment under such section. 32-33 V., c. 21, s. 110, *part*.

If one act of larceny is charged and several acts at different times are proved.

[24-25 V., c. 96, s. 6.]

202. If, upon the trial of any indictment for larceny, it appears that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor or counsel for the prosecution shall not, by reason thereof, be required to elect upon which taking he will proceed, unless it appears that there were more than three takings, or that more than six months elapsed between the first and the last of such takings; and in either of such last mentioned cases the prosecutor or counsel for the prosecution shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings. 32-33 V., c. 21, s. 6.

Evidence of former possession of other stolen goods in cases of receiving.

[34-35 V., c. 112, s. 19.]

203. When proceedings are taken against any person for having received goods, knowing them to be stolen, or for having in his possession stolen property, evidence may be given, at any stage of the proceedings, that there was found in the possession of such person other property stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property which forms the subject of the proceedings taken against him to be stolen: Provided, that not less than three days' notice in writing has been given to the person accused, that proof is intended to be given of such other property, stolen within the preceding period of twelve months, having been found in his possession; and such notice shall specify the nature or description of such other property, and the person from whom the same was stolen. 40 V., c. 26, s. 3.

Notice to accused.

And of previous conviction of fraud or dishonesty in such cases.

[34-35 V., c. 112, s. 19.]

204. When proceedings are taken against any person for having received goods, knowing them to be stolen, or for having in his possession stolen property, and evidence has been given that the stolen property has been found in his possession,—then if such person has, within five years immediately preceding, been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings, and may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to

have been stolen : Provided, that not less than three days' notice in writing has been given to the person accused, that proof is intended to be given of such previous conviction ; and it shall not be necessary, for the purposes of this section, to charge in the indictment the previous conviction of the person so accused. 40 V., c. 26, s. 4.

Notice to accused.

Previous conviction need not be charged.

205. Upon the trial of any person accused of any offence respecting the currency or coin, or against the provisions of the "*Act respecting Offences relating to the Coin,*" no difference in the date or year, or in any legend marked upon the lawful coin described in the indictment, and the date or year or legend marked upon the false coin counterfeited to resemble or pass for such lawful coin, or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed, for the purpose of counterfeiting or imitating any such lawful coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence ; and it shall, in any case, be sufficient to prove such general resemblance to the lawful coin as will show an intention that the counterfeit should pass for it. 32-33 V., c. 18, s. 31.

Differences in date, &c., of true and false coin, not ground for acquittal.

206. If, upon the trial of any person for any felony mentioned in the ninth section of the "*Act respecting riots, unlawful assemblies, and breaches of the peace,*" the jury is not satisfied that such person is guilty thereof, but is satisfied that he is guilty of any offence mentioned in the tenth section of such Act, they may find him guilty thereof, and he may be punished accordingly. 32-33 V., c. 22, s. 16, *part.*

On trial for destroying buildings, conviction may be of injuring the same.

[24-25 V., c. 97, ss. 11 and 12.]

Proceedings when previous offence charged.

207. The proceedings upon any indictment for committing any offence after a previous conviction or convictions, shall be as follows, that is to say : the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only, and if the jury finds him guilty, or if, on arraignment, he pleads guilty, he shall then, and not before, be asked whether he was so previously convicted as alleged in the indictment ; and if he answers that he was so previously convicted, the court may proceed to sentence him accordingly, but if he denies that he was so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall, for all purposes, be deemed to extend to such last mentioned inquiry : Provided,

How previous conviction shall be proved.

[24-25 V., c. 96, s. 116, c. 99, s. 37.]

If the defendant adduces evidence of good character.

that if upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, the prosecutor may, in answer thereto, give evidence of the conviction of such person for the previous offence or offences, before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence. 32-33 V., c. 29, s. 26, *part*.

Impounding Documents.

Court may order documents to be impounded.

208. Whenever any instrument which has been forged or fraudulently altered is admitted in evidence, the court or the judge or person who admits the same, may, at the request of any person against whom the same is admitted in evidence, direct that the same shall be impounded and be kept in custody of some officer of the court or other proper person, for such period and subject to such conditions as to the court, judge or person admitting the same, seems meet. 32-33 V., c. 19, s. 36.

Destroying Counterfeit Coin.

Counterfeit coin to be destroyed.

209. If any false or counterfeit coin is produced in any court, the court shall order the same to be cut in pieces in open court, or in the presence of a justice of the peace, and then delivered to or for the lawful owner thereof, if such owner claims the same. 32-33 V., c. 18, s. 28.

WITNESSES AND EVIDENCE.

Witnesses summoned must attend.

210. Every witness duly subpoenaed to attend and give evidence at any criminal trial before any court of criminal jurisdiction, shall be bound to attend and remain in attendance throughout the trial. 39 V., c. 36, s. 1.

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

211. Upon proof to the satisfaction of the judge, of the service of the subpoena upon any witness who fails to attend or remain in attendance, and that the presence of such witness is material to the ends of justice, he may, by his warrant, cause such witness to be apprehended and forthwith brought before him to give evidence and to answer for his disregard of the subpoena; and such witness may be detained on such warrant before the judge or in the common gaol, with a view to secure his presence as a witness, or, in the discretion of the judge, he may be released on a recognizance with or without sureties, conditioned for his appearance to give evidence and to answer for his default in not attending or not remaining in attendance; and the judge may, in a summary manner, examine into and dispose of the charge against such witness, who, if he is found guilty thereof, shall be liable to a fine not exceeding one

Punishment of witness found guilty of such default.

hundred dollars, or to imprisonment, with or without hard labour, for a term not exceeding ninety days, or to both. 39 V., c. 36, s. 2.

212. If any witness in any criminal case, cognizable by indictment in any court of criminal jurisdiction at any term, sessions or sittings of any such court in any part of Canada, resides in any part thereof not within the ordinary jurisdiction of the court before which such criminal case is cognizable, such court may issue a writ of subpœna, directed to such witness, in like manner as if such witness was resident within the jurisdiction of the court; and if such witness does not obey such writ of subpœna, the court issuing the same may proceed against such witness for contempt or otherwise, or bind over such witness to appear at such days and time as are necessary, and upon default being made in such appearance, may cause the recognizances of such witness to be estreated and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness was resident within the jurisdiction of the court. 32-33 V., c. 29, s. 59.

Witnesses within Canada but without the jurisdiction of the court. [45 G. III., c. 92, s. 3.]

Punishment for disobeying subpœna.

213. When the attendance of any person confined in any penitentiary or in any prison or gaol in Canada, or upon the limits of any gaol, is required in any court of criminal jurisdiction in any case cognizable therein by indictment, the court before whom such prisoner is required to attend may, or any judge of such court, or of any superior court or county court may, before or during any such term or sitting at which the attendance of such person is required, make an order upon the warden of the penitentiary, or upon the sheriff, gaoler or other person having the custody of such prisoner, to deliver such prisoner to the person named in such order to receive him; and such person shall, at the time prescribed in such order, convey such prisoner to the place at which such person is required to attend, there to receive and obey such further order as to the said court seems meet. 32-33 V., c. 29, s. 60.

Witnesses confined in a penitentiary, &c. [16-17 V., c. 30, s. 9.]

214. No person offered as a witness shall, by reason of any alleged incapacity from crime or interest, be excluded from giving evidence on the trial of any criminal case, or in any proceeding relating or incidental to such case. 32-33 V., c. 29, s. 62, and c. 19, s. 54, part.

Who may be admitted as witnesses. [6-7 V., c. 85, s. 1.]

215. Every person so offered shall be admitted and be compellable to give evidence on oath, or solemn affirmation, where an affirmation is receivable, notwithstanding that such person has or may have an interest in the matter in question, or in the event of the trial in which he is offered as a witness, or of any proceeding relating or incidental to such case, and notwithstanding that such person so offered as a witness has been previously convicted of a crime or offence. 32-33 V., c. 29, s. 63.

An interest in the question, or a conviction not to disqualify. [6-7 V., c. 85, s. 1.]

Defendant competent as witness in case of assault.

Evidence of wife or husband.

If another crime is charged, but not proved.

Application of section.

In other cases, accused or wife or husband not to give evidence. [14-15 V., c. 99, s. 3.]

Corroborative evidence necessary in forgery cases.

Certain persons may make solemn affirmation. [3-4 W. IV., c. 49, s. 1; c. 82, s. 1; 12 V., c. 77; 24-25 V., c. 66, s. 1.]

216. On the summary or other trial of any person upon any complaint, information or indictment, for common assault, or for assault and battery, the defendant shall be a competent witness for the prosecution or on his own behalf:

2. On any such trial the wife or husband of the defendant shall be a competent witness on behalf of the defendant:

3. If another crime is charged, and the court having power to try the same is of opinion, at the close of the evidence for the prosecution, that the only case apparently made out is one of common assault, or of assault and battery, the defendant shall be a competent witness for the prosecution or on his own behalf, and his wife, or her husband, if the defendant is a woman, shall be a competent witness on behalf of the defendant, in respect of the charge of common assault and battery:

4. Except as in the next preceding sub-section mentioned, this section shall not apply to any prosecution in which any other crime than common assault, or assault and battery, is charged in the information or indictment. 43 V., c. 37, s. 2.

217. Nothing herein contained shall, except as provided in the next preceding section, render any person who is charged, in any criminal proceeding, with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself, or shall render any person compellable to answer any question tending to criminate himself; and nothing herein contained shall render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband in any criminal proceeding. C. S. U. C., c. 32, s. 18;—R. S. N. S. (3rd S.), c. 135, s. 44, *part*;—19 V. (N.B.), c. 41, s. 2, *part*;—16 V. (P. E. I.), c. 12, s. 13, *part*.

218. The evidence of any person interested or supposed to be interested in respect of any deed, writing, instrument or other matter given in evidence on the trial of any indictment or information against any person for any offence punishable under the "*Act respecting Forgery*," shall not be sufficient to sustain a conviction for any of the said offences unless the same is corroborated by other legal evidence in support of such prosecution. 32-33 V., c. 19, s. 54, *part*.

219. Any quaker or other person allowed by law to affirm instead of swearing in civil cases, or who solemnly declares that the taking of any oath is, according to his religious belief, unlawful, who is required to give evidence in any criminal case shall, instead of taking an oath in the usual form, be permitted to make his solemn affirmation or declaration, beginning with the words following, that is to say: "I, (A.B.), do solemnly, sincerely and truly declare and affirm;" which said affirmation or declaration shall be of the same force and effect

as if such quaker or other person as aforesaid had taken an oath in the usual form. 32-33 V., c. 29, s. 61.

220. Whenever it is made to appear at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of a judge of a superior court, or a judge of a county court having criminal jurisdiction, that any person who is dangerously ill, and who, in the opinion of some licensed medical practitioner is not likely to recover from such illness, is able and willing to give material information relating to any indictable offence, or relating to any person accused of any such offence, such judge may, by order under his hand, appoint a commissioner to take in writing the statement on oath or affirmation of such person :

Commissioner may be appointed to take evidence of person dangerously ill. [30-31 V., c. 35, s. 6.]

2. Such commissioner shall take such statement and shall subscribe the same and add thereto the names of the persons, if any, present at the taking thereof, and if the deposition relates to any indictable offence for which any accused person is already committed or bailed to appear for trial, shall transmit the same, with the said addition, to the proper officer of the court for trial at which such accused person has been so committed or bailed; and in every other case he shall transmit the same to the clerk of the peace of the county, division or city in which he has taken the same, and such clerk of the peace shall preserve the same and file it of record, and, upon order of the court or of a judge, transmit the same to the proper officer of the court where the same shall be required to be used as evidence :

To be transmitted to the proper officers.

3. If afterwards, upon the trial of any offender or offence to which the same relates, the person who made the statement is proved to be dead, or if it is proved that there is no reasonable probability that such person will ever be able to attend at the trial to give evidence, such statement may, upon the production of the judge's order appointing such commissioner, be read in evidence, either for or against the accused, without further proof thereof,—if the same purports to be signed by the commissioner by or before whom it purports to have been taken, and if it is proved to the satisfaction of the court that reasonable notice of the intention to take such statement was served upon the person (whether prosecutor or accused) against whom it is proposed to be read in evidence, and that such person or his counsel or attorney had, or might have had, if he had chosen to be present, full opportunity of cross-examining the person who made the same. 43 V., c. 35, ss. 1 and 3, *part*.

Statement may be read in evidence if deponent is dead or not able to attend.

221. Whenever a prisoner in actual custody is served or receives notice of an intention to take such statement as hereinbefore mentioned, the judge who has appointed the commissioner may, by an order in writing, direct the gaoler having the custody of the prisoner to convey him to the place mentioned in the said notice, for the purpose of being present at the taking of the statement; and such gaoler shall convey the

How prisoner may be present at the taking of such statement. [30-31 V., c. 35, s. 7.]

prisoner accordingly, and the expenses of such conveyance shall be paid out of the funds applicable to the other expenses of the prison from which the prisoner has been conveyed. 43 V., c. 35, ss. 2 and 3, *part*.

Depositions of persons dying, absent, &c., how to be used.

[11-12 V., c. 42, s. 17.]

222. If, upon the trial of any accused person, it is proved upon the oath or affirmation of any credible witness, that any person whose deposition has been taken by a justice in the preliminary or other investigation of any charge, is dead, or is so ill as not to be able to travel, or is absent from Canada, and if it is also proved that such deposition was taken in presence of the person accused, and that he, his counsel or attorney, had a full opportunity of cross-examining the witness, then if the deposition purports to be signed by the justice by or before whom the same purports to have been taken, it shall be read as evidence in the prosecution, without further proof thereof, unless it is proved that such deposition was not in fact signed by the justice purporting to have signed the same. 32-33 V., c. 30, s. 30, *part*.

Statement of accused may be given in evidence.

[11-12 V., c. 42, s. 18.]

223. The statement made by the accused person before the justice may, if necessary, upon the trial of such person, be given in evidence against him without further proof thereof, unless it is proved that the justice purporting to have signed the same did not in fact sign the same. 32-33 V., c. 30, s. 34.

Depositions taken on one charge may be read in prosecution of others.

224. Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of such person for any other offence whatsoever, upon the like proof and in the same manner, in all respects, as they may, according to law, be read in the prosecution of the offence with which such person was charged when such depositions were taken. 32-33 V., c. 29, s. 58.

Certificate of trial at which perjury was committed, sufficient evidence of trial.

[14-15 V., c. 100, s. 22.]

225. A certificate, containing the substance and effect only, omitting the formal part, of the indictment and trial for any felony or misdemeanour, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such clerk or other officer, shall, upon the trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment for felony or misdemeanour, without proof of the signature or official character of the person appearing to have signed the same. 32-33 V., c. 23, s. 11.

What shall be evidence of carnal knowledge.

[24-25 V., c. 100, s. 63.]

226. Whenever, upon the trial of any offence, it is necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete

on proof of any degree of penetration only. 32-33 V., c. 20, s. 65.

227. The trial of any woman charged with the murder of any issue of her body, male or female, which, being born alive, would, by law, be bastard, shall proceed and be governed by such and like rules of evidence and presumption as are by law used and allowed to take place in respect to other trials for murder. 32-33 V., c. 20, s. 62.

Evidence at trial for child murder.

228. In any prosecution, proceeding or trial for any offence under the eighty-seventh section of "*The Larceny Act*," a timber mark, duly registered under the provisions of the "*Act respecting the Marking of Timber*," on any timber, mast, spar, saw-log, or other description of lumber, shall be *prima facie* evidence that the same is the property of the registered owner of such timber mark; and possession by any offender, or by others in his employ, or on his behalf, of any such timber, mast, spar, saw-log or other description of lumber so marked, shall, in all cases, throw upon the person charged with any such offence the burden of proving that such timber, mast, spar, saw-log or other description of lumber, came lawfully into his possession, or the possession of such others in his employ or on his behalf as aforesaid. 38 V., c. 40, s. 1, *part*.

What shall be evidence of ownership of timber.

Proof of lawful possession of marked timber to lie on accused.

229. When, upon the trial of any person, it becomes necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer or other officer of Her Majesty's mint, or other person employed in producing the lawful coin in Her Majesty's dominions or elsewhere, whether the coin counterfeited is current coin, or the coin of any foreign prince, state or country, not current in Canada, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness. 32-33 V., c. 18, s. 30.

What shall be evidence of coin being false or counterfeit. [24-25 V., c. 99, s. 29.]

230. A certificate, containing the substance and effect only, omitting the formal part, of any previous indictment and conviction for any felony or misdemeanour, or a copy of any summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court before which the offender was first convicted, or to which such summary conviction was returned, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction, without proof of the signature or official character of the person appearing to have signed the same. 32-33 V., c. 29, s. 26, *part*.

Certificate by proper officer of previous conviction to be evidence. [24-25 V., c. 96, s. 116; c. 99, s. 37.]

231. A witness may be questioned as to whether he has been convicted of any felony or misdemeanour, and upon being

Proof of previous conviction of a wit-

ness may be given, if he denies it, &c. [17-18 V., c. 125, s. 25; 28 V., c. 18, s. 6.]

so questioned, if he either denies the fact or refuses to answer, the opposite party may prove such conviction; and a certificate, as provided in the next preceding section, shall, upon proof of the identity of the witness, as such convict, be sufficient evidence of his conviction, without proof of the signature or the official character of the person appearing to have signed the certificate. 32-33 V., c. 29, s. 65.

When attesting witness need not be called.

[17-18 V., c. 125, s. 6; 28 V., c. 18, s. 7.]

232. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise as if there had been no attesting witness thereto. 32-33 V., c. 29, s. 66.

Comparison of disputed writing may genuine.

[17-18 V., c. 125, s. 27; 28 V., c. 18, s. 8.]

233. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine, shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same may be submitted to the court and jury, as evidence of the genuineness or otherwise of the writing in dispute. 32-33 V., c. 29, s. 67.

How far a party may discredit his own witness.

[17-18 V., c. 125, s. 22; 28 V., c. 18, s. 3.]

234. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but if the witness, in the opinion of the court, proves adverse, such party may contradict him by other evidence, or, by leave of the court, may prove that the witness made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. 32-33 V., c. 29, s. 68.

Cross-examination as to previous statements in writing.

[17-18 V., c. 125, s. 24; 28 V., c. 18, s. 5.]

235. Upon any trial, a witness may be cross-examined as to previous statements made by him in writing, or reduced to writing, relative to the subject matter of the case, without such writing being shown to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; and the judge at any time during the trial may require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he thinks fit: Provided, that a deposition of the witness, purporting to have been taken before a justice on the investigation of the charge, and to be signed by the witness and the justice, returned to and produced from the custody of the proper officer, shall be presumed *primâ facie* to have been signed by the witness. 32-33 V., c. 29, s. 64;—40 V., c. 26, s. 5.

Proviso: proof of deposition of witness.

236. If a witness, upon cross-examination as to a former statement made by him, relative to the subject matter of the case, and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it ; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. 32-33 V., c. 29, s. 69.

Proof of contradictory statements by witness. [17-18 V., c. 123, s. 23 ; 28 V., c. 18, s. 4.]

VARIANCES—RECORDS.

237. Whenever, in the indictment whereon a trial is pending before any court of criminal jurisdiction in Canada, any variance appears between any matter in writing or in print produced in evidence, and the recital or setting forth thereof, such court may cause the indictment to be forthwith amended in such particular or particulars, by some officer of the court, and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance had appeared. 32-33 V., c. 29, s. 70.

Variations, how corrected. [11-12 V., c. 46, s. 4.]

238. Whenever, on the trial of an indictment for any felony or misdemeanour, any variance appears between the statement in such indictment and the evidence offered in proof thereof, in names, dates, places or other matters or circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot be prejudiced in his defence on such merits, the court before which the trial is pending may order such indictment to be amended according to the proof, by some officer of the court or other person—both in that part of the indictment where the variance occurs, and in every other part of the indictment which it may become necessary to amend—on such terms as to postponing the trial to be had before the same or another jury as such court thinks reasonable ; and if the trial is postponed the court may respite the recognizances of the prosecutor and witnesses, and of the defendant and his sureties, if any,—in which case they shall respectively be bound to attend at the time and place to which the trial is postponed, without entering into new recognizances, and as if such time and place had been mentioned in the recognizances respited, as those at which they were respectively bound to appear. 32-33 V., c. 29, s. 71.

Court may order indictment to be amended, to agree with evidence. [14-15 V., c. 100, s. 1.]

Conditions may be imposed by the court.

239. After any such amendment the trial shall proceed, whenever the same is proceeded with, in the same manner and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and in all other respects, as if no such variance had occurred. 32-33 V., c. 29, s. 72.

How trial may be afterwards proceeded with. [14-15 V., c. 100, s. 1.]

Order for amending to be recorded.
[14-15 V., c. 100, s. 1.]

240. In such case the order for the amendment shall be indorsed on the record; and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer and filed with the indictment, among the proper records of the court. 32-33 V., c. 29, s. 73.

In case of trial before a second jury.
[14-15 V., c. 100, s. 1.]

241. When any such trial is had before a second jury, the Crown and the defendant respectively shall be entitled to the same challenges as they were entitled to with respect to the first jury. 32-33 V., c. 29, s. 74.

Verdict, &c., to be valid after amendment.
[14-15 V., c. 100, s. 2.]

242. Every verdict and judgment given after the making of any such amendment shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it is after such amendment has been made. 32-33 V., c. 29, s. 75.

Formal record, how to be drawn up.
[14-15 V., c. 100, s. 3.]

243. If it becomes necessary to draw up a formal record in any case in which an amendment has been made as aforesaid, such record shall be drawn up in the form in which the indictment remained after the amendment was made, without taking any notice of the fact of such amendment having been made. 32-33 V., c. 29, s. 76.

Record of conviction or acquittal.

244. In making up the record of any conviction or acquittal on any indictment, it shall be sufficient to copy the indictment with the plea pleaded thereto, without any formal caption or heading; and the statement of the arraignment and the proceedings subsequent thereto, shall be entered of record in the same manner as before the passing of this Act, subject to any such alterations in the forms of such entry as are, from time to time, prescribed by any rule or rules of the superior courts of criminal jurisdiction respectively,—which rules shall also apply to such inferior courts of criminal jurisdiction as are therein designated. 32-33 V., c. 29, s. 77.

FORMAL DEFECTS CURED AFTER VERDICT.

What defects not to vitiate judgment after verdict or conviction by confession or otherwise.
[7 G. IV., c. 64, s. 20.]

245. No judgment upon any indictment for any felony or misdemeanour, whether after verdict or outlawry, or by confession, default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, —nor for the omission of the words “as appears by the record,” or of the words “with force and arms,” or of the words “against the peace,” nor for the insertion of the words “against the form of the statute,” instead of the words “against the form of the statutes,” or *vice versâ*, or the omission of such words or words of like import,—nor because any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, nor for want of or any imperfection in the addition of any defen-

dant or other person,—nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or exhibiting the information, or on an impossible day, or on a day that never happened,—nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil, in any case where such value, price, damage, injury or spoil, is not of the essence of the offence,—nor for the want of a proper or perfect venue, where the court appears by the indictment to have had jurisdiction over the offence. 32-33 V., c. 29, s. 78.

246. Judgment, after verdict upon an indictment for any felony or misdemeanour, shall not be stayed or reversed for want of a *similiter*,—nor by reason that the jury process has been awarded to a wrong officer, upon an insufficient suggestion,—nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors,—nor because any person has served upon the jury who was not returned as a juror by the sheriff or other officer; and where the offence charged is an offence created by any statute, or subjected to a greater degree of punishment by any statute, the indictment shall, after verdict, be held sufficient, if it describes the offence in the words of the statute creating the offence, or prescribing the punishment, although they are disjunctively stated or appear to include more than one offence, or otherwise. 32-33 V., c. 29, s. 79.

Certain formal defects not to stay or reverse judgment after verdict. [7 G. IV., c. 64, s. 21.]

247. No omission to observe the directions contained in any Act as respects the qualification, selection, balloting or distribution of jurors, the preparation of the juror's book, the selecting of jury lists, the drafting panels from the jury lists or the striking of special juries, shall be a ground for impeaching any verdict, or shall be allowed for error upon any writ of error or appeal to be brought upon any judgment rendered in any criminal case. C.S.U.C., c. 31, s. 139.

Verdict not to be impeached for certain omissions as to jurors.

COSTS.

248. When any person is convicted on any indictment of any assault whether with or without battery and wounding, or either of them, such person may, if the court thinks fit, in addition to any sentence which the court deems proper for the offence, be adjudged to pay to the prosecutor his actual and necessary costs and expenses of the prosecution, and such moderate allowance for loss of time as the court, by affidavit or other inquiry and examination, ascertains to be reasonable; and unless the sums so awarded are sooner paid, the offender shall be liable to imprisonment for any term not exceeding

On conviction for assault defendant may be ordered to pay prosecutor's costs. [24-25 V., c. 100, s. 74.]

three months, in addition to the term of imprisonment, if any, to which the offender is sentenced for the offence. 32-33 V., c. 20, s. 78.

Such costs may be levied by distress. [24-25 V., c. 100, s. 75.]

249. The court may, by warrant in writing, order such sum as is so awarded, to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and the surplus, if any, arising from such sale, to the owner; and if such sum is so levied, the offender shall be released from such imprisonment. 32-33 V., c. 20, s. 79.

RESTITUTION OF STOLEN PROPERTY.

Restitution of stolen property after conviction. [24-25 V., c. 96, s. 100.]

250. If any person who is guilty of any felony or misdemeanour, in stealing, taking, obtaining, extorting, embezzling, appropriating, converting or disposing of, or in knowingly receiving any chattel, money, valuable security, or other property whatsoever, is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, the property shall be restored to the owner or his representative :

Writs of restitution.

2. In every such case, the court before whom such person is tried for any such felony or misdemeanour, shall have power to award, from time to time, writs of restitution for the said property or to order the restitution thereof in a summary manner; and the court may also, if it sees fit, award restitution of the property taken from the prosecutor, or any witness for the prosecution, by such felony or misdemeanour, although the person indicted is not convicted thereof, if the jury declares, as it may do, that such property belongs to such prosecutor or witness, and that he was unlawfully deprived of it by such felony or misdemeanour :

Restitution in other cases.

As to valuable and negotiable securities.

3. If it appears before any award or order is made, that any valuable security has been *bonâ fide* paid or discharged by any person liable to the payment thereof, or being a negotiable instrument, has been *bonâ fide* taken or received by transfer or delivery; by any person, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had, by any felony or misdemeanour, been stolen, taken, obtained, extorted, embezzled, converted or disposed of, the court shall not award or order the restitution of such security :

Not to apply to certain offenders.

4. Nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker or other agent intrusted with the possession of goods or documents of title to goods, for any misdemeanour under "*The Larceny Act.*" 32-33 V., c. 21, s. 113.

Restitution in certain cases out of money taken from the prisoner.

251. When any prisoner has been convicted, either summarily or otherwise, of any larceny or other offence, including the stealing or unlawfully obtaining any property, and it

appears to the court, by the evidence, that the prisoner sold such property or part of it to any person who had no knowledge that it was stolen or unlawfully obtained, and that money has been taken from the prisoner on his apprehension, the court may, on the application of such purchaser and on restitution of the property to its owner, order that out of the money so taken from the prisoner, a sum not exceeding the amount of the proceeds of the sale be delivered to such purchaser. 32-33 V., c. 21, s. 114.

INSANE PRISONERS.

252. Whenever it is given in evidence upon the trial of any person charged with any offence, whether the same is treason, felony or misdemeanour, that such person was insane at the time of the commission of such offence, and such person is acquitted, the jury shall be required to find, specially, whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by it on account of such insanity; and if it finds that such person was insane at the time of committing such offence, the court before which such trial is had, shall order such person to be kept in strict custody in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant Governor is known. 32-33 V., c. 29, s. 99.

Jury acquitting prisoner on ground of insanity, to state so in their verdict. [39-40 G. III, c. 94, s. 1; 3-4 V., c. 54, s. 3.]

253. The Lieutenant Governor of the Province in which the case arises may, thereupon, make such order for the safe custody of such person during his pleasure, in such place and in such manner as to him seems fit. 32-33 V., c. 29, s. 100.

Such person may be ordered to be kept in custody. [39-40 G. III, c. 94, s. 1; 3-4 V., c. 54, s. 3.]

254. If any person, before the passing of this Act, whether before or after the first day of July, one thousand eight hundred and sixty-seven, was acquitted of any such offence on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the court before which such person was tried, and still remains in custody, the Lieutenant Governor may make a like order for the safe custody of such person during pleasure. 32-33 V., c. 29, s. 101;—40 V., c. 26, s. 7.

Lt. Governor may give like order in certain other cases. [39-40 G. III, c. 94, s. 1; 3-4 V., c. 54, s. 3.]

255. If any person indicted for any offence is insane, and upon arraignment is so found by a jury empanelled for that purpose, so that such person cannot be tried upon such indictment, or if, upon the trial of any person so indicted, such person appears to the jury charged with the indictment to be insane, the court, before which such person is brought to be arraigned, or is tried as aforesaid, may direct such finding to be recorded, and thereupon may order such person to be kept in strict custody until the pleasure of the Lieutenant Governor is known. 32-33 V., c. 29, s. 102.

Provisions with respect to persons indicted for any offence, and found to be insane by a jury. [39-40 G. III, c. 94, s. 2.]

And in the case of a prisoner about to be discharged for want of prosecution. [39-40 G. III, c. 94, s. 2.]

256. If any person charged with an offence is brought before any court to be discharged for want of prosecution, and such person appears to be insane, the court shall order a jury to be empanelled to try the sanity of such person; and if the jury so empanelled finds him insane, the court shall order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant Governor is known. 32-33 V., c. 29, s. 103.

In such cases Lt. Governor may give orders, &c. [39-40 G. III, c. 94, s. 2.]

257. In all cases of insanity so found, the Lieutenant Governor may make such order for the safe custody, during pleasure, of the person so found to be insane, in such place and in such manner as to him seems fit. 32-33 V., c. 29, s. 104.

Removal and custody of insane prisoners. [27-28 V., c. 29, s. 2.]

258. The Lieutenant Governor, upon such evidence of the insanity of any person imprisoned for an offence, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, as the Lieutenant Governor considers sufficient, may order the removal of such insane person to a place of safe keeping; and such person shall remain there, or in such other place of safe keeping, as the Lieutenant Governor from time to time orders, until his complete or partial recovery is certified to the satisfaction of the Lieutenant Governor, who may then order such insane person back to imprisonment, if then liable thereto, or otherwise to be discharged. 36 V., c. 51, s. 1.

CROWN CASES RESERVED.

In certain cases questions of law may be reserved. [11-12 V., c. 78, s. 1.]

259. Every court before which any person is convicted on indictment of any treason, felony or misdemeanour, and every judge within the meaning of "*The Speedy Trials Act*," trying any person under such Act, may, in its or his discretion, reserve any question of law which arises on the trial, for the consideration of the justices of the court for Crown cases reserved, and thereupon may respite execution of the judgment on such conviction, or postpone the judgment, until such question has been considered and decided; and in either case the court before which the person is convicted may, in its discretion, commit the person convicted to prison, or take a recognizance of bail, with one or two sufficient sureties, in such sum as such court thinks fit, conditioned for his appearance at such time as such court directs, to receive judgment or to render himself in execution, as the case may be. 38 V., c. 45, s. 1;—46 V., c. 10, s. 5, *part*;—49 V., c. 47, s. 1;—C.S.U. C., c. 112, s. 1;—C. S. L. C., c. 77, s. 57;—R. S. N. S. (3rd S.), c. 171, s. 99, *part*;—1 R.S.N.B., c. 159, s. 22, *part*.

Committal or admission to bail in such case.

Judge to state and sign a case. [11-12 V., c. 8, s. 2.]

260. The judge or other person presiding at the court before which the person is convicted, shall thereupon state in a case to be signed by such judge or other person, any question

of law so reserved, with the special circumstances upon which the same arose; and such case shall be transmitted by such judge, or other person, to the court for Crown cases reserved, on or before the last day of the first week of the term of such court next after the time when such trial was had. C. S. U. C., c. 112, s. 2;—C. S. L. C., c. 77, s. 58, *part*;—R. S. N. S. (3rd S.), c. 171, s. 100;—1 R. S. N. B., c. 159, s. 23, *part*.

Transmission thereof

261. The justices of the court for Crown cases reserved, to which the case is transmitted, shall hear and finally determine such question, and reverse, affirm or amend any judgment given on the trial wherein such question arose, or shall avoid such judgment or order an entry to be made on the record, that in the judgment of such justices the person convicted ought not to have been convicted, or shall arrest the judgment, or if no judgment has been given, shall order judgment to be given thereon at some future session of the court before which the person was convicted, or shall make such other order as justice requires. C. S. U. C., c. 112, s. 3;—C. S. L. C., c. 77, s. 58, *part*;—R. S. N. S. (3rd S.), c. 171, s. 101;—1 R. S. N. B., c. 159, s. 23, *part*.

Proceedings thereupon in court for Crown cases reserved. [11-12 V., c. 78, s. 2.]

262. The judgment and order of such justices shall be certified under the hand of the chief justice, president or senior judge of the court for Crown cases reserved, to the clerk of the court before which the person was convicted, who shall enter the same on the original record in proper form, and a certificate of such entry, under the hand of such clerk, in the form as near as may be, or to the effect mentioned in the third schedule to this Act, with the necessary alterations to adapt it to the circumstances of the case, shall be delivered or transmitted by him to the sheriff or gaoler in whose custody the person convicted is; and the said certificate shall be sufficient warrant to such sheriff or gaoler, and all other persons, for the execution of the judgment, as so certified to have been affirmed or amended, and execution shall thereupon be carried out on such judgment, or if the judgment has been reversed, avoided or arrested, the person convicted shall be discharged from further imprisonment, and the court before which the person was convicted shall, at its next session, vacate the recognizance of bail, if any; or if the court before which the person was convicted is directed to give judgment, such court shall proceed to give judgment at the next session thereof. 46 V., c. 10, s. 5, *part*;—C. S. U. C., c. 112, s. 4;—C. S. L. C., c. 77, s. 59;—R. S. N. S. (3rd S.), c. 171, s. 102;—1 R. S. N. B., c. 159, s. 23, *part*.

How judgment or order shall be certified.

[11-12 V., c. 78, s. 2.]

Entry and certificate thereof.

Effect of such certificate.

263. The judgment of the justices of the court for Crown cases reserved shall be delivered in open court, after hearing counsel or the parties, in case the prosecutor or person convicted thinks it fit that the case should be argued, in like manner as

How the judgment shall be delivered.

[11-12 V., c. 78, s. 3.]

other judgments of such court are delivered, but no notice, appearance or other form of procedure, except such only as such justices in such case see fit to direct, shall be requisite. C.S.U.C., c. 112, s. 5 ;—C.S.L.C., c. 77, s. 60 ;—R.S.N.S. (3rd S.), c. 171, s. 103.

Case may be sent back for amendment. [11-12 V., c. 78, s. 4.]

264. The justices of the court for Crown cases reserved, when any question has been so reserved for their consideration, may cause the case or certificate to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment may be delivered after it has been amended. C.S.U.C., c. 112, s. 6 ;—C.S.L.C., c. 77, s. 61 ;—1 R.S.N.B., c. 159, s. 24.

WRITS OF ERROR.

Writs of error, how tested and returnable.

265. Writs of error shall run in the name of the Queen, and shall be tested and returnable according to the practice of the court granting such writ, and shall * * * (*words struck out by 50-51 V., c. 50, s. 4*) operate a stay of execution of the judgment of the court below. C.S.U.C., c. 113, s. 16, *part* ;—C.S.L.C., c. 77, s. 56, *part*.

On what such writ shall be founded.

266. No writ of error shall be allowed in any criminal case, unless it is founded on some question of law which could not have been reserved, or which the judge presiding at the trial refused to reserve for the consideration of the court having jurisdiction in such cases. 32-33 V., c. 29, s. 80, *part*.

Proceedings in court of error. [11-12 V., c. 78, s. 5.]

267. Whenever in a criminal case any writ of error has been brought upon any judgment * * * (*words struck out by 51 V., c. 43, s. 2*), and the court of error reverses the judgment, the court of error may either pronounce the proper judgment, or remit the record to the court below, in order that such court may pronounce the proper judgment upon such indictment, information, presentment or inquisition. C.S.U.C., c. 113, s. 17 ;—C.S.L.C., c. 77, s. 62 ;—1 R.S.N.B., c. 160, s. 1.

NEW TRIALS.

268. * * * * *
Repealed, and new section substituted by 50-51 V., c. 50, s. 1.

SPECIAL PROVISIONS.

Judge, &c., in Ontario may reserve decision.

269. Any judge, retired judge, or Queen's counsel presiding at any sittings of the High Court of Justice of Ontario may reserve the giving of his final decision on questions raised at the trial ; and his decision, whenever given, shall be considered as if given at the time of the trial. 46 V., c. 10, s. 1.

Practice and procedure in criminal cases.

270. The practice and procedure in all criminal cases and matters whatsoever in the said High Court of Justice shall be

the same as the practice and procedure in similar cases and matters before the establishment of the said High Court. 46 V., c. 10, s. 2.

271. If any general commission for the holding of a court of assize and nisi prius, oyer and terminer or general gaol delivery is issued by the Governor General for any county or district in the Province of Ontario, such commission shall contain the names of the justices of the Supreme Court of Judicature for Ontario, and may also contain the names of the judges of any of the county courts in Ontario, and of any of Her Majesty's counsel learned in the law, appointed for the Province of Upper Canada, or for the Province of Ontario, and if any such commission is for a provisional judicial district such commission may contain the name of the judge of the district court of the said district :

Who may be commissioned for holding assizes, &c.

2. The said courts shall be presided over by one of the justices of the said Supreme Court, or in their absence by one of such county court judges or by one of such counsel, or in the case of the said district by the judge of the said district court. 46 V., c. 10, s. 4.

Who shall preside.

272. It shall not be necessary for any court of General Sessions in the Province of Ontario to deliver the gaol of all prisoners who are confined upon charges of simple larceny, but the court may leave any such cases to be tried at the next court of oyer and terminer and general gaol delivery, if, by reason of the difficulty or importance of the case, or for any other cause, it appears to it proper so to do. C. S. U. C., c. 17, s. 8.

Court not required to deliver the gaol.

273. If any person is prosecuted in either division of the High Court of Justice for Ontario, for any misdemeanour, by information there filed or by indictment there found, or removed into such court, and appears therein in term time, in person, or, in case of a corporation, by attorney, to answer to such information or indictment, such defendant, upon being charged therewith, shall not imparl to a following term, but shall plead or demur thereto, within four days from the time of his appearance; and in default of his pleading or demurring within four days as aforesaid, judgment may be entered against such defendant for want of a plea. C. S. U. C., c. 108, s. 1.

Defendant in misdemeanour may not postpone trial by imparlance. [60 G. III, and 1 G. IV, c. 4, s. 1.]

274. If such defendant appears to such information or indictment by attorney, such defendant shall not imparl to a following term, but a rule, requiring him to plead, may forthwith be given and served, and a plea to such information or indictment may be enforced, or judgment in default may be entered, in the same manner as might have been done formerly in cases in which the defendant had appeared to such information or indictment by attorney in a previous term; but the

Defendant may be required to plead forthwith. [60 G. III, and 1 G. IV, c. 4, ss. 1 and 2.]

Time may be allowed.

court, or any judge thereof, upon sufficient cause shown for that purpose, may allow further time for such defendant to plead or demur to such information or indictment. C. S. U. C., c. 108, s. 2.

Provision if defendant is not brought to trial within 12 months.
[60 G. III, and 1 G. IV, c. 4, s. 9.]

275. If any prosecution for misdemeanour instituted by the Attorney General for Ontario in the said court, is not brought to trial within twelve months next after the plea of not guilty has been pleaded thereto, the court in which such prosecution is depending, upon application made on behalf of any defendant in such prosecution, of which application twenty days' previous notice shall be given to such Attorney General, may make an order, authorizing such defendant to bring on the trial of such prosecution; and thereupon such defendant may bring on such trial accordingly, unless a *nolle prosequi* is entered to such prosecution. C. S. U. C., c. 108, s. 4.

Calendar of criminal cases for grand jury in N. S.

276. In the Province of Nova Scotia a calendar of the criminal cases shall be sent by the clerk of the Crown to the grand jury in each term, together with the depositions taken in each case and the names of the different witnesses, and the indictments shall not be made out, except in Halifax, until the grand jury so directs. R. S. N. S. (3rd S.), c. 123, s. 17.

When sentence may be pronounced in N. S.

277. A judge of the Supreme Court of Nova Scotia may sentence convicted criminals on any day of the sittings at Halifax, as well as in term time. R. S. N. S. (3rd S.), c. 171, s. 75.

GENERAL PROVISIONS.

Forms in schedule to be sufficient.

278. The several forms in the schedules to this Act, or forms to the like effect, shall be good, valid and sufficient in law, and the forms of indictment contained in the second schedule to this Act may be used, and shall be sufficient as respects the several offences to which they respectively relate; and as respects offences not mentioned in such second schedule, the said forms shall serve as a guide to show the manner in which offences are to be charged, so as to avoid surplusage and verbiage, and the averment of matters not necessary to be proved, and the indictment shall be good if, in the opinion of the court, the prisoner will sustain no injury from its being held to be so, and the offence or offences intended to be charged by it can be understood from it. 32-33 V., c. 29, s. 27, and c. 30, s. 66.

As to offences not mentioned.

Army and navy laws not affected.

279. Nothing herein contained shall alter or affect any of the laws relating to the government of Her Majesty's land or naval forces. 32-33 V., c. 29, s. 137.

FIRST SCHEDULE.

(A.)

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

[11-12 V., c.
42, Sch.]

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

The information and complaint of C. D. of (yeoman),
taken this day of , in the year before the under-
signed, , a justice of the peace in and for the said
district (or county, or as the case may be), of , who
says that (&c., stating the offence).

Sworn (or affirmed) before (me) the day and year first above
mentioned, at

J. S.

(B.)

WARRANT TO APPREHEND A PERSON CHARGED WITH AN
INDICTABLE OFFENCE.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

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

Whereas A. B., of (labourer), has this day been
charged upon oath before the undersigned , a justice
of the peace in and for the said district (or county, united
counties, or as the case may be), of , for that he, on
at , did (&c., stating shortly the offence): These are there-
fore to command you, in Her Majesty's name, forthwith to
apprehend the said A. B., and to bring him before (me) or
some other justice of the peace in and for the said district (or
county, united counties, or as the case may be), of
to answer unto the said charge, and to be further dealt with
according to law.

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

J. S. [L. s]

(C.)

SUMMONS TO A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

To A. B., of , (labourer) :

Whereas you have this day been charged before the under-
 signed , a justice of the peace in and for the said
 district (or county, united counties, or as the case may be),
 of for that you on , at (&c., stating shortly the
 offence) : These are therefore to command you, in Her Ma-
 jesty's name, to be and appear before (me) on , at
 o'clock in the (fore) noon, at , or before such other jus-
 tice or justices of the peace for the same district (or county,
 united counties, or as the case may be), , as shall then
 be there, to answer to the said charge, and to be further dealt
 with according to law. Herein fail not.

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

J. S. [L. s.]

(D.)

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

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

Whereas on the day of (instant or last past) A. B., of
 the , was charged before (me or us,) the
 undersigned (or name the justice or justices, or as the case may
 be), (a) justice of the peace in and for the said district (or coun-
 ty, united counties, as the case may be), of
 for that (&c., as in the summons) ; and whereas I, (or he the said
 justice of the peace, or we or they, the said justices of the peace)
 did then issue (my, our, his or their) summons to the said A.B.,
 commanding him, in Her Majesty's name, to be and appear be-

fore (me) on _____ at _____ o'clock in the (fore) noon, at _____, or before such other justice or justices of the peace as should then be there, to answer to the said charge and to be further dealt with according to law; and whereas the said A. B. has neglected to be or appear at the time and place appointed in and by the said summons, although it has now been proved to (me) upon oath that the said summons was duly served upon the said A.B. : These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A.B., and to bring him before (me) or some other justice of the peace in and for the said district (*or county, united counties, or as the case may be*), of _____, to answer the said charge, and to be further dealt with according to law.

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

J. S. [L.s.]

(D. 2.)

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE COMMITTED ON THE HIGH SEAS OR ABROAD.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas, out of the body of any district or county of Canada and within the jurisdiction of the Admiralty of England."

For offences committed abroad, for which the parties may be indicted in Canada, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of Canada, to wit: at _____ in the Kingdom of _____, or, at _____, in the Island of _____, in the West Indies, or at _____, in the East Indies," or as the case may be.

(E.)

CERTIFICATE OF INDICTMENT BEING FOUND.

I hereby certify that at a Court of (Oyer and Terminer, or General Gaol Delivery, or General Sessions of the Peace) holden in and for the district (*or county, united counties, or as the case may be*), of _____, at _____, in the said district, (*county, &c.*), on _____, a bill of indictment was found by the grand jury against A.B., therein described as A.B., late of _____ (labourer), for that he (*&c., stating shortly the offence*), and that

the said A.B. has not appeared or pleaded to the said indictment.

Dated this day of , in the year

Z. X.
Clerk.

Clerk of the Crown, (or deputy clerk of the Crown) for the district (or county, united counties, or as the case may be);

or

Clerk of the peace of and for the said district (or county, united counties, or as the case may be).

(F.)

WARRANT TO APPREHEND A PERSON INDICTED.

Canada,
Province of)
district (or county,)
united counties, or)
as the case may be),)
of

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

Whereas it has been duly certified by J. D., clerk of the Crown, of (*name the court*) (or E. G., deputy clerk of the Crown or clerk of the peace, as the case may be), in and for the district (or county, united counties, or as the case may be), of , that (&c., stating the certificate): These are therefore to command you in Her Majesty's name forthwith to apprehend the said A. B., and to bring him before (me) or some other justice or justices of the peace in and for the said district (or county, united counties, or as the case may be), to be dealt with according to law.

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

J. S. [L.S.]
J. P.

(G.)

WARRANT OF COMMITMENT OF A PERSON INDICTED.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

To all or any of the constables, or other peace officers in the said district (or county, &c.), of _____, and the keeper of the common gaol, at _____, in the said district (or county, united counties, or as the case may be), of _____

Whereas by a warrant under the hand and seal of (a) justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____ under hand and seal, dated _____, after reciting that it had been certified by J. D., (&c., as in the certificate), (_____) the said justice of the peace commanded all or any of the constables, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (him) the said justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____ or before some other justice or justices in and for the said district (or county, united counties, or as the case may be), to be dealt with according to law; and whereas the said A. B. has been apprehended under and by virtue of the said warrant, and being now brought before (me) it is hereupon duly proved to (me) upon oath that the said A. B. is the same person who is named and charged by _____, in the said indictment: These are therefore to command you, the said constables and peace officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said common gaol at _____, in the said district (or county, united counties, or as the case may be), of _____ and there to deliver him to the keeper thereof, together with this precept; and (I) hereby command you the said keeper to receive the said A. B., into your custody in the said gaol, and him there safely to keep until he shall thence be delivered by due course of law.

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

J. S. [L.S.]
 J. P.

(H.)

WARRANT TO DETAIN A PERSON INDICTED WHO IS ALREADY IN CUSTODY FOR ANOTHER OFFENCE.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

To the keeper of the common gaol at _____ in the said
 district (or county, united counties, or as the case may be),
 of _____

Whereas it has been duly certified by J. D., clerk of the Crown of (*name the court, or deputy clerk of the Crown or clerk of the peace*) of and for the district (or county, united counties, or as the case may be), of _____ that (*&c., stating the certificate*); And whereas (I am) informed that the said A. B., is in your custody in the said common gaol at _____ aforesaid, charged with some offence, or other matter; and it being now duly proved upon oath before (me) that the said A. B., so indicted as aforesaid, and the said A. B., in your custody, as aforesaid, are one and the same person: These are therefore to command you, in Her Majesty's name, to detain the said A. B. in your custody in the common gaol aforesaid, until by a writ of *habeas corpus* he shall be removed therefrom, for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

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

J. S. [L.S.]
 J.P.

(I.)

INDORSEMENT IN BACKING A WARRANT.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

Whereas proof upon oath has this day been made before me, _____ a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____

that the name of J.S. to the within warrant subscribed, is of the handwriting of the justice of the peace within mentioned: I do therefore hereby authorize W.T. who brings to me this warrant and all other persons to whom this warrant was originally directed, or by whom it may be lawfully executed, and also all constables and other peace officers of the said district (or county, united counties, or as the case may be), of _____, to execute the same within the said last mentioned district (or county, united counties, or as the case may be).

Given under my hand, this _____ day of _____, in the year _____, at _____, in the district (or county, &c.), aforesaid. J. L.

(K.)

INFORMATION TO OBTAIN A SEARCH WARRANT.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

The information of A. B., of the _____, of _____, in the said district (or county, &c.), (yeoman), taken this _____ day of _____, in the year _____ before me, W. S., Esquire, a justice of the peace, in and for the district (or county, united counties, or as the case may be), of _____, who says that on the _____ day of _____ (insert the description of articles stolen) of the goods and chattels of deponent, were feloniously stolen, taken and carried away, from and out of the (dwelling-house, &c.), of this deponent, at the (township, &c.), aforesaid, by some person or persons unknown (or name the person), and that he has just and reasonable cause to suspect, and suspects, that the said goods and chattels, or some part of them are concealed in the (dwelling-house, &c.), of C. D., of _____ in the said district (or county, &c.), (here add the causes of suspicion, whatever they may be): Wherefore (he) prays that a search warrant may be granted to him to search the (dwelling-house, &c.), of the said C. D., as aforesaid, for the said goods and chattels so feloniously stolen, taken and carried away, as aforesaid.

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

(K. 2.)

SEARCH WARRANT.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

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

Whereas A. B. of the of in the said district (or county, &c.), has this day made oath before me the undersigned a justice of the peace, in and for the said district (or county, united counties, or as the case may be), of that, on the day of , (copy information as far as place of supposed concealment): These are therefore in Her Majesty's name to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day-time into the said (dwelling-house, &c.), of the said , and there diligently search for the said goods and chattels, and if the same, or any part thereof, are found upon such search, that you bring the goods so found, and also the body of the said C. D. before me, and some other justice of the peace, in and for the said district (or county, united counties, or as the case may be), of to be disposed of and dealt with according to law.

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

W. S. (Seal.)

(L.)

SUMMONS TO A WITNESS.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

To E. F., of (labourer).

Whereas information has been laid before the undersigned , a justice of the peace in and for the said district (or county, united counties, or as the case may be), of that A. B. (&c., as in the summons or warrant against the

accused), and it has been made to appear to me upon (oath), that you are likely to give material evidence for (the prosecution); These are therefore to require you to be and to appear before me on _____ next, at _____ o'clock in the (fore) noon, at _____, or before such other justice or justices of the peace of the same district (*or county, united counties, or as the case may be*), of _____, as shall then be there, to testify what you know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not.

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

J. S. [L.s.]

(L. 2.)

WARRANT WHEN A WITNESS HAS NOT OBEYED THE SUMMONS.

Canada,)
Province of)
district (*or county,*)
united counties, *or*)
as the case may be),)
of)

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

Whereas information having been laid before _____, a justice of the peace, in and for the said district (*or county, &c.*), of _____, that A. B. (*&c., as in the summons*); and it having been made to appear to (me) upon oath that E. F., of _____ (labourer), was likely to give material evidence for (the prosecution), (I) duly issued (my) summons to the said E. F., requiring him to be and appear before (me) on _____, at _____ or before such other justice or justices of the peace for the same district (*or county, united counties, or as the case may be*), as should then be there, to testify what he knows respecting the said charge so made against the said A. B., as aforesaid; and whereas proof has this day been made upon oath before (me) of such summons having been duly served upon the said E. F.; and whereas the said E. F. has neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: These are therefore to command you to bring and have the said E. F. before (me) on _____ at _____ o'clock in the (fore) noon, at _____ or before such other justice or justices for the same district (*or county, united counties, or as the case may be*), as shall then be there, to testify

what he knows concerning the said charge so made against the said A. B. as aforesaid.

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

J. S. [L.S.]

(L. 3.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada,
Province of _____
district (or county,
united counties, or
as the case may be),
of _____

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

Whereas information has been laid before the undersigned _____, a justice of the peace, in and for the said district (or county, united counties, or as the case may be), of _____, that (&c., as in the summons); and it having been made to appear to (me) upon oath, that E. F., of _____ (labourer), is likely to give material evidence for (the prosecution), and that it is probable that the said E. F. will not attend to give evidence unless compelled to do so: These are therefore to command you to bring and have the said E. F. before (me) on _____ at _____ o'clock in the (fore) noon, at _____, or before such other justice or justices of the peace for the same district (or county, united counties, or as the case may be), as shall then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid.

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

J. S. [L.S.]

(L. 4.)

WARRANT OF COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN, OR TO GIVE EVIDENCE.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

To all or any of the constables or other peace officers in the district (or county, united counties, or as the case may be), of and to the keeper of the common gaol at in the said district (or county, united counties, or as the case may be), of

Whereas A. B. was lately charged before a justice of the peace in and for the said district (or county, united counties, or as the case may be), of , for that (&c., as in the summons) ; and it having been made to appear to (me) upon oath that E. F., of , was likely to give material evidence for (the prosecution) (I) duly issued (my) summons to the said E. F., requiring him to be and appear before me on , at , or before such other justice or justices of the peace for the same district (or county, united counties, or as the case may be), as should then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid ; and the said E. F. now appearing before (me) (or being brought before (me) by virtue of a warrant in that behalf), to testify as aforesaid, and being required to make oath or affirmation as a witness in that behalf, now refuses so to do (or being duly sworn as a witness now refuses to answer certain questions concerning the premises which are now here put to him, and more particularly the following) without offering any just excuse for such refusal : These are therefore to command you, the said constables, peace officers, or any one of you, to take the said E. F. and him safely convey to the common gaol at , in the district (or county, &c.), aforesaid, and there to deliver him to the keeper thereof, together with this precept : And (I) do hereby command you, the said keeper of the said common gaol to receive the said E. F. into your custody in the said common gaol, and him there safely keep for the space of days, for his said contempt, unless in the meantime he consents to be examined, and to answer concerning the premises ; and for your so doing, this shall be your sufficient warrant.

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

J. S. [L. s.]

(M.)

WARRANT REMANDING A PRISONER.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

To all or any of the constables and other peace officers in the said district (or county, united counties, or as the case may be), of , and to the keeper of the (common gaol or lock-up house) at , in the said district (or county, &c.), of

Whereas A. B. was this day charged before the undersigned , a justice of the peace in and for the said district (or county, united counties, or as the case may be), of , for that (&c., as in the warrant to apprehend), and it appears to (me) to be necessary to remand the said A. B. : These are therefore to command you, the said constables and peace officers in Her Majesty's name, forthwith to convey the said A. B. to the (common gaol or lock-up house) at in the said district (or county, &c.), and there to deliver him to the keeper thereof, together with this precept ; and I hereby command you the said keeper to receive the said A. B. into your custody in the said (common gaol or lock-up house), and there safely keep him until the day of (instant) when I hereby command you to have him at at o'clock in the (fore) noon of the same day before (me) or before such other justice or justices of the peace for the said district (or county, united counties, or as the case may be), as shall then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

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

J. S. [L. S.]

(M. 2.)

RECOGNIZANCE OF BAIL INSTEAD OF REMAND ON AN ADJOURNMENT OF EXAMINATION.

Canada,
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

Be it remember that on the day of
 in the year . A.B., of (labourer),

L. M., of (grocer), and N. O., of (butcher) personally came before me, , a justice of the peace for the said district (or county, united counties, or as the case may be), and severally acknowledged themselves to owe to our Sovereign Lady the Queen, her heirs and successors, the several sums following, that is to say : the said A. B. the sum of and the said L. M. and N. O. the sum of , each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he, the said A. B., fails in the condition indorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned, at before me.

J. S.

CONDITION.

The condition of the within (or above) written recognizance is such that whereas the within bounden A. B. was this day (or on last past) charged before me for that (&c., as in the warrant); and whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of (instant) : If, therefore, the said A. B. appears before me on the said day of (instant) at o'clock in the (fore) noon, or before such other justice or justices of the peace for the said district (or county, united counties, or as the case may be), as shall then be there, to answer (further) to the said charge, and to be further dealt with according to law, the said recognizance to be void, otherwise to stand in full force and virtue.

(M. 3.)

NOTICE OF RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS SURETIES.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

Take notice that you, A. B., of , are bound in the sum of , and your sureties, L. M. and N. O., in the sum of , each, that you, A. B., appear before me, J. S., a justice of the peace for the district (or county, united counties, or as the case may be), of , on the day of (instant), at o'clock in the (fore) noon at , or before such other

justice or justices of the same district (*or county, united counties, or as the case may be*), as shall then be there, to answer (further) to the charge made against you by C. D., and to be further dealt with according to law ; and unless you, A. B., personally appear accordingly, the amounts mentioned in the recognizance entered into by yourself and sureties will be forthwith levied on you and them.

Dated this _____ day of _____, in the year _____ J. S.

(M. 4.)

CERTIFICATE OF NON-APPEARANCE TO BE INDORSED ON THE
RECOGNIZANCE.

I hereby certify that the said A. B. has not appeared at the time and place, in the above condition mentioned, but therein has made default, by reason whereof the within written recognizance is forfeited.

J. S.,
J. P.

(N.)

DEPOSITIONS OF WITNESSES.

Canada,
Province of _____
district (*or county,*
united counties, *or*
as the case may be),
of _____

The examination of C. D., of _____ (farmer), and E. F., of _____, (labourer), taken on (oath) this _____ day of _____, in the year _____, at _____ in the district (*or county, &c., or as the case may be*), aforesaid, before the undersigned _____, a justice of the peace for the said district (*or county, united counties, or as the case may be*), in the presence and hearing of A. B., who is charged this day before (me) for that he, the said A. B., _____ at _____ (*&c., describe the offence as in a warrant of commitment*).

This deponent, C. D., upon his (oath) says as follows: (*&c., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is completed let him sign it*).

And this deponent, E. F., upon his (oath) says as follows: (*&c.*)

The above depositions of C. D. and E. F. were taken and (sworn) before me, at _____, on the day and year first above mentioned.

J. S.

(O.)

STATEMENT OF THE ACCUSED.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

A. B. stands charged before the undersigned, a justice of the peace, in and for the district (or county, united counties, or as the case may be), aforesaid, this day of , in the year , for that the said A.B., on , at (&c., as in the captions of the depositions); and the said charge being read to the said A.B., and the witnesses for the prosecution, C.D. and E.F., being severally examined in his presence, the said A.B. is now addressed by me as follows: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you at your trial." Whereupon the said A. B. says as follows: (*Here state whatever the prisoner says, and in his very words, as nearly as possible. Get him to sign it if he will.*)

A.B.

Taken before me, at , the day and year first above mentioned.

J. S.

(P.)

WARRANT OF COMMITMENT.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

To all or any of the constables or other peace officers in the district (or county, united counties, or as the case may be), of , and to the keeper of the common gaol of the district (or county, united counties, or as the case may be), at , in the said district (or county, &c.), of

Whereas A.B. was this day charged before (me) J.S., a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____ on the oath of C.D., of _____ (farmer), and others, for that (&c., stating shortly the offence): These are therefore to command you the said constables or peace officers, or any of you, to take the said A.B., and him safely convey to the common gaol at _____ aforesaid, and there deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A.B. into your custody in the said common gaol, and there safely to keep him until he shall be thence delivered by due course of law.

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

J.S. [L.S.]

(Q.)

RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

Canada, }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

Be it remembered, that on the _____ day of _____, in the year _____ C.D., of _____, in the _____ of _____, in the (township) of _____, in the said district (or county, &c.), of _____ (farmer), personally came before me _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, and acknowledged himself to owe to our Sovereign Lady the Queen, her heirs and successors, the sum of _____, of good and lawful current money of Canada, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Sovereign Lady the Queen, her heirs and successors, if the said C.D. fails in the condition indorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned at _____, before me.

J.S.

CONDITION TO PROSECUTE.

The condition of the within (or above) written recognizance is such that whereas one A. B. was this day charged before me, J. S., a justice of the peace within mentioned, for that (&c., as in the caption of the depositions); if, therefore, he the said C. D. appears at the next court of oyer and terminer or general gaol delivery, (or at the next court of General or Quarter Sessions of the Peace), to be holden in and for the district (or county, united counties, or as the case may be), of* , and there prefers or causes to be preferred a bill of indictment for the offence aforesaid, against the said A. B., and there also duly prosecutes such indictment, then the said recognizance to be void, otherwise to stand in full force and virtue.

CONDITION TO PROSECUTE AND GIVE EVIDENCE.

(Same as the last form to the asterisk,* and then thus):—And there prefers or causes to be preferred a bill of indictment against the said A. B., for the offence aforesaid, and duly prosecutes such indictment, and gives evidence thereon, as well to the jurors who shall then inquire into the said offence, as also to them who shall pass upon the trial of the said A. B., then the said recognizance to be void, or else to stand in full force and virtue.

CONDITION TO GIVE EVIDENCE.

(Same as the last form but one, to the asterisk,* and then thus):—And there gives such evidence as he knows upon a bill of indictment to be then and there preferred against the said A. B. for the offence aforesaid, as well to the jurors who shall then inquire of the said offence, as also to the jurors who shall pass upon the trial of the said A. B., if the said bill shall be found a true bill, then the said recognizance to be void, otherwise to remain in full force and virtue.

(Q. 2.)

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE PROSECUTOR AND HIS WITNESSES.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

Take notice that you C. D. of , are bound in the sum of to appear at the next court of oyer and terminer and general gaol delivery (or at the next court of

General Sessions of the Peace), in and for the district (or county, united counties, or as the case may be), of _____, to be holden at _____, in the said district (or county, &c.), and then and there (prosecute and) give evidence against A. B., and unless you then appear there (prosecute and) give evidence accordingly, the amount mentioned in the recognizance entered into by you will be forthwith levied on you.

Dated this _____ day of _____ in the year.

J. S.

(R.)

COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO THE
RECOGNIZANCE.

Canada,
Province of _____
district (or county,
united counties, or
as the case may be),
of _____

To all or any of the constables or other peace officers in the said district (or county, &c.), of _____, and to the keeper of the common gaol of the said district, (or county, &c., or as the case may be), at _____, in the said district (or county, &c., or as the case may be), of _____ :

Whereas A. B. was lately charged before the undersigned (*name of the justice of the peace*) a justice of the peace in and for the said district (or county, &c.), of _____ for that (&c., as in the summons to the witness), and it having been made to appear to (me) upon oath that E. F., of _____ was likely to give material evidence for the prosecution, (I) duly issued (my) summons to the said E. F., requiring him to be and appear before (me) on _____, at _____ or before such other justice or justices of the peace as should then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (me) (or being brought before (me) by virtue of a warrant in that behalf to testify as aforesaid) has been now examined before (me) touching the premises, but being by (me) required to enter into a recognizance conditioned to give evidence against the said A. B., now refuses so to do : These are therefore to command you the said constables or peace officers, or any one of you, to take the said E. F. and him safely convey to the common gaol at _____ in the district (or county, &c.), aforesaid, and there deliver him to the said keeper thereof, together with this precept : And I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody in the said common gaol, there to imprison and safely keep him

until after the trial of the said A. B. for the offence aforesaid, unless in the meantime the said E. F. duly enters into such recognizance as aforesaid, in the sum of _____ before some one justice of the peace for the said district (or county, united counties, or as the case may be), conditioned in the usual form to appear at the next court of oyer and terminer, or general gaol delivery (or General or Quarter Sessions of the Peace), to be holden in and for the said district (or county, united counties, or as the case may be), of _____, and there to give evidence before the grand jury upon any bill of indictment which shall then and there be preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence, if a true bill is found against him for the same.

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

J. S. [L.S.]

(R. 2.)

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

Canada,
Province of _____ }
district (or county, }
united counties, or }
as the case may be, }
of _____ }

To the keeper of the common gaol at _____, in the district (or county, &c.), of _____ aforesaid.

Whereas by (my) order dated the _____ day of _____ (instant) reciting that A. B. was lately before then charged before (me) for a certain offence therein mentioned, and that E. F. having appeared before (me) and being examined as a witness for the prosecution on that behalf, refused to enter into recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid; and whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody: These are therefore to order and direct you the said keeper to discharge the said E. F. out

of your custody, as to the said commitment, and suffer him to go at large.

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

J. S. [L.S.]
J.P.

(S.)

RECOGNIZANCE OF BAIL.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

Be it remembered, that on the day of in
the year , A. B. of (labourer), L. M.,
of , (grocer), and N. O. of (butcher,) personally
came before (us) the undersigned, (two) justices of the peace
for the district (or county, united counties, or as the case may
be), of and severally acknowledged themselves to
owe to our Sovereign Lady the Queen, Her heirs and succes-
sors, the several sums following, that is to say : the said A. B.
the sum of , and the said L. M. and N. O. the sum
of , each, of good and lawful current money of Canada,
to be made and levied of their several goods and chattels, lands
and tenements respectively, to the use of our said Sovereign
Lady the Queen, her heirs and successors, if he, the said A. B.,
fails in the condition indorsed (or hereunder written).

Taken and acknowledged the day and year first above men-
tioned, at before us.

J. S.
J. N.

CONDITION.

The condition of the within (or above) written recognizance,
is such that whereas the said A. B. was this day charged before
(us), the justices within mentioned for that (&c., as in the
warrant) ; if, therefore, the said A. B. appears at the next court
of oyer and terminer (or general gaol delivery or court of
General or Quarter Sessions of the Peace) to be holden in and
for the district (or county, united counties, or as the case may
be), of , and there surrenders himself into the custody
of the keeper of the common gaol (or lock-up house) there, and
pleads to such indictment as may be found against him by the

grand jury, for and in respect to the charge aforesaid, and takes his trial upon the same, and does not depart the said court without leave, then the said recognizance to be void, otherwise to stand in full force and virtue.

(S. 2.)

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE ACCUSED
AND HIS BAIL.

Take notice that you A.B., of _____, are bound in the sum of _____, and your sureties (L. M. and N. O.) in the sum of _____, each, that you A.B. appear (&c., as in the condition of the recognizance), and not depart the said court without leave; and unless you, the said A. B., personally appear and plead, and take your trial accordingly, the amount mentioned in the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this _____ day of _____, in the year
J. S.

(S. 3.)

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A PRISONER
ALREADY COMMITTED.

Canada,
Province of _____ }
district (or county, }
united counties, or }
as the case may be), }
of _____ }

To the keeper of the common gaol of the district (or county, united counties, or as the case may be), of _____ at _____, in the said district (or county, united counties, or as the case may be).

Whereas A.B. late of _____ (labourer), has before (us) (two) justices of the peace in and for the said district (or county, united counties, or as the case may be), of _____, entered into his own recognizance, and found sufficient sureties for his appearance at the next court of oyer and terminer or general gaol delivery (or Court of General or Quarter Sessions of the Peace), to be holden in and for the district (or county, united counties, or as the case may be), of _____, to answer Our Sovereign Lady the Queen, for that (&c., as in the commitment), for which he was taken and committed to your said

common gaol : These are therefore to command you, in Her Majesty's name, that if the said A.B. remains in your custody in the said common gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this _____ day of _____, in the year _____, at _____ in the district (or county, &c.), aforesaid.

J. S. [L. s.]
J. N. [L. s.]

(T.)

GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER.

I hereby certify that I have received from W.T., constable, of the district (or county, &c.), of _____, the body of A.B., together with a warrant under the hand and seal of J.S., Esquire, a justice of the peace for the said district (or county, united counties, or as the case may be), of _____, and that the said A.B. was sober, (or as the case may be), at the time he was delivered into my custody.

P. K.,
Keeper of the common gaol of
the said district (or county,
&c.).

(U.)

WARRANT TO CONVEY THE ACCUSED BEFORE A JUSTICE OF THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada,
Province of _____ }
district (or county,
united counties, or
as the case may be), }
of _____ }

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

Whereas A. B., of _____ (labourer), has this day been charged before the undersigned _____, a justice of the peace, in and for the said district (or county, united counties, or as the case may be), of _____, for that (&c., as in the warrant to apprehend); and whereas (I) have taken the deposition of C. D., a witness examined by (me) in this behalf, but inasmuch as (I) am informed that the principal witnesses to prove the said offence against the said A. B. reside in the

district (or county, united counties, or as the case may be), of _____ where the said offence is alleged to have been committed: These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said district (or county, united counties, or as the case may be), of _____, and there carry him before some justice or justices of the peace in and for that district (or county, united counties, or as the case may be), and in or near unto the (township of _____) where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; and (I) hereby further command you to deliver to the said justice or justices the information in this behalf, and also the said deposition of C.D., now given into your possession for that purpose, together with this precept.

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

J. S. [L.S.]

(U. 2.)

RECEIPT TO BE GIVEN TO THE CONSTABLE BY THE JUSTICE FOR THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Canada,
Province of _____
district (or county,
united counties, or
as the case may be),
of _____

I, J. P., a justice of the peace in and for the district (or county, &c.), of _____, hereby certify that W. T., constable, (or peace officer), of the district (or county, united counties, or as the case may be), of _____, has, on this day of _____, in the year _____,

by virtue of and in obedience to a warrant of J. S., Esquire, a justice of the peace in and for the district (or county, united counties, or as the case may be), of _____ produced before me one A. B., charged before the said J. S. with having (&c., stating shortly the offence), and delivered him into the custody of _____, by my direction, to answer to the said charge, and further to be dealt with according to law, and has also delivered unto me the said warrant, (together with the information (if any) in that behalf,) and the deposition (s) of C. D. (and of _____) in the said warrant mentioned, and that he has also proved to me, upon oath, the handwriting of the said J. S. subscribed to the same.

Dated the day and year first above mentioned, at in the said district (or county, &c.), of _____

J. P.

SECOND SCHEDULE.

FORMS OF INDICTMENT.

Murder.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , in the year
, at , in the county (or district)
of , did feloniously, wilfully, and of his malice afore-
thought, kill and murder one C. D.

Manslaughter.

County (or district) } Same as last form, omitting "wilfully
of , to wit: } and of malice aforethought," and sub-
stituting the word "slay" for the word "murder."

Bodily Harm.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that J. B., on
the day of , at , did feloniously administer
to (or cause to be taken by) one A. B., poison (or other des-
tructive thing) and did thereby cause bodily harm to the said
A. B., with intent to kill the said A. B. (or C. D.)

Rape.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , by force and against her
will, feloniously ravished and carnally knew C. D., a woman
above the age of (twelve) years.

Simple Larceny.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , did feloniously steal a
(gold watch), the property of C. D.

Robbery.

County (or district) } The jurors for our Lady the Queen,
of , to wit: } upon their oath, present that A. B., on
the day of , at , did feloniously
rob C. D. (and at the time of, or immediately before or after
such robbery (if the case is so), did cause grievous bodily harm
to the said C. D.), (or to any person, naming him).

Burglary.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did feloniously break
into and enter the dwelling-house of C. D., in the night-time,
with intent to commit a felony therein (or as the case may be).

Stealing Money.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did feloniously
steal a certain sum of money, to wit, to the amount of
dollars, the property of one C. D. (or as the case may be).

Embezzlement.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , being a servant
(or clerk) then employed in that capacity by one C. D., did
then and there, in virtue thereof, receive a certain sum of
money, to wit, to the amount of , for and on
account of the said C. D., and the said money did feloniously
embezzle.

False Pretences.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , unlawfully,
fraudulently and knowingly, by false pretences, did obtain from
one C. D., (six yards of muslin,) of the goods and chattels of
the said C. D., with intent to defraud.

Offences against the Habitation.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did feloniously
and maliciously set fire to the dwelling-house of C. D., the said
C. D. (or some other person by name, or if the name is unknown,
some person) being therein.

Malicious Injuries to Property.

County (or district) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did feloniously
and maliciously set fire, or attempt to set fire, to a certain build-
ing or erection, that is to say (a house or barn or bridge, or as

the case may be) the property of one C. D. (*or as the case may be*).

Forgery.

County (*or district*) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did feloniously
forge (*or utter, knowing the same to be forged*) a certain (promissory note), &c. (*or clandestinely and without the consent of the owner, did make (an alteration) in a certain written instrument with intent to defraud, or as the case may be*).

Coining.

County (*or district*) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did feloniously counterfeit a gold coin of the United Kingdom, called a (sovereign) current by law in Canada, with intent to defraud, (*or had in his possession a counterfeit of a gold coin of the United Kingdom, called a (sovereign), current by law in Canada, knowing the same to be counterfeit, and with intent to defraud by uttering the same*).

Perjury.

County (*or district*) } The jurors for our Lady the Queen,
of , to wit : } upon their oath, present that heretofore,
to wit, at the (assizes) holden for the county (*or district*)
of , on the day of ,
before (one of the judges of our Lady the Queen), a certain issue between one E. F. and one J. H., in a certain action of (covenant) was tried, upon which trial A. B. appeared as a witness for and on behalf of the said E. F., and was then and there duly (sworn) before the said , and did then and there, upon his (oath), aforesaid, falsely, wilfully and corruptly depose and (swear) in substance and to the effect following, (that he saw the said G. H. duly execute the deed on which the said action was brought), whereas, in truth, the said A. B. did not see the said G. H. execute the said deed, and the said deed was not executed by the said G. H., and the said A. B. did thereby commit wilful and corrupt perjury.

Subornation of Perjury.

County (*or district*) } *Same as last form to the end, and then*
of , to wit : } *proceed:—*And the jurors further present, that before the committing of the said offence by the said A. B., to wit, on the day of , at , C. D.,

unlawfully, wilfully and corruptly did cause and procure the said A.B. to do and commit the said offence in manner and form aforesaid.

Offences against the Public Peace.

County (or district) } The jurors for Our Lady the Queen,
of , to wit : } upon their oath, present that A.B., on
the day of , at , with (two) or more persons,
did riotously and tumultuously assemble together to the disturbance of the public peace, and with force did demolish, pull down or destroy (or attempt or begin to demolish, &c.), a certain building or erection of C.D.

Offences against the Administration of Justice.

County (or district) } The jurors for Our Lady the Queen,
of , to wit : } upon their oath, present that A.B., on
the day of , at , did corruptly take or receive
money under pretence of helping C.D. to a chattel (or money, &c.), that is to say, a horse (or five dollars, or a note, or a carriage), which had been stolen (or as the case may be).

Bigamy or offences against the Law for the Solemnization of Marriage.

County (or district) } The jurors for Our Lady the Queen,
of , to wit : } upon their oath, present that A.B., on
the day of , at , being then married, did
feloniously marry C.D. during the lifetime of the wife of the said A. B.—(or not being duly authorized, did solemnize (or assist in the solemnization of) a marriage between C. D. and E. F., (or being duly authorized to marry, did solemnize marriage between C.D. and E.F., before proclamation of banns according to law, or without a license for such marriage under the hand and seal of the Governor).

Offences relating to the Army.

County (or district) } The jurors for Our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did solicit (or procure) a
soldier to desert the Queen's service (or as the case may be).

Offences against Public Morals and Decency.

County (or district) } The jurors for Our Lady the Queen,
of , to wit : } upon their oath, present that A. B., on
the day of , at , did keep a common gaming,
bawdy or disorderly house (or rooms).

General Form.

County (or district) } The jurors for Our Lady the Queen,
of , to wit : } upon their oath, present that A.B., on
the day of , at , did (*here describe the
offence in the terms in which it is described in the law, or state
such facts as constitute the offence intended to be charged, and if
the offence is felony, state the act to have been done feloniously*).

THIRD SCHEDULE.

[11-12 V., c.
78, Sch.]

Whereas at (*stating the session of the court before which the
person was convicted*), held for the county (or united counties)
of , on, before
A. B., late of , having been found
guilty of felony, and judgment thereon given, that (*state the
substance*), the court before whom he was tried reserved a
certain question of law for the consideration of the justices of
(*name of court*), and execution was thereupon respited in the
meantime (*as the case may be*): This is to certify that the jus-
tices of (*name of court*) having met at
in term (*or as the case may be*), it was con-
sidered by the said justices there, that the judgment aforesaid
should be annulled, and an entry made on the record, that the
said A. B. ought not, in the judgment of the said justices, to
have been convicted of the felony aforesaid; and you are
therefore hereby required forthwith to discharge the said A. B.
from your custody.

(Signed), E. F.
Clerk of (*as the case may be*).

To the sheriff of , and }
the gaoler of , and }
all others whom it may concern. }

32-33 V., c. 29, sch. A, and c. 30, sch.;—C. S. U. C., c. 112,
sch.;—C. S. L. C., c. 77, sch. A.;—R. S. N. S. (3rd S.), c.
171, sch.;—I. R. S. N. B., Title XL, and sch., Form (U).



CHAPTER 175.

An Act for the speedy trial, in the Provinces of Ontario, A. D. 1886.
Quebec and Manitoba, of certain indictable offences.

*This Act was repealed by 52 V., c. 47, which is substituted
for it (s. 20).*

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



CHAPTER 176.

A. D. 1886. An Act respecting the Summary Administration of Criminal Justice.

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

- Short title. **1.** This Act may be cited as "*The Summary Trials Act.*"
- Interpretation. **2.** In this Act, unless the context otherwise requires,—
"Magistrate."
"Magistrate."
In Ont., Que. and Man. recorder, judge of a county court, being a justice of the peace, commissioner of police, judge of the sessions of the peace, police magistrate, district magistrate, or other functionary or tribunal, invested by the proper legislative authority, with power to do alone such acts as are usually required to be done by two or more justices of the peace, and acting within the local limits of his or of its jurisdiction :
- In N. S. and N. B. (2.) In the Provinces of Nova Scotia and New Brunswick, any recorder, judge of a county court, stipendiary magistrate or police magistrate, acting within the local limits of his jurisdiction, and any commissioner of police and any functionary, tribunal or person invested by the proper legislative authority with power to do alone such acts as are usually required to be done by two or more justices of the peace :
- In P. E. I. and B. C., &c. (3.) In the Provinces of Prince Edward Island and British Columbia and in the District of Keewatin, any two justices of the peace sitting together, and any functionary or tribunal having the powers of two justices of the peace :
- In the N.-W. T. (4.) In the North-West Territories, any judge of the Supreme Court of the said Territories, any two justices of the peace sitting together, and any functionary or tribunal having the powers of two justices of the peace :
- "Common gaol or other place of confinement."
"other place of confinement."
"ment."
"ment." (b.) The expression "the common gaol or other place of confinement," in the case of any offender whose age at the time of his conviction does not, in the opinion of the magistrate, exceed sixteen years, includes any reformatory prison provided for the reception of juvenile offenders in the Province in which the conviction referred to takes place, and to which by the law of that Province the offender may be sent ; and—

(c.) The expression "property" includes everything included under the same expression or under the expression "valuable security," as defined by "*The Larceny Act*," and in the case of any "valuable security," the value thereof shall be reckoned in the manner prescribed in the said Act. 32-33 V., c. 32, ss. 1 and 33;—37 V., c. 39, s. 3;—37 V., c. 40, s. 1;—39 V., c. 21, sch., part;—40 V., c. 4, sch., part;—47 V., c. 42, s. 1, part;—49 V., c. 25, s. 30.

3. Whenever any person is charged before a magistrate,— Certain offences specified.

(a.) With having committed simple larceny, larceny from the person, embezzlement or obtaining money or property by false pretences, or feloniously receiving stolen property, and the value of the property alleged to have been stolen, embezzled, obtained or received, does not, in the judgment of the magistrate, exceed ten dollars,— Larceny, &c. [18-19 V., c. 126, s. 1.]

(b.) With having attempted to commit larceny from the person, or simple larceny,— Attempts at larceny.

(c.) With having committed an aggravated assault by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously wounding any other person,— Aggravated assault.

(d.) With having committed an assault upon any female whatsoever, or upon any male child whose age does not, in the opinion of the magistrate, exceed fourteen years, such assault being of a nature which cannot, in the opinion of the magistrate, be sufficiently punished by a summary conviction before him under any other Act, and such assault, if upon a female, not amounting, in his opinion, to an assault with intent to commit a rape,— Assaults on females or children.

(e.) With having assaulted, obstructed, molested or hindered any magistrate, bailiff or constable, or officer of customs or excise or other officer, in the lawful performance of his duty, or with intent to prevent the performance thereof,— Assaults on magistrates or officers.

(f.) With keeping or being an inmate, or habitual frequenter of any disorderly house, house of ill-fame or bawdy-house, or— Disorderly houses.

(g.) With using or knowingly allowing any part of any premises under his control to be used for the purpose of recording or registering any bet or wager, or selling any pool, or— Using premises for betting or pool-selling.

Keeping, exhibiting or employing, or knowingly allowing to be kept, exhibited or employed, in any part of any premises under his control, any device or apparatus for the purpose of recording or registering any bet or wager, or selling any pool, or—

Becoming the custodian or depositary of any money, property, or valuable thing staked, wagered or pledged, or—

Recording or registering any bet or wager, or selling any pool,—

Upon the result of any political or municipal election, or of any race, or of any contest or trial of skill or endurance of man or beast,—

Summary trial.

The magistrate may, subject to the provisions hereinafter made, hear and determine the charge in a summary way. 32-33 V., c. 32, s. 2;—40 V., c. 31, s. 3.

Jurisdiction of magistrate absolute in certain cases.

4. The jurisdiction of such magistrate shall be absolute in the case of any person charged, within the police limits of any city in Canada, with therein keeping or being an inmate or habitual frequenter of any disorderly house, house of ill-fame or bawdy house, and shall not depend on the consent of the person charged to be tried by such magistrate, nor shall such person be asked whether he consents to be so tried; nor shall this Act affect the absolute summary jurisdiction given to any justice or justices of the peace in any case by any other Act. 32-33 V., c-32, s. 15.

And as to certain persons.

5. The jurisdiction of the magistrate shall be absolute in the case of any person who, being a seafaring person and only transiently in Canada, and having no permanent domicile therein, is charged, either within the city of Quebec, as limited for the purpose of the police ordinance, or within the city of Montreal, as so limited, or in any other seaport city or town in Canada, where there is such magistrate, with the commission therein of any of the offences hereinbefore mentioned, and also in the case of any other person charged with any such offence on the complaint of any such seafaring person whose testimony is essential to the proof of the offence; and such jurisdiction shall not depend on the consent of any such person to be tried by the magistrate, nor shall such person be asked whether he consents to be so tried. 32-33 V., c. 32, s. 16.

6. * * * * *

Repealed and new section substituted by 52 V., c. 46, s. 1.

Trial by consent before magistrate in Ontario, instead of Court of G. S.

7. If any person is charged, in the Province of Ontario, before a police magistrate or before a stipendiary magistrate in any county, district or provisional county in such Province, with having committed any offence for which he may be tried at a court of General Sessions of the Peace, or if any person is committed to a gaol in the county, district or provisional county, under the warrant of any justice of the peace, for trial on a charge of being guilty of any such offence, such person may, with his own consent, be tried before such magistrate, and may, if found guilty, be sentenced, by the magistrate, to the same punishment as he would have been liable to if he had been tried before the Court of General Sessions of the Peace. 38 V., c. 47, ss. 1 and 2.

8. Whenever the magistrate, before whom any person is charged as aforesaid, proposes to dispose of the case summarily under the provisions of this Act, such magistrate, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the person charged for any statement which he wishes to make, shall state to such person the substance of the charge against him, and (if the charge is not one that can be tried summarily without the consent of the accused) shall then say to him these words, or words to the like effect: "Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by a jury at the (*naming the court at which it could soonest be tried*);" and if the person charged consents to the charge being summarily tried and determined as aforesaid, or if the power of the magistrate to try it does not depend on the consent of the accused, the magistrate shall reduce the charge to writing, and read the same to such person, and shall then ask him whether he is guilty or not of such charge. 32-33 V., c. 32, s. 3.

Accused to be asked if he consents to be tried summarily.

[18-19 V., c. 126, s. 2; 12-43 V., c. 49, s. 12.]

If he consents, or the jurisdiction is absolute.

9. If the person charged confesses the charge, the magistrate shall then proceed to pass such sentence upon him as by law may be passed in respect to such offence, subject to the provisions of this Act; but if the person charged says that he is not guilty, the magistrate shall then examine the witnesses for the prosecution, and when the examination has been completed, the magistrate shall inquire of the person charged whether he has any defence to make to such charge, and if he states that he has a defence, the magistrate shall hear such defence, and shall then proceed to dispose of the case summarily. 32-33 V., c. 32, s. 4.

If he admits the charge. [18-19 V., c. 126, s. 2.]

If not.

And if he has a defence.

10. In the case of larceny, feloniously receiving stolen property, or attempt to commit larceny from the person, or simple larceny, charged under paragraphs (a) or (b) of the third section of this Act, the magistrate, after hearing the whole case for the prosecution and for the defence, shall, if he finds the charge proved, convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months. 32-33 V., c. 32, s. 5.

Sentence in case of conviction of larceny, &c.

[18-19 V., c. 126, s. 3.]

11. In any case summarily tried under paragraphs (c), (d), (e), (f) or (g), of the third section of this Act, if the magistrate finds the charge proved, he may convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, one hundred dollars, or to both fine and imprisonment not exceeding the said sum and term; and such fine may be levied by war-

Sentence on persons convicted of certain offences.

Levying fine imposed.

rant of distress under the hand and seal of the magistrate, or the person convicted may be condemned, in addition to any other imprisonment on the same conviction, to be committed to the common gaol or other place of confinement for a further term not exceeding six months, unless such fine is sooner paid. 32-33 V., c. 32, s. 17.

If the value of the property exceeds \$10, and the magistrate thinks the case one to be tried summarily.

[18-19 V. c. 126, s. 3 ;
42-43 V., c. 49, s. 13.]

12. When any person is charged before a magistrate with simple larceny, or with having obtained property by false pretences, or with having embezzled, or having feloniously received stolen property, or with committing larceny from the person, or with larceny as a clerk or servant, and the value of the property stolen, obtained, embezzled or received exceeds ten dollars, and the evidence in support of the prosecution is, in the opinion of the magistrate, sufficient to put the person on his trial for the offence charged, such magistrate, if the case appears to him to be one which may properly be disposed of in a summary way, and may be adequately punished by virtue of the powers conferred by this Act, shall reduce the charge to writing, and shall read it to the said person, and, unless such person is one who can be tried summarily without his consent, shall then put to him the question mentioned in the eighth section, and shall explain to him that he is not obliged to plead or answer before such magistrate, and that if he does not plead or answer before him, he will be committed for trial in the usual course. 32-33 V., c. 32, s. 10.

13. * * * * *

Repealed and new section substituted by 52 V., c. 46, s. 2.

If the accused does not consent or the magistrate thinks the case proper to be otherwise tried.

[18-19 V. c. 126, s. 1.]

14. If, when his consent is necessary, the person charged does not consent to have the case heard and determined by the magistrate, or whenever it appears to the magistrate that the offence is one which, owing to a previous conviction of the person charged, or from any other circumstance, ought to be made the subject of prosecution by indictment rather than to be disposed of summarily, such magistrate may, before such person has made his defence, decide not to adjudicate summarily upon the case, and shall deal therewith in all respects as if this Act had not been passed; but a previous conviction shall not prevent the magistrate from trying the offender summarily, if he thinks fit so to do. 32-33 V., c. 32, s. 8;—38 V., c. 47, s. 7, *part.*

Fact of election to be mentioned in the warrant.

15. If, when his consent is necessary, the person charged does not so consent, but elects to be tried before a jury, the magistrate shall state in the warrant of committal the fact of such election having been made. 38 V., c. 47, s. 6, *part.*

Full defence allowed.

16. In every case of summary proceedings under this Act, the person accused shall be allowed to make his full answer and

defence, and to have all witnesses examined and cross-examined by counsel or attorney. 32-33 V., c. 32, s. 12. [18-19 V., c. 126 s. 4.]

17. Every court, held by a magistrate for the purposes of this Act, shall be an open public court, and a written or printed notice of the day and hour for holding such court shall be posted up or affixed, by the clerk of the court, upon the outside of some conspicuous part of the building or place where the same is held. 32-33 V., c. 32, s. 26. Magistrate's court to be open. [18-19 V., c. 126, s. 9.]

18. The magistrate before whom any person is charged under this Act may, by summons, require the attendance of any person as a witness upon the hearing of the case, at a time and place to be named in such summons, and such magistrate may bind, by recognizance, all persons whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge; and if any person so summoned, or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is made of such person having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the magistrate before whom such person should have attended may issue a warrant to compel his appearance as a witness. 32-33 V., c. 32, s. 13. Power to summon and compel attendance of witnesses.

19. Every summons issued under this Act may be served by delivering a copy of the summons to the person summoned, or by delivering a copy of the summons to some inmate of such person's usual place of abode; and every person so required by any writing under the hand of any magistrate to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. 32-33 V., c. 32, s. 14. Mode of summoning under this Act.

20. Whenever the magistrate finds the offence not proved, he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal. 32-33 V., c. 32, s. 6. Offence not proved. [18-19 V., c. 126, s. 1.]

21. If, upon the hearing of the charge, the magistrate is of opinion that there are circumstances in the case which render it inexpedient to inflict any punishment, he may dismiss the person charged, without proceeding to a conviction. 32-33 V., c. 32, s. 9. Discharge in certain cases. [18-19 V., c. 126, s. 1.]

22. Every conviction under this Act shall have the same effect as a conviction upon indictment for the same offence would have had, except that no conviction under this Act shall be attended with forfeiture beyond the penalty, if any, imposed in the case. 32-33 V., c. 32, s. 28;—38 V., c. 47, s. 3. Effect of conviction. [18-19 V., c. 126, s. 11; 42-43 V., c. 49, s. 27 (3).]

And of dismissal.
[18-19 V., c. 126, s. 12.]

23. Every person who obtains a certificate of dismissal or is convicted under this Act, shall be released from all further or other criminal proceedings for the same cause. 32-33 V., c. 32, s. 29;—38 V., c. 47, s. 4.

No conviction to be quashed for want of form.
[18-19 V., c. 126, s. 13.]

24. No conviction, sentence or proceeding under this Act, shall be quashed for want of form; and no warrant of commitment upon a conviction shall be held void by reason of any defect therein, if it is therein alleged that the offender has been convicted, and there is a good and valid conviction to sustain the same. 32-33 V., c. 32, s. 30;—38 V., c. 47, s. 5.

Conviction to be transmitted to court of sessions of the peace.
[18-19 V., c. 126, s. 7.]

25. The magistrate adjudicating under this Act shall transmit the conviction, or a duplicate of a certificate of dismissal, with the written charge, the depositions of witnesses for the prosecution and for the defence, and the statement of the accused, to the next court of General or Quarter Sessions of the Peace or to the court discharging the functions of a court of General or Quarter Sessions of the Peace, for the district, county or place, there to be kept by the proper officer among the records of the court. 32-33 V., c. 32, s. 23.

Proof of conviction or dismissal.
[18-19 V., c. 126, s. 7.]

26. A copy of such conviction, or of such certificate of dismissal, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein, in any legal proceedings whatsoever. 32-33 V., c. 32, s. 24.

Restitution of property.
[18-19 V., c. 126, s. 8;—42-43 V., c. 49, s. 27 (3).]

27. The magistrate by whom any person has been convicted under this Act, may order restitution of the property stolen, or taken or obtained by false pretences, in any case in which the court before whom the person convicted would have been tried but for this Act, might by law order restitution. 32-33 V., c. 32, s. 25.

Persons brought before justices may be remanded for trial under this Act.
[18-19 V., c. 126, s. 5.]

28. Whenever any person is charged before any justice or justices of the peace, with any offence mentioned in this Act, and in the opinion of such justice or justices the case is proper to be disposed of by a magistrate, as herein provided, the justice or justices before whom such person is so charged may, if he or they see fit, remand such person for further examination before the nearest magistrate, in like manner in all respects as a justice or justices are authorized to remand a person accused for trial at any court, under "*The Criminal Procedure Act.*" 32-33 V., c. 32, s. 19.

But not into any other Province.

29. No justice or justices of the peace, in any Province, shall so remand any person for further examination or trial before any such magistrate in any other Province. 32-33 V., c. 32, s. 20.

30. Any person so remanded for further examination before a magistrate in any city, may be examined and dealt with by any other magistrate in the same city. 32-33 V., c. 32, s. 21. Before whom to be tried.

31. If any person suffered to go at large, upon entering into such recognizance as the justice or justices are authorized, under the last mentioned Act, to take on the remand of a person accused, conditioned for his appearance before a magistrate, does not afterwards appear, pursuant to such recognizance, the magistrate before whom he should have appeared shall certify, under his hand, on the back of the recognizance, to the clerk of the peace of the district, county or place, or other proper officer, as the case may be, the fact of such non-appearance, and such recognizance shall be proceeded upon in like manner as other recognizances; and such certificate shall be *primâ facie* evidence of such non-appearance. 32-33 V., c. 32, s. 22. Person not appearing according to his recognizance. [18-19 V., c. 126, s. 6.]

32. Every fine and penalty imposed under the authority of this Act shall be paid and applied as follows, that is to say:— Application of penalties.

(a.) In the Province of Ontario, to the magistrate who imposed the same, or to the clerk of the court or clerk of the peace, as the case may be, to be paid over by him to the county treasurer for county purposes; In Ontario.

(b.) In any new district in the Province of Quebec, to the sheriff of such district, as treasurer of the building and jury fund for such district, to form part of such fund,—and if in any other district in the said Province, to the prothonotary of such district, to be applied by him, under the direction of the Lieutenant Governor in Council, towards the keeping in repair of the court house in such district, or to be added by him to the moneys and fees collected by him for the erection of a court house and gaol in such district, so long as such fees are collected to defray the cost of such erection; In Quebec.

(c.) In the Provinces of Nova Scotia and New Brunswick, to the county treasurer for county purposes; and— In N.S. and N.B.

(d.) In the Provinces of Prince Edward Island, Manitoba and British Columbia, to the treasurer of the Province. 32-33 V., c. 32, s. 32;—40 V., c. 4, s. 8, *part.* In P.E.I., Man. and B.C.

33. Every conviction or certificate may be in the form in the schedule hereto applicable to the case, or to the like effect, and whenever the nature of the case requires it, such forms may be altered by omitting the words stating the consent of the person to be tried before the magistrate, and by adding the requisite words, stating the fine imposed, if any, and the imprisonment, if any, to which the person convicted is to be subjected if the fine is not sooner paid. 32-33 V., c. 32, s. 7, s. 11, *part.*, and s. 18. Forms in schedule may be used. [18-19 V., c. 126, s. 1.]

Certain provisions not to apply to cases under this Act.

[18-19 V., c. 126, s. 17.]

Act not to affect that for trial of juvenile offenders.

[18-19 V., c. 126, s. 17.]

34. The provisions of "*The Criminal Procedure Act*," except as mentioned in the twenty-eighth section, and of "*The Summary Convictions Act*," shall not apply to any proceedings under this Act. 32-33 V., c. 32, s. 27.

35. Nothing in this Act shall affect the provisions of "*The Juvenile Offenders' Act*," and this Act shall not extend to persons punishable under that Act, so far as regards offences for which such persons may be punished thereunder. 32-33 V., c. 32, s. 31.

SCHEDULE.

FORM A.

CONVICTION.

Province of _____, city (or as the }
case may be) of _____ to wit: }

Be it remembered that on the _____ day of _____ in the year _____, at _____, A.B., being charged before me, the undersigned, _____, of the said (city) (and consenting to my trying the charge summarily), is convicted before me, for that he, the said A.B., &c. (*stating the offence and the time and place when and where committed*), and I adjudge the said A.B., for his said offence, to be imprisoned in the _____ (and there kept to hard labour) for the term of _____

Given under my hand and seal, the day and year first above mentioned, at _____ aforesaid.

J. S. [L.S.]

FORM B.

CONVICTION UPON A PLEA OF GUILTY.

Province of _____, city (or as the }
case may be) of _____ to wit: }

Be it remembered that on the _____ day of _____ in the year _____, at _____, A.B., being charged before me, the undersigned, _____, of the said (city) (and consenting to my trying the charge summarily), for that he, the said A.B., &c. (*stating the offence, and the time and place when and where committed*), and pleading guilty to such charge, he is thereupon convicted before me of the said offence; and I adjudge him, the said A. B., for his said offence, to be imprisoned in the _____ (and there kept to hard labour) for the term of _____

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

J. S. [L.S.]

FORM C.

CERTIFICATE OF DISMISSAL.

Province of , city (or as the case may be) } to wit : }

I, the undersigned, of the city (or as the case may be) of , certify that on the day of , in the year , at aforesaid, A.B., being charged before me (and consenting to my trying the charge summarily), for that he, the said A. B., &c. (stating the offence charged, and the time and place when and where alleged to have been committed), I did, after having summarily tried the said charge, dismiss the same.

Given under my hand and seal, this day of , at aforesaid.

J. S. [L.S.]

32-33 V., c. 32, sch.



CHAPTER 177.

A. D. 1886.

An Act respecting Juvenile Offenders.

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

Short title. **1.** This Act may be cited as “ *The Juvenile Offenders’ Act.* ”

Interpretation. **2.** In this Act, unless the context otherwise requires,—
“ Two or more justices ” or “ the justices ” includes,—

In Ontario and Manitoba.

(1.) In the Provinces of Ontario and Manitoba any judge of the county court being a justice of the peace, police magistrate or stipendiary magistrate, or any two justices of the peace, acting within their respective jurisdictions ;

In Quebec.

(2.) In the Province of Quebec any two or more justices of the peace, the sheriff of any district, except Montreal and Quebec, the deputy sheriff of Gaspé and any recorder, judge of the Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate acting within the limits of their respective jurisdictions ;

In N.S., N.B., P.E.I. and B.C.

(3.) In the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and British Columbia, and in the District of Keewatin, any functionary or tribunal invested by the proper legislative authority with power to do acts usually required to be done by two or more justices of the peace ;

In the N.-W. T.

(4.) In the North-West Territories, any judge of the Supreme Court of the said Territories, any two justices of the peace sitting together, and any functionary or tribunal having the powers of two justices of the peace :

“ Common gaol or other place of confinement. ”

(b.) The expression “ the common gaol or other place of confinement ” includes any reformatory prison provided for the reception of juvenile offenders in the Province in which the conviction referred to takes place, and to which, by the law of that Province, the offender may be sent. 32-33 V., c. 33, s. 1 ;—37 V., c. 39, s. 3, *part* ;—39 V., c. 21, sch., *part* ;—40 V., c. 4, sch., *part* ;—47 V., c. 42, s. 2, *part* ;—49 V., c. 25, s. 30.

Summary trial of persons not more than sixteen

3. Every person charged with having committed, or having attempted to commit, or with having been an aider, abettor, counsellor or procurer in the commission of any

offence which is simple larceny, or punishable as simple larceny, and whose age, at the period of the commission or attempted commission of such offence, does not, in the opinion of the justice before whom he is brought or appears, exceed the age of sixteen years, shall, upon conviction thereof, in open court, upon his own confession or upon proof, before any two or more justices, be committed to the common gaol or other place of confinement within the jurisdiction of such justices, there to be imprisoned, with or without hard labour, for any term not exceeding three months, or, in the discretion of such justices, shall forfeit and pay such sum, not exceeding twenty dollars, as such justices adjudge. 32-33 V., c. 33, s. 2.

4. Whenever any person, whose age is alleged not to exceed sixteen years, is charged with any offence mentioned in the next preceding section, on the oath of a credible witness, before any justice of the peace, such justice may issue his summons or warrant, to summon or to apprehend the person so charged, to appear before any two justices of the peace, at a time and place to be named in such summons or warrant. 32-33 V., c. 33, s. 7.

5. Any justice of the peace, if he thinks fit, may remand for further examination or for trial, or suffer to go at large, upon his finding sufficient sureties, any such person charged before him with any such offence as aforesaid. 32-33 V., c. 33, s. 8.

6. Every such surety shall be bound by recognizance to be conditioned for the appearance of such person before the same or some other justice or justices of the peace for further examination, or for trial before two or more justices of the peace as aforesaid, or for trial by indictment at the proper court of criminal jurisdiction, as the case may be. 32-33 V., c. 33, s. 9.

7. Every such recognizance may be enlarged, from time to time, by any such justice or justices to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward, when the person has appeared according to the condition thereof. 32-33 V., c. 33, s. 10.

8. The justices before whom any person is charged and proceeded against under this Act, before such person is asked whether he has any cause to show why he should not be convicted, shall say to the person so charged, these words, or words to the like effect:

“We shall have to hear what you wish to say in answer to the charge against you; but if you wish to be tried by a jury, you must object now to our deciding upon it at once.”

years of age charged with certain offences.

[10-11 V., c. 32, s. 1; 13-14 V., c. 37, s. 1.]

Compelling person accused to attend.

[10-11 V., c. 32, s. 4.]

Power to remand or take bail.

[10-11 V., c. 32, s. 5.]

Condition of recognizance.

[10-11 V., c. 32, s. 5.]

Enlarging or discharging recognizance.

[10-11 V., c. 32, s. 5.]

Defendant to be asked if he consents to be tried summarily.

[13-14 V., c. 37, s. 2.]

If he does not consent.

And if such person, or a parent or guardian of such person, then objects, such person shall be dealt with as if this Act had not been passed ; but nothing in this Act shall prevent the summary conviction of any such person before one or more justices of the peace, for any offence for which he is liable to be so convicted under any other Act. 32-33 V., c. 38, s. 3.

Justices may send the case to be tried by a jury.
[10-11 V., c. 82, s. 1.]

9. If the justices are of opinion, before the person charged has made his defence, that the charge is, from any circumstance, a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this Act, such justices shall, instead of summarily adjudicating thereupon, deal with the case in all respects as if this Act had not been passed ; and, in the latter case, shall state in the warrant of commitment the fact of such election having been made. 32-33 V., c. 33, s. 5, *part* ;—38 V., c. 47, s. 6, *part*.

Summoning witnesses.
[10-11 V., c. 82, s. 7.]

10. Any justice of the peace may, by summons, require the attendance of any person as a witness upon the hearing of any case before two justices, under the authority of this Act, at a time and place to be named in such summons. 32-33 V., c. 33, s. 11.

Binding witnesses to attend.
[10-11 V., c. 82, s. 7.]

11. Any such justice may require and bind by recognizance every person whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge. 32-33 V., c. 33, s. 12.

Compelling attendance in case of refusal or neglect.
[10-11 V., c. 82, s. 7.]

12. If any person so summoned or required or bound, as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is given of such person having been duly summoned, as hereinafter mentioned, or bound by recognizance, as aforesaid, either of the justices before whom any such person should have attended, may issue a warrant to compel his appearance as a witness. 32-33 V., c. 33, s. 13.

Service of summons.
[10-11 V., c. 82, s. 8.]

13. Every summons issued under the authority of this Act may be served by delivering a copy thereof to the person, or to some inmate at such person's usual place of abode, and every person so required by any writing under the hand or hands of any justice or justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. 32-33 V., c. 33, s. 14.

Discharge in certain cases.
[10-11 V., c. 82, s. 1.]

14. If the justices, upon the hearing of any such case, deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the person charged,—in the latter case on his finding sureties for his future good behaviour,

and in the former case without sureties, and then make out and deliver to the person charged a certificate in the form A in the schedule to this Act, or to the like effect, under the hands of such justices, stating the fact of such dismissal. 32-33 V., c. 33, s. 4, *part*.

Certificate of discharge.

15. Every person who obtains such certificate of dismissal, or is so convicted, shall be released from all further or other criminal proceedings for the same cause. 32-33 V., c. 33, s. 6.

Effect of such certificate or of conviction. [10-11 V., c. 82, s. 3.]

16. The justices before whom any person is summarily convicted of any offence hereinbefore mentioned, may cause the conviction to be drawn up in the form B in the schedule hereto, or in any other form to the same effect, and the conviction shall be good and effectual to all intents and purposes. 32-33 V., c. 33, s. 15, *part*.

Form of conviction.

[10-11 V., c. 82, s. 9.]

17. No such conviction shall be quashed for want of form, or be removed by *certiorari* or otherwise into any court of record; and no warrant of commitment shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and there is a good and valid conviction to sustain the same. 32-33 V., c. 33, s. 16.

Conviction not void for want of form, &c.

[10-11 V., c. 82, s. 10.]

18. The justices before whom any person is convicted under the provisions of this Act, shall forthwith transmit the conviction and recognizances to the clerk of the peace or other proper officer, for the district, city, county or union of counties wherein the offence was committed, there to be kept by the proper officer among the records of the court of General or Quarter Sessions of the Peace, or of any other court discharging the functions of a court of General or Quarter Sessions of the Peace. 32-33 V., c. 33, s. 17.

Conviction to be sent to clerk of the peace, &c.

[10-11 V., c. 82, s. 11.]

19. Every clerk of the peace, or other proper officer, shall transmit to the Minister of Agriculture a quarterly return of the names, offences and punishments mentioned in the convictions, with such other particulars as are, from time to time, required. 32-33 V., c. 33, s. 18.

Returns to Minister of Agriculture.

20. No conviction under the authority of this Act shall be attended with any forfeiture, except such penalty as is imposed by the sentence; but whenever any person is adjudged guilty under the provisions of this Act, the presiding justice may order restitution of the property in respect of which the offence was committed, to the owner thereof or his representatives. 32-33 V., c. 33, s. 19.

No forfeiture; but restitution may be ordered.

[10-11 V., c. 82, s. 12.]

21. If such property is not then forthcoming, the justices, whether they award punishment or not, may inquire into and ascertain the value thereof in money; and, if they think pro-

Or the payment of the value in money.

[10-11 V., c.
82, s. 12.]

per, order payment of such sum of money to the true owner, by the person convicted, either at one time or by instalments, at such periods as the justices deem reasonable. 32-33 V., c. 33, s. 20.

Recovery of
such value.
[10-11 V., c.
82, s. 12.]

22. The person ordered to pay such sum may be sued for the same as a debt in any court in which debts of the like amount are, by law, recoverable, with costs of suit, according to the practice of such court. 32-33 V., c. 33, s. 21.

Enforcing
payment of
penalties.
[10-11 V., c.
82, s. 13.]

23. Whenever the justices adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Act, and such penalty is not forthwith paid, they may, if they deem it expedient, appoint some future day for the payment thereof, and order the offender to be detained in safe custody until the day so appointed, unless such offender gives security, to the satisfaction of the justices, for his appearance on such day; and the justices may take such security by way of recognizance or otherwise in their discretion. 32-33 V., c. 33, s. 22.

Committal for
non-payment.
[10-11 V., c.
82, s. 13.]

24. If, at any time so appointed, such penalty has not been paid, the same or any other justices of the peace may, by warrant under their hands and seals, commit the offender to the common gaol or other place of confinement within their jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication. 32-33 V., c. 33, s. 23.

Costs of pro-
secution may
be awarded.
[10-11 V., c.
82, s. 14.]

25. The justices, before whom any person is prosecuted or tried for any offence cognizable under this Act, may, in their discretion, at the request of the prosecutor or of any other person who appears on recognizance or summons to prosecute or give evidence against such person, order payment to the prosecutor and witnesses for the prosecution, of such sums as to them seem reasonable and sufficient, to reimburse such prosecutor and witnesses for the expenses they have severally incurred in attending before them, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein,—and may order payment to the constables and other peace officers for the apprehension and detention of any person so charged. 32-33 V., c. 33, s. 24.

Even without
conviction.
[10-11 V., c.
82, s. 14.]

26. The justices may, although no conviction takes place, order all or any of the payments aforesaid to be made, when they are of opinion that the persons, or any of them, have acted in good faith. 32-33 V., c. 33, s. 25.

Application
of penalties.
[10-11 V., c.
82, s. 6.]
In Ontario.

27. Every fine imposed under the authority of this Act shall be paid and applied as follows, that is to say:—
(a.) In the Province of Ontario, to the justices who impose the same, or the clerk of the county court, or the clerk of the

peace, or other proper officer, as the case may be, to be by him or them paid over to the county treasurer for county purposes ;

(b.) In any new district in the Province of Quebec, to the sheriff of such district as treasurer of the building and jury fund for such district, to form part of such fund, and in any other district in the Province of Quebec, to the prothonotary of such district, to be applied by him, under the direction of the Lieutenant Governor in Council, towards the keeping in repair of the court house in such district, or to be added by him to the moneys or fees collected by him for the erection of a court house or gaol in such district, so long as such fees are collected to defray the cost of such erection ;

(c.) In the Provinces of Nova Scotia and New Brunswick, to the county treasurer, for county purposes ; and—

(d.) In the Provinces of Prince Edward Island, Manitoba and British Columbia, to the treasurer of the Province. 32-33 V., c. 33, s. 26 ; 40 V., c. 4, s. 8, *part.*

28. The amount of expenses of attending before the justices and the compensation for trouble and loss of time therein, and the allowances to the constables and other peace officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such justices ; but the amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one case exceed the sum of eight dollars. 32-33 V., c. 33, s. 27.

29. Every such order of payment to any prosecutor or other person, after the amount thereof has been certified by the proper justices of the peace as aforesaid, shall be forthwith made out and delivered by the said justices or one of them, or by the clerk of the peace or other proper officer, as the case may be, to such prosecutor or other person, upon such clerk or officer being paid his lawful fee for the same, and shall be made upon the officer to whom fines imposed under the authority of this Act are required to be paid over in the district, city, county or union of counties in which the offence was committed, or was supposed to have been committed, who, upon sight of every such order, shall forthwith pay to the person named therein, or to any other person duly authorized to receive the same on his behalf, out of any moneys received by him under this Act, the money in such order mentioned, and shall be allowed the same in his accounts of such moneys. 32-33 V., c. 33, s. 28.

30. This Act shall not apply to any offence committed in the Provinces of Prince Edward Island or British Columbia, or the District of Keewatin, punishable by imprisonment for

As to certain offences in P.E.I., B.C., and Keewatin.

two years and upwards; and in such Provinces and District it shall not be necessary to transmit any recognizance to the clerk of the peace or other proper officer. 39 V., c. 21, sch., part;—40 V., c. 4, sch., part;—47 V., c. 42, s. 2, part.

No sentence to a reformatory in Ontario.

31. This Act shall not authorize two or more justices of the peace to sentence offenders to imprisonment in a reformatory in the Province of Ontario. 43 V., c. 39, s. 15, part.

SCHEDULE.

FORM A.

To wit : } the of , justices of the peace for
 &c., I, a } of , (or if a recorder,
 of , as the case may be), do hereby certify, that
 on the day of , in the year
 at , in the said of , (M. N.)
 was brought before us, the said justices (or me, the said
), charged with the following offence, that is to
 say (*here state briefly the particulars of the charge*), and that we,
 the said justices, (or I, the said) (thereupon
 dismissed the said charge.

Given under our hands (or my hand) this day of

J. P. [L.S.]
 J. R. [L.S.]
 or S. J. [L.S.]

FORM B.

To wit : } Be it remembered, that on the day of
 , in the year ,
 , at , in the district of
 (county or united counties, &c., or as the case
 may be), A. O. is convicted before us, J. P. and J. R., justices
 of the peace for the said district (or city, &c., or me, S. J.,
 recorder, &c.,), of the , of , or
 as the case may be) for that, he, the said A.O. did (*specify the
 offence and the time and place when and where the same was
 committed, as the case may be, but without setting forth the evi-
 dence*), and we, the said J. P. and J. R. (or I, the said S. J.),
 adjudge the said A. O., for his said offence, to be imprisoned
 in the (or to be imprisoned in the
 and there kept at hard labour), for the space of ,
 (or we) (or I) adjudge the said A. O., for his said offence, to
 forfeit and pay (*here state the penalty*)

actually imposed), and in default of immediate payment of the said sum, to be imprisoned in the (or to be imprisoned in the and kept at hard labour) for the term of , unless the said sum is sooner paid.

Given under our hands and seals (or my hand and seal), the day and year first above mentioned.

J. P. [L. S.]
 J. R. [L. S.]
 or S. J. [L. S.]

32-33 V., c. 33, s. 4, *part*, and s. 15, *part*.



CHAPTER 178.

A. D. 1886.

An Act respecting Summary Proceedings before Justices of the Peace.

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

SHORT TITLE.

Short title. **1.** This Act may be cited as "*The Summary Convictions Act.*"

INTERPRETATION.

Interpretation.
"Justice."

2. In this Act, unless the context otherwise requires,—

(a.) The expression "justice" means a justice of the peace, and includes two or more justices if two or more justices act or have jurisdiction, and also a police magistrate, a stipendiary magistrate and any person having the power or authority of two or more justices of the peace;

"Clerk of the
"peace."

(b.) The expression "clerk of the peace" includes the proper officer of the court having jurisdiction in appeal under this Act;

"Territorial
"division."

(c.) The expression "territorial division" means district, county, union of counties, township, city, town, parish or other judicial division or place;

"District"
or "county."

(d.) The expression "district" or "county" includes any territorial or judicial division or place, in and for which there is such judge, justice, justice's court, officer or prison as is mentioned in the context;

"Common
"gaol" or
"prison."

(e.) The expression "common gaol" or "prison" means any place other than a penitentiary in which persons charged with offences are usually kept and detained in custody. 32-33 V., c. 31, ss. 94 and 95;—40 V., c. 27, s. 3;—49 V., c. 49, s. 1.

JURISDICTION.

Application
of Act.
Offences pun-
ishable on
summary con-
viction.

[11-12 V., c.
43, s. 1.]

3. This Act shall apply to,—

(a.) Every case in which any person commits, or is suspected of having committed any offence or act over which the Parliament of Canada has legislative authority, and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment;

(b.) Every case in which a complaint is made to any justice in relation to any matter over which the Parliament of Canada has legislative authority, and with respect to which such justice has authority by law to make any order for the payment of money or otherwise;—

Cases in which an order for the payment of money may be made.

Subject to any special provision otherwise enacted with respect to such offence, act or matter. 32-33 V., c. 18, s. 35, c. 20, s. 80, c. 21, s. 123, c. 22, s. 75, c. 27, s. 7, c. 29, s. 7, and c. 31, s. 1, *part*;—33 V., c. 31, s. 6;—35 V., c. 31, ss. 2, *part*, and 3;—38 V., c. 32, s. 11;—40 V., c. 35, s. 5;—43 V., c. 38, s. 4;—44 V., c. 30, s. 10, *part*.

4. Every complaint and information shall be heard, tried, determined and adjudged by one justice or two or more justices, as directed by the Act or law upon which the complaint or information is framed, or by any other Act or law in that behalf. 32-33 V., c. 31, s. 27.

By whom complaint shall be heard.
[11-12 V., c. 43, s. 12.]

5. If there is no such direction in any Act or law, then the complaint or information may be heard, tried, determined and adjudged by any one justice for the territorial division where the matter of the complaint or information arose. 32-33 V., c. 31, s. 28.

If there is no direction in the Act.
[11-12 V., c. 43, s. 12.]

6. Any one justice may receive the information or complaint, and grant a summons or warrant thereon, and issue his summons or warrant to compel the attendance of any witnesses for either party, and do all other acts and matters necessary, preliminary to the hearing, even if by the statute in that behalf it is provided that the information or complaint shall be heard and determined by two or more justices. 32-33 V., c. 31, s. 85.

In what matters one justice may always act.
[11-12 V., c. 43, s. 29.]

7. After a case has been heard and determined, one justice may issue all warrants of distress or commitment thereon. 32-33 V., c. 31, s. 86.

After hearing, &c.
[11-12 V., c. 43, s. 29.]

8. It shall not be necessary that the justice who acts before or after the hearing be the justice or one of the justices by whom the case is or was heard and determined. 32-33 V., c. 31, s. 87.

Proceedings after judgment.
[11-12 V., c. 43, s. 29.]

9. If it is required by any Act or law that an information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices, such justices shall be present and acting together during the whole of the hearing and determination of the case. 32-33 V., c. 31, s. 88.

If two justices are required.
[11-12 V., c. 43, s. 29.]

10. Every judge of Sessions of the Peace, recorder, police magistrate, district magistrate or stipendiary magistrate, ap-

Certain magistrates to have the

power of two justices.

pointed for any district, county, city, borough, town or place, shall have full power to do alone whatever is authorized to be done by two or more justices. 32-33 V., c. 31, s. 91, *part*.

LIMITATIONS.

11. * * * * *
Repealed and new section substituted by 52 V., c. 45, s. 5.

ABETTORS.

Where abettors may be proceeded against.

[11-12 V., c. 43, s. 5.]

12. Every one who aids, abets, counsels or procures the commission of any offence punishable on summary conviction, may be proceeded against and convicted, either in the territorial division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting counselling or procuring was committed. 32-33 V., c. 31, s. 15, *part*.

ENFORCING ATTENDANCE OF DEFENDANTS.

When information is laid before justice, a summons to the accused may be issued.

[11-12 V., c. 43, s. 1.]

13. Whenever an information (A) is laid before any justice for any territorial division of Canada, that any person, being within the jurisdiction of such justice, has committed or is suspected to have committed any offence or act for which he is liable by law, on summary conviction, to be imprisoned or fined, or otherwise punished, or a complaint is made to any such justice in relation to any matter upon which he has authority by law to make any order for the payment of money or otherwise, such justice may issue his summons (B), directed to such person, stating shortly the matter of the information or complaint, and requiring him to appear at a certain time and place before such justice or before such other justice in and for the same territorial division as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law. 32-33 V., c. 31, s. 1, *part*.

Service of summons.

[11-12 V., c. 43, s. 1.]

14. Every such summons shall be served by a constable or other peace officer, or other person to whom the same is delivered, upon the person to whom it is directed, by delivering the same to such person personally, or by leaving it with some person for him at his last or most usual place of abode. 32-33 V., c. 31, s. 2.

Proof of service.

[11-12 V., c. 43, s. 1.]

15. The constable, peace officer or person who serves such summons, shall attend at the time and place, and before the justice in the summons mentioned, to depose, if necessary, to the service thereof. 32-33 V., c. 31, s. 3.

As to *ex parte* cases.

[11-12 V., c. 43, s. 1.]

16. Nothing herein contained shall oblige any justice to issue any such summons whenever the application for any order may, by law be made *ex parte*. 32-33 V., c. 31, s. 4.

17. If the person served with a summons does not appear before the justice at the time and place mentioned in the summons, and it is made to appear to the justice, by oath or affirmation, that the summons was duly served, a reasonable time, in the opinion of the justice, before the time therein appointed for appearing to the same, the justice, upon oath or affirmation being made before him, substantiating the matter of the information or complaint to his satisfaction, may, if he thinks fit, issue his warrant (C) to apprehend the person so summoned, and to bring him before such justice or before some other justice in and for the same territorial division, to answer to the said information or complaint, and to be further dealt with according to law. 32-33 V., c. 31, s. 6, *part*.

If the summons is not obeyed, the justice may issue his warrant.

[11-12 V., c. 43, s. 2.]

18. Any justice before whom any such information is laid for any offence punishable on summary conviction, may, if he thinks fit, upon oath or affirmation being made before him, substantiating the matter of the information to his satisfaction, instead of issuing a summons, issue in the first instance his warrant (D) for apprehending the person against whom the information has been laid, and bringing him before such justice, or before some other justice in and for the same territorial division, to answer to the information and to be further dealt with according to law : Provided, that whenever a warrant is issued in the first instance, the justice issuing it shall furnish a copy or copies thereof, and cause a copy to be served on each person arrested at the time of such arrest. 32-33 V., c. 31, s. 6, *part*.

Warrant may issue in the first instance on information supported by oath &c.

[11-12 V., c. 43, s. 2.]

Copy of warrant to be served on defendant.

19. Every warrant to apprehend a defendant, that he may answer to an information or complaint, shall be under the hand and seal of the justice issuing the same, and may be directed to any one or more or to all of the constables or other peace officers of the territorial division within which it is to be executed, or to such constable and all other constables in the territorial division within which the justice who issued the warrant has jurisdiction, or generally to all the constables or peace officers within such territorial division :

Warrant to be under hand and seal ; to whom directed.

[11-12 V., c. 43, s. 3.]

2. Such warrant shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the constables or other peace officers to whom it is directed, to apprehend the defendant and to bring him before one or more justice or justices of the same territorial division, as the case requires, to answer to the information or complaint and to be further dealt with according to law. 32-33 V., c. 31, s. 8.

What the warrant shall contain.

20. It shall not be necessary to make the warrant returnable at any particular time, but the same shall remain in full force until executed ; and the warrant may be executed by apprehending the defendant at any place in the territorial

Duration of warrant and how to be executed.

[11-12 V., c. 43, s. 3.]

division within which the justice who issued the same has jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining territorial division within seven miles of the border of the first mentioned territorial division, without having the warrant backed as hereinafter mentioned. 32-33 V., c. 31, s. 9.

What officer may execute it, and where.

[11-12 V., c. 43, s. 3.]

21. If the warrant is directed to all constables or peace officers in the territorial division within which the justice who issued the same has jurisdiction, any constable or peace officer for any place within the limits of the jurisdiction may execute the warrant, in like manner as if the warrant was directed specially to him by name, and notwithstanding that the place in which the warrant is executed is not within the place for which he is a constable or peace officer. 32-33 V., c. 31, s. 10.

Indorsing of the warrant in another jurisdiction.

[11-12 V., c. 42, s. 1; c. 43, s. 3.]

[52 V., c. 45, s. 4.]

22. If any person against whom any warrant has been issued, *whether under the preceding sections or under any other section of this Act, and whether before or after conviction and whether for levying any fine or costs by distress, or for the imprisonment of any such person,* is not found within the jurisdiction of the justice by whom it was issued, or, if he escapes into or is suspected to be in any place within Canada, out of the jurisdiction of such justice, any justice, within whose jurisdiction such person is or is suspected to be, upon proof upon oath or affirmation of the handwriting of the justice issuing the warrant, may make an indorsement upon it signed with his name, authorizing the execution of the warrant within his jurisdiction; and such indorsement shall be a sufficient authority to the person bringing the warrant, and to all other persons to whom it was originally directed, and to all constables or other peace officers of the territorial division wherein the indorsement is made, to execute the same in any place within the jurisdiction of the justice indorsing the same, and to carry the offender, when apprehended, before the justice who first issued the warrant or some other justice having the same jurisdiction. 32-33 V., c. 31, s. 11.

Effect of such indorsement.

INFORMATIONS AND COMPLAINTS.

Certain complaints need not be in writing.

[11-12 V., c. 43, s. 8.]

23. It shall not be necessary that any complaint upon which a justice may make an order for the payment of money or otherwise, shall be in writing, unless it is so required by some particular Act or law upon which such complaint is founded. 32-33 V., c. 31, s. 20.

Complaints need not be on oath unless so provided.

[11-12 V., c. 43, s. 10.]

24. Every complaint upon which a justice is authorized by law to make an order, and every information for any offence or act punishable on summary conviction, may, unless it is herein or by some particular Act or law otherwise provided, be made or laid without any oath or affirmation as to the truth thereof. 32-33 V., c. 31, s. 24.

25. Whenever the justice issues his warrant in the first instance, the matter of the information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before the warrant is issued.

Exception, when warrant is issued in the first instance. [11-12 V., c. 43, s. 10.]

26. Every complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every information shall be for one offence only, and not for two or more offences; and every complaint or information may be laid or made by the complainant or informant in person, or by his counsel or attorney or other person authorized in that behalf.

Complaint to be for one matter only, &c. [11-12 V., c. 43, s. 10.]

27. In any information or complaint, or proceedings thereon, in which it is necessary to state the ownership of any property belonging to or in possession of partners, joint tenants, parceners or tenants in common, or *par indivis*, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named, and another or others, as the case may be:

Description of property of partners, &c. [11-12 V., c. 43, s. 4.]

2. Whenever, in any information or complaint, or the proceedings thereon, it is necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners or tenants in common, or *par indivis*, it shall be sufficient to describe them in the manner aforesaid:

Partners, &c., may be described in like manner.

3. Whenever, in any information or complaint, or the proceedings thereon, it is necessary to describe the ownership of any work or building made, maintained or repaired at the expense of the corporation or inhabitants of any territorial division or place, or of any materials for the making, altering or repairing the same, they may be therein described as the property of the inhabitants of such territorial division or place.

Description of property of municipal corporation.

28. No objection shall be allowed to any information, complaint, summons or warrant, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant, and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint:

No objection allowed on account of defect in substance or form, &c. [11-12 V., c. 43, ss. 1, 3 and 9.]

2. Any variance between the information, for any offence or act punishable on summary conviction, and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material, if it is proved that such information was, in fact, laid within the time limited by law for laying the same:

When variance as to time shall not be material.

3. Any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material, if the offence or act is proved to have been committed

When variance as to place shall not be material.

within the jurisdiction of the justice by whom the information is heard and determined :

If defendant had been misled, the justice may adjourn the case.

4. If any such variance, or any other variance between the information, complaint, summons or warrant, and the evidence adduced in support thereof, appears to the justice present, and acting at the hearing, to be such that the defendant has been thereby deceived or misled, the justice may, upon such terms as he thinks fit, adjourn the hearing of the case to some future day. 32-33 V., c. 31, ss. 5, 12, *part*, 21 and 22, *part*.

WITNESSES.

29 and 30. * * * * *

Repealed and new sections substituted by 51 V., c. 45, s. 1.

Warrant in the first instance.
[11-12 V., c. 43, s. 7.]

31. If the justice is satisfied, by evidence upon oath or affirmation, that it is probable that the person will not attend to give evidence without being compelled so to do, he may, instead of issuing a summons, issue his warrant (E 3) in the first instance, and such warrant may be executed by the person to whom the same is delivered as well beyond as within the territorial division of the justice issuing the same.

[51 V., c. 45, s. 3.]

Commitment for refusal to give evidence
[11-12 V., c. 43, s. 7.]

32. If, on the appearance of the person so summoned before the justice, either in obedience to the summons or upon being brought before him, by virtue of the warrant, such person refuses to be examined upon oath or affirmation, concerning the premises, or refuses to take an oath or affirmation, or having taken the oath or affirmation, refuses to answer such questions concerning the premises as are then put to him, without offering any just excuse for his refusal, any justice then present and having jurisdiction may, by warrant (E 4), commit the person so refusing to the common gaol or other prison for the territorial division where the person then is, there to remain and be imprisoned for any term not exceeding *thirty* days, unless, in the meantime, he consents to be examined and to answer concerning the premises. 32-33 V., c. 31, s. 19.

[51 V., c. 45, s. 4.]

HEARING.

Place of hearing to be deemed an open court.
[11-12 V., c. 43, s. 12.]

33. The room or place in which the justice sits to hear and try any complaint or information shall be deemed an open and public court, to which the public generally may have access, so far as the same can conveniently contain them. 32-33 V., c. 31, s. 29.

Defendant may make full defence.
[11-12 V., c. 43, s. 12.]

34. The person against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf. 32-33 V., c. 31, s. 30.

35. Every complainant or informant in any such case shall be at liberty to conduct the complaint or information, and to have the witnesses examined and cross-examined, by counsel or attorney on his behalf. 32-33 V., c. 31, s. 31.

Prosecutor may be heard by counsel or attorney. [11-12 V., c. 43, s. 12.]

36. Every witness at any hearing shall be examined upon oath or affirmation, and the justice before whom any witness appears for the purpose of being examined shall have full power and authority to administer to every witness the usual oath or affirmation. 32-33 V., c. 31, s. 45, *part*.

Witnesses to be examined on oath. [11-12 V., c. 43, s. 15.]

37. * * * * *

Repealed and a new section substituted by 51 V., c. 45, s. 5.

38. The evidence of the person aggrieved, and also the evidence of any inhabitant of the district, county or place in which any offence has been committed, shall be admitted in proof of the offence, notwithstanding that any forfeiture or penalty incurred by the offence is payable to any public fund of such district, county or place. 32-33 V., c. 31, s. 90.

Certain evidence may be admitted.

39. If, on the day and at the place appointed by the summons for hearing and determining the complaint or information, the defendant against whom the same has been made or laid does not appear when called, the constable or other person who served the defendant with the summons shall declare upon oath in what manner he served the summons; and if it appears to the satisfaction of the justice that such constable or other person duly served the summons a reasonable time before the time appointed for appearance, such justice may proceed *ex parte* to hear and determine the case in the absence of the defendant, as fully and effectually, to all intents and purposes, as if the defendant had personally appeared in obedience to such summons, or the justice, upon the non-appearance of the defendant, may, if he thinks fit, issue his warrant in manner herein directed, and adjourn the hearing of the complaint or information until the defendant is apprehended. 32-33 V., c. 31, ss. 7 and 32.

If the defendant does not appear. [11-12 V., c. 43, ss. 2 and 13.]

Proceeding *ex parte*, or warrant and adjournment.

40. When the defendant has been apprehended under the warrant, he shall be brought before the justice who issued it, or some other justice in and for the same territorial division, who shall thereupon, either by his warrant (F) commit the defendant to the common gaol or other prison, or if he thinks fit, verbally to the custody of the constable or other person who apprehended him, or to such other safe custody as he deems fit, and may order the defendant to be brought up at a certain time and place before him—of which order the complainant or informant shall have due notice; but no committal under this section shall be for more than one week. 32-33 V., c. 31, s. 33.

When defendant has been apprehended.

[11-12 V., c. 43, s. 13.]

Proviso

If defendant appears, &c., and the complainant does not.

[11-12 V., c. 43, s. 13.]

41. If, upon the day and at the place so appointed, the defendant appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the justice by virtue of a warrant, then, if the complainant or informant, having had due notice, does not appear by himself, his counsel or attorney, the justice shall dismiss the complaint or information, unless for some reason he thinks proper to adjourn the hearing of the same until some other day, upon such terms as he thinks fit. 32-33 V., c. 31, s. 34, *part.*

If both parties appear.

[11-12 V., c. 43, s. 13.]

42. If both parties appear, either personally or by their respective counsel or attorneys, before the justice who is to hear and determine the complaint or information, such justice shall proceed to hear and determine the same. 32-33 V., c. 31, s. 36.

Proceedings on the hearing.

[11-12 V., c. 43, s. 14.]

43. If the defendant is present at the hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be. 32-33 V., c. 31, s. 37.

Justice may convict, &c., if defendant admits the truth.

[11-12 V., c. 43, s. 14.]

44. If the defendant thereupon admits the truth of the information or complaint, and shows no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, the justice present at the hearing, shall convict him or make an order against him accordingly. 32-33 V., c. 31, s. 38.

If he does not admit the truth, &c., examination of witnesses, &c.

[11-12 V., c. 43, s. 14.]

45. If the defendant does not admit the truth of the information or complaint, the justice shall proceed to hear the prosecutor or complainant and such witnesses as he examines and such other evidence as he adduces in support of his information or complaint, and shall also hear the defendant and such witnesses as he examines, and such other evidence as he adduces in his defence, and also hear such witnesses as the prosecutor or complainant examines in reply, if such defendant has examined any witnesses or given any evidence other than evidence as to his general character. 32-33 V., c. 31, s. 39.

As to observations by either party.

[11-12 V., c. 43, s. 14.]

46. The prosecutor or complainant shall not be entitled to make any observations in reply, upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply. 32-33 V., c. 31, s. 40.

If information or complaint negatives any exemption, &c.

[11-12 V., c. 43, s. 14.]

47. If the information or complaint in any case negatives any exemption, exception, proviso or condition in the statute on which the same is founded, it shall not be necessary for the prosecutor or complainant to prove such negative, but the defendant may prove the affirmative thereof in his defence, if he wishes to avail himself of the same. 32-33 V., c. 31, s. 44.

48. Before or during the hearing of any information or complaint, the justice may, in his discretion, adjourn the hearing of the same to a certain time and place, to be then appointed and stated in the presence and hearing of the party or parties, or of their respective attorneys or agents then present, but no such adjournment shall be for more than one week. 32-33 V., c. 31, s. 46, *part*.

Adjournment of the case. [11-12 V., c. 43, s. 16.]

49. If, at the time and place to which the hearing or further hearing is adjourned, either or both of the parties do not appear, personally or by his or their counsel or attorneys respectively, before the justice or such other justice as shall then be there, the justice who is then there may proceed to the hearing or further hearing as if the party or parties were present. 32-33 V., c. 31, s. 47.

If prosecutor or defendant does not appear, case may proceed. [11-12 V., c. 43, s. 16.]

50. If the prosecutor or complainant does not appear, the justice may dismiss the information with or without costs, as to him seems fit. 32-33 V., c. 31, s. 48.

If the prosecutor does not appear. [11-12 V., c. 43, s. 16.]

51. Whenever any justice adjourns the hearing of any case, he may suffer the defendant to go at large or may commit him (G) to the common gaol or other prison, within the territorial division for which such justice is then acting, or to such other safe custody as such justice thinks fit, or may discharge the defendant upon his recognizance (H), with or without sureties, at the discretion of such justice, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned :

On adjournment defendant may be allowed to go at large, or may be committed. [11-12 V., c. 43, ss. 3, 9 and 13.]

2. Whenever any defendant who is discharged upon recognizance or allowed to go at large, does not appear at the time mentioned in the recognizance or to which the hearing or further hearing is adjourned, the justice may issue his warrant for the apprehension of the defendant. 32-33 V., c. 31, ss. 12, *part*, 13, *part*, 22, *part*, 34, *part*, and 46, *part*.

Warrant may be issued for arrest of defendant on bail not appearing.

52. The justice, having heard what each party has to say, and the witnesses and evidence adduced, shall consider the whole matter, and, unless otherwise provided, determine the same, and convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be. 32-33 V., c. 31, s. 41.

Decision of the case. [11-12 V., c. 43, s. 14.]

53. If the justice convicts or makes an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction or order shall afterwards be drawn up by the justice on parchment or on paper, under his hand and seal, in such one of the forms of conviction (J 1, 2, 3) or of orders (K I, 2, 3) in the schedule to this Act, as is applicable to the case or to the like effect. 32-33 V., c. 31, ss. 42, 50 and 51.

Minute of conviction or order to be made. [11-12 V., c. 43, ss. 14 and 17.]

Amount payable to person aggrieved limited.

[24-25 V., c. 37, s. 64.]

54. When several persons join in the commission of the same offence, and, upon conviction thereof, each is adjudged to pay a penalty, which includes the value of the property, or the amount of the injury done, no further sum shall be paid to the person aggrieved than such amount or value, and costs, if any, and the residue of the penalties imposed shall be applied in the same manner as other penalties imposed by a justice are directed to be applied. 32-33 V., c. 31, s. 89.

In certain cases defendant may be discharged on making satisfaction.

[24-25 V., c. 36, s. 108, c. 37, s. 66.]

55. Whenever any person is summarily convicted before a justice of any offence against "*The Larceny Act*," or the "*Act respecting Malicious Injuries to Property*," or the "*Act respecting the Protection of the Property of Seamen in the Navy*," and it is a first conviction, the justice may, if he thinks fit, discharge the offender from his conviction, upon his making such satisfaction to the person aggrieved, for damages and costs, or either of them, as are ascertained by the justice. 32-33 V., c. 21, s. 119, and c. 22, s. 72;—33 V., c. 31, s. 5, *part.*

Certificate if the complaint, &c., is dismissed.

[11-12 V., c. 43, s. 14.]

56. If the justice dismisses the information or complaint, he may, when required so to do, make an order of dismissal of the same (L), and shall give the defendant a certificate thereof (M),—which certificate, upon being afterwards produced, shall, without further proof, be a bar to any subsequent information or complaint for the same matter, against the same defendant. 32-33 V., c. 31, s. 43.

Defendant to be served with copy of the minute before distress or commitment.

[11-12 V., c. 43, s. 17.]

57. Whenever, by any Act or law, authority is given to commit a person to prison or to levy any sum upon his goods or chattels by distress, for not obeying an order of a justice, the defendant shall be served with a copy of the minute of the order before any warrant of commitment or of distress is issued in that behalf; and the order or minute shall not form any part of the warrant of commitment or of distress. 32-33 V., c. 31, s. 52.

COSTS.

Justice may award costs not inconsistent with the fees established by law.

[11-12 V., c. 43, s. 18.]

58. In every case of a summary conviction, or of an order made by a justice, such justice may, in his discretion, award and order, in and by the conviction or order, that the defendant shall pay to the prosecutor or complainant such costs as to the said justice seems reasonable in that behalf, and not inconsistent with the fees established by law to be taken on proceedings had by and before justices. 32-33 V., c. 31, s. 53.

Costs may be awarded to defendant when the case is dismissed.

59. Whenever the justice, instead of convicting or making an order, dismisses the information or complaint, he may, in his discretion, in and by his order of dismissal, award and order that the prosecutor or complainant shall pay to the

defendant such costs as to the said justice seems reasonable and consistent with law. 32-33 V., c. 31, s. 54. [11-12 V., c. 43, s. 18.]

NOTE.—A sub-section was added by 51 V., c. 45, s. 6, but repealed by 52 V., c. 45, s. 1.

60. The sums so allowed for costs shall, in all cases, be specified in the conviction or order, or order of dismissal, and the same shall be recoverable in the same manner and under the same warrants as any penalty adjudged to be paid by the conviction or order, is to be recovered. 32-33 V., c. 31, s. 55. Costs so allowed shall be specified, &c. [11-12 V., c. 43, s. 18.]

61. Whenever there is no such penalty to be recovered' such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of distress, by imprisonment, with or without hard labour, for any term not exceeding one month. 32-33 V., c. 31, s. 56, part. May be recovered by distress. [11-12 V., c. 43, s. 18.]

61a. (Section added by 52 V., c. 45, s. 2.)

WARRANTS OF DISTRESS AND COMMITMENT.

62. Whenever a conviction adjudges a pecuniary penalty or compensation to be paid, or an order requires the payment of a sum of money, and by the Act or law authorizing such conviction or order the penalty, compensation or sum of money is to be levied upon the goods and chattels of the defendant, by distress and sale thereof,—and whenever, by the Act or law in that behalf, no mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, the justice or any one of the justices making such conviction or order, or any justice in and for the same territorial division, may issue his warrant of distress (N 1, N 2) for the purpose of levying the same,—which warrant of distress shall be in writing, under the hand and seal of the justice making the same. 32-33 V., c. 31, s. 57. Justice may issue warrant of distress in cases where a pecuniary penalty, &c., has been adjudged. [11-12 V., c. 43, s. 19.]

63. If, after delivery of the warrant of distress to the constable or constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the justice granting the warrant, then upon proof being made upon oath or affirmation of the handwriting of the justice granting the warrant, before any justice of any other territorial division, such justice shall thereupon make an indorsement (N 3) on the warrant, signed with his hand, authorizing the execution of the warrant within the limits of his jurisdiction,—by virtue of which warrant and indorsement the penalty or sum and costs, or so much thereof as has not been before levied or paid, shall be levied by the person bringing the warrant, or by the person or persons to whom the warrant was originally directed, or by any constable In certain cases warrant may be backed for execution in another jurisdiction. [11-12 V., c. 43, s. 19.]

or other peace officer of the last mentioned territorial division, by distress and sale of the goods and chattels of the defendant therein. 32-33 V., c. 31, s. 58.

When the issuing of a warrant would be ruinous to defendant, or there are no goods, justice may commit him.

[11-12 V., c. 43, s. 19.]

64. Whenever it appears to any justice to whom application is made for any warrant of distress, that the issuing thereof would be ruinous to the defendant and his family, or whenever it appears to the justice, by the confession of the defendant or otherwise, that he has no goods and chattels whereon to levy such distress, then the justice, if he deems it fit, instead of issuing a warrant of distress, may (O 1, O 2) commit the defendant to the common gaol, or other prison in the territorial division, there to be imprisoned, with or without hard labour, for the time and in the manner the defendant would by law be committed in case such warrant of distress had issued, and no goods or chattels, had been found whereon to levy the penalty or sum and costs. 32-33 V., c. 31, s. 59.

When warrant of distress is issued, defendant may be bailed or detained until it is returned.

[11-12 V., c. 43, s. 20.]

65. Whenever a justice issues any warrant of distress, he may suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, may order the defendant to be kept and detained in safe custody, until return has been made to the warrant of distress, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the justice, for his appearance, at the time and place appointed for the return of the warrant of distress, before him or before such other justice for the same territorial division as shall then be there. 32-33 V., c. 31, s. 60.

In default of sufficient distress, justice may commit defendant to prison.

[11-12 V., c. 43, s. 21.]

66. If, at the time and place appointed for the return of any warrant of distress, the constable, who has had the execution of the same, returns (N 4) that he could find no goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levy of the same, the justice before whom the same is returned may issue his warrant of commitment (N 5), directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress and the return thereto, and requiring the constable to convey the defendant to the common gaol or other prison of the territorial division for which the justice is then acting, and there to deliver him to the keeper thereof,—and requiring the keeper to receive the defendant into such gaol or prison, and there to imprison him, or to imprison him and keep him at hard labour, in the manner and for the time directed by the Act or law on which the conviction or order mentioned in the warrant of distress is founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice thinks fit so to order (the amount thereof being ascertained and stated in such commitment), are sooner paid. 32-33 V., c. 31, s. 62, *part*.

67. Whenever, by the Act or law on which the conviction or order is founded, the justice is authorized to issue a warrant of distress, to levy penalties or other sums recovered before him by distress and sale of the defendant's goods, but no further remedy is thereby provided in case no sufficient distress is found whereon to levy such penalties or other sums,—and whenever the Act or law on which the conviction or order is founded provides no remedy, in case it shall be returned to a warrant of distress thereon, that no sufficient goods of the defendant can be found, the justice to whom such return is made, or any other justice in and for the same territorial division, may, if he thinks fit, by his warrant, as aforesaid, commit the defendant to the common gaol or other prison of the territorial division for which such justice is acting, for any term not exceeding three months. 32-33 V., c. 31, s. 62, *part*.

Term for which defendant may be committed in default of distress.

[11-12 V., c. 43, s. 22.]

68. In every case of a summary conviction for an offence under "*The Larceny Act*," the "*Act respecting Malicious Injuries to Property*," or the "*Act respecting the Protection of the Property of Seamen in the Navy*," when the penalty imposed by the justice is not paid, either immediately after the conviction, or within such period as the justice, at the time of the conviction, appoints, such justice, unless where otherwise specially directed, may commit the offender to the common gaol or other place of confinement, there to be imprisoned only, or to be imprisoned and kept at hard labour, in the discretion of the justice, for any term not exceeding two months if the amount of the penalty imposed, together with the costs, does not exceed twenty-five dollars, and for any term not exceeding three months if such amount, with costs, exceeds twenty-five dollars. 32-33 V., c. 21, s. 118, *and* c. 22, s. 71;—33 V., c. 31, s. 5, *part*.

Term of imprisonment in certain cases if penalty imposed is not paid.

[24-25 V., c. 96, s. 107, c. 97, s. 65.]

69. Whenever a justice, upon any information or complaint, adjudges the defendant to be imprisoned, and the defendant is then in prison undergoing imprisonment upon conviction for any other offence, the warrant of commitment for the subsequent offence shall be forthwith delivered to the gaoler or other officer to whom it is directed; and the justice who issued the same, if he thinks fit, may award and order therein that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the defendant was previously sentenced. 32-33 V., c. 31, s. 63.

Imprisonment for a subsequent offence if defendant is already in gaol.

[11-12 V., c. 43, s. 25.]

70. When any information or complaint is dismissed with costs, the sum awarded for costs in the order for dismissal may be levied by distress (P 1) on the goods and chattels of the prosecutor or complainant, in the manner aforesaid; and in default of distress or payment, the prosecutor or complainant may be committed (P 2) to the common gaol or other prison, in manner aforesaid, for any term not exceeding one month, unless such sum, and all costs and charges of the distress, and

If information is dismissed, costs may be recovered by distress on prosecutor.

[11-12 V., c. 43, s. 26.]

of the commitment and conveying of the prosecutor or complainant to prison (the amount thereof being ascertained and stated in the commitment), are sooner paid. 32-33 V., c. 31, s. 64.

RECOGNIZANCES.

If defendant is discharged on recognizance and fails to appear.
[11-12 V., c. 43, ss. 3, 9, 13, 16 and 20.]

71. Whenever a defendant gives security by or is discharged upon recognizance and does not afterwards appear at the time and place mentioned in the recognizance, the justice who took the recognizance, or any justice who is then present, having certified (Q) upon the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the proper officer in the Province appointed by law to receive the same, to be proceeded upon in like manner as other recognizances; and such certificate shall be *prima facie* evidence of the non-appearance of the said defendant. 32-33 V., c. 31, ss. 13, part, 23, 35, 49 and 61.

To what officers recognizances shall be transmitted.

72. Whenever a person who has entered into any recognizance under this Act, has failed to appear according to the condition of such recognizance, and his default has been certified by the justice, the proper officer to whom the recognizance and certificate of default are to be transmitted, in the Province of Ontario, shall be the clerk of the peace of the county for which such justice is acting; and the court of General Sessions of the Peace for such county shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such court; and in the other Provinces of Canada, the proper officer to whom any such recognizance and certificate shall be transmitted, shall be the officer to whom like recognizances have been heretofore accustomed to be transmitted under the law in force before the passing of this Act; and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been enforced and collected. 32-33 V., c. 36, s. 6.

In Ontario.

In the other Provinces.

ASSAULTS.

Proceedings in a case of assault.
[24-25 V., c. 100, ss. 42 and 46.]

When there has been an attempt to commit felony, &c.

73. Whenever any person unlawfully assaults or beats any other person, any justice, upon complaint by or on behalf of the person aggrieved, praying him to proceed summarily on the complaint, may hear and determine such offence:

2. If such justice finds the assault or battery complained of to have been accompanied by an attempt to commit felony, or is of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he had no authority finally to hear and determine the same:

3. No justice shall hear and determine any case of assault or battery, in which any question arises as to the title to any lands, tenements, hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice. 32-33 V., c. 20, s. 43, *part*, and s. 46.

In certain cases justice not to determine the matter.

74. If the justice, upon the hearing of any case of assault or battery upon the merits, where the complaint is preferred by or on behalf of the person aggrieved, under the next preceding section, deems the offence not to be proved, or finds the assault or battery to have been justified, or so trifling as not to merit any punishment, and accordingly dismisses the complaint, he shall forthwith make out a certificate under his hand, stating the fact of such dismissal, and shall deliver such certificate to the person against whom the complaint was preferred. 32-33 V., c. 20, s. 44.

Certificate if the case is dismissed. [24-25 V., c. 100, s. 44.]

75. If any person against whom any such complaint has been preferred, by or on the behalf of the person aggrieved, obtains such certificate, or, having been convicted, pays the whole amount adjudged to be paid or suffers the imprisonment, or imprisonment with hard labour awarded, he shall be released from all further or other proceedings, civil or criminal, for the same cause. 32-33 V., c. 20, s. 45.

Certificate or conviction a bar to any further proceeding. [24-25 V., c. 100, s. 45.]

APPEALS.

76. * * * * *
Repealed and new section substituted by 51 V., c. 45, s. 7.

77. * * * * *
Repealed and new section substituted by 51 V., c. 45, s. 8.

78. * * * * *
Repealed and new section substituted by 53 V., c. 37, s. 25.

79. No judgment shall be given in favour of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant, issued upon any such information, complaint or summons, for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant, and the evidence adduced in support thereof at the hearing of such information or complaint, unless it is proved before the court hearing the appeal that such objection was made before the justice before whom the case was tried and by whom such conviction, judgment or decision was given, nor unless it is proved that notwithstanding it was shown to such justice that by such variance the person summoned and appearing or apprehended had been

Appeal not to be based on alleged defect in form or substance, except in cases specified.

deceived or misled, such justice refused to adjourn the hearing of the case to some further day, as herein provided. 32-33 V., c. 31, s. 67.

80. * * * * *

Repealed and new section substituted by 53 V., c. 37, s. 26.

If appeal is abandoned, after notice given, costs to be recoverable.

81. The court to which an appeal is made, upon proof of notice of the appeal to such court having been given to the person entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if such appeal has not been abandoned according to law, at the same sittings for which such notice was given, order to the party or parties receiving the same such costs and charges as are thought reasonable and just by the court, to be paid by the party or parties giving such notice; and such costs shall be recoverable in the manner provided by this Act for the recovery of costs upon an appeal against an order or conviction. 32-33 V., c. 31, s. 69.

Proceedings after appeal.

82. If any appeal against any conviction or order is decided in favour of the respondents, the justice who made the conviction or order, or any other justice for the same territorial division, may issue the warrant of distress or commitment for execution of the same, as if no appeal had been brought. 32-33 V., c. 31, s. 70.

No conviction approved to be removed by *certiorari*, &c.
[24-25 V., c. 96, s. 111; c. 97, s. 69.]

83. No conviction or order, affirmed or affirmed and amended, in appeal, shall be quashed for want of form, or be removed by *certiorari* into any superior court, and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the defendant has been convicted, and there is a good and valid conviction to sustain the same. 33 V., c. 27, s. 2.

No *certiorari* when appeal is had.

84. No writ of *certiorari* shall be allowed to remove any conviction or order had or made before any justice of the peace if the defendant has appealed from such conviction or order to any court to which an appeal from such conviction or order is authorized by law, or shall be allowed to remove any conviction or order made upon such appeal. 49 V., c. 49, s. 7.

85. * * * * *

Repealed and new section substituted by 51 V., c. 45, s. 9.

Certificate of conviction to be evidence.
[24-25 V., c. 96, s. 112; c. 97, s. 70.]

86. And upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence. 32-33 V., c. 31, s. 72, *part*.

87.

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Repealed and new section substituted by 53 V., c. 37 s. 27.

88. The following matters amongst others shall be held to be within the provisions of the next preceding section:—

(a.) The statement of the adjudication, or of any other matter or thing, in the past tense instead of in the present; Matters within s. 87. Statements.

(b.) The punishment imposed being less than the punishment by law assigned to the offence stated in the conviction or order, or to the offence which appears by the depositions to have been committed; Punishment.

(c.) The omission to negative circumstances, the existence of which would make the act complained of lawful, whether such circumstances are stated by way of exception or otherwise, in the section under which the offence is laid, or are stated in another section; Omission to negative exception or proviso.

But nothing in this section contained shall be construed to restrict the generality of the wording of the next preceding section. 49 V., c. 49, s. 3. Proviso.

89. If an application is made to quash a conviction or order made by a justice of the peace, on the ground that such justice has exceeded his jurisdiction, the court or judge to which or whom the application is made, may, as a condition of quashing the same, if the court or judge thinks fit so to do, provide that no action shall be brought against the justice of the peace who made the conviction, or against any officer acting under any warrant issued to enforce such conviction or order. 49 V., c. 49, s. 5. Protection of justices.

90. The court having authority to quash any conviction, order or other proceeding by or before a justice of the peace may prescribe by general order that no motion to quash any conviction, order or other proceeding by or before such justice, and brought before any court by *certiorari*, shall be entertained unless the defendant is shown to have entered into a recognizance with one or more sufficient sureties, before a justice or justices of the county or place within which such conviction or order has been made, or before a judge or other officer, as may be prescribed by such general order, or to have made a deposit to be prescribed in like manner, with a condition to prosecute such writ of *certiorari* at his own costs and charges, with effect, without any wilful or affected delay, and, if ordered so to do, to pay the person in whose favour the conviction, order or other proceeding is affirmed, his full costs and charges to be taxed according to the course of the court where such conviction, order or proceeding is affirmed. 49 V., c. 49, s. 6. Order may be made as to security in proceedings to quash.

91. The second section of the Act of the Parliament of the United Kingdom, passed in the fifth year of the reign of His Majesty George the Second, and chaptered nineteen, 5 Geo. II, c. 19, s. 2, superseded.

shall no longer apply to any conviction, order or other proceeding by or before a justice of the peace in Canada, but the next preceding section of this Act shall be substituted therefor, and the like proceeding may be had for enforcing the condition of a recognizance taken under the said section as might be had for enforcing the condition of a recognizance taken under the said Act of the Parliament of the United Kingdom. 49 V., c. 49, s. 8.

92. * * * * *
Repealed and new section substituted by 51 V., c. 45, s. 10.

Procedendo
 not necessary
 for return of
 proceedings
 not quashed.

93. If a motion or rule to quash a conviction, order or other proceeding is refused or discharged, it shall not be necessary to issue a writ of *procedendo*, but the order of the court refusing or discharging the application shall be a sufficient authority for the registrar or other officer of the court forthwith to return the conviction, order and proceedings to the court or justice from which or whom they were removed, and for proceedings to be taken thereon for the enforcement thereof, as if a *procedendo* had issued, which shall forthwith be done. 49 V., c. 49, s. 10.

Effect of con-
 viction if no
 appeal.

94. Whenever it appears by the conviction, that the defendant has appeared and pleaded, and the merits have been tried, and that the defendant has not appealed against the conviction, where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case. 32-33 V., c. 31, s. 73.

To whom
 costs to be
 payable.
 [11-12 V., c.
 43, s. 27.]

95. If upon any appeal the court trying the appeal orders either party to pay costs, the order shall direct the costs to be paid to the clerk of the peace or other proper officer of the court, to be paid over by him to the person entitled to the same, and shall state within what time the costs shall be paid. 32-33 V., c. 31, s. 74.

Enforcement
 of payment.
 [11-12 V., c.
 43, s. 27.]

96. If such costs are not paid within the time so limited, and the person ordered to pay the same has not been bound by any recognizance conditioned to pay such costs, the clerk of the peace or his deputy, on application of the person entitled to the costs, or of any person on his behalf, and on payment of any fee to which he is entitled, shall grant to the person so applying, a certificate (T) that the costs have not been paid; and upon production of the certificate to any justice in and for the same territorial division, such justice may enforce the payment of the costs by warrant of distress (U 1) in manner aforesaid, and in default of distress may commit (U 2) the person against

By distress or
 imprison-
 ment.

whom the warrant has issued in manner hereinbefore mentioned, for any term not exceeding two months, unless the amount of the costs and all costs and charges of the distress and also the costs of the commitment and conveying of the party to prison, if the justice thinks fit so to order (the amount thereof being ascertained and stated in the commitment), are sooner paid. 32-33 V., c. 31, s. 75.

TENDER AND PAYMENT.

97. Whenever a warrant of distress has issued against any person, and such person pays or tenders to the constable having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, the constable shall cease to execute the same. 32-33 V., c. 31, s. 83.

In case of tender or payment of the amount of distress. [11-12 V., c. 43, s. 28.]

98. Whenever any person is imprisoned for non-payment of any penalty or other sum, he may pay or cause to be paid to the keeper of the prison in which he is imprisoned, the sum in the warrant of commitment mentioned, together with the amount of the costs and charges and expenses therein also mentioned, and the keeper shall receive the same, and shall thereupon discharge the person, if he is in his custody for no other matter. 32-33 V., c. 31, s. 56, *part*, and s. 84.

Payment may be made to the keeper of the prison. [11-12 V., c. 43, s. 28.]

RETURNS RESPECTING CONVICTIONS AND MONEYS RECEIVED.

99. Every justice shall, quarterly, on or before the second Tuesday in each of the months of March, June, September and December in each year, make to the clerk of the peace or other proper officer of the court having jurisdiction in appeal, as herein provided, a return in writing, under his hand, of all convictions made by him, and of the receipt and application by him of the moneys received from the defendants,—which return shall include all convictions and other matters not included in some previous return, and shall be in the form (V) in the schedule to this Act :

Returns to be made quarterly by justices.

2. If two or more justices are present, and join in the conviction, they shall make a joint return : Joint return.

3. In the Province of Prince Edward Island such return shall be made to the clerk of the court of assize of the county in which the convictions are made, and up to the fourteenth day next before the sitting of the said court next after such convictions are so made : In Prince Edward Island.

4. Every such return shall be made, in the districts of Muskoka and Parry Sound, in the Province of Ontario, to the clerk of the peace for the county of Simcoe, in the said Province ; in the provisional county of Haliburton, in the said Province, to the clerk of the peace for the county of Victoria, in the said Province ; in the district of Thunder Bay, in the said Province, In certain districts and provisional counties in Ontario.

to the clerk of the peace for the district of Algoma, in the said Province; and in the district of Nipissing in the said Province, to the clerk of the peace for the county of Renfrew, in the said Province. 32-33 V., c. 31, s. 76, *part*;—33 V., c. 27, s. 3;—40 V., c. 4, s. 7;—47 V., c. 43, s. 2;—49 V., c. 49, s. 13.

Return of subsequent receipts, &c.

100. Every justice, to whom any such moneys are afterwards paid, shall make a return of the receipts and application thereof, to the court having jurisdiction in appeal as hereinbefore provided,—which return shall be filed by the clerk of the peace with the records of his office. 32-33 V., c. 31, s. 77.

Penalty on justices of the peace neglecting to comply with the provisions of this Act as to returns, &c.

101. Every justice, before whom any such conviction takes place or who receives any such moneys, who neglects or refuses to make such return thereof, or wilfully makes a false, partial or incorrect return, or wilfully receives a larger amount of fees than by law he is authorized to receive, shall incur a penalty of eighty dollars, together with full costs of suit, which may be recovered by any person who sues for the same by action of debt or information in any court of record in the Province in which such return ought to have been or is made :

Application of penalty.

2. One moiety of such penalty shall belong to the person suing, and the other moiety to Her Majesty, for the public uses of Canada. 32-33 V., c. 31, s. 78.

Actions for such penalties limited to six months after cause.

102. All prosecutions for penalties arising under the provisions of the next preceding section shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the district, county or place wherein such penalties have been incurred; and if a verdict or judgment passes for the defendant, or the plaintiff becomes non-suit, or discontinues the action after issue joined, or if, upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs of suit, as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases. 32-33 V., c. 31, s. 79.

As to costs.

Clerk of the peace, &c., to publish and post up the returns so made.

103. The clerk of the peace of the district or county in which any such returns are made, or the proper officer, other than the clerk of the peace, to whom such returns are made, shall, within seven days after the adjournment of the next ensuing General or Quarter Sessions, or of the term or sitting of such other court as aforesaid, cause the said returns to be published in one newspaper in the district or county, or if there is no such newspaper, then in a newspaper of an adjoining district or county, and shall also post up in the court house of the district or county, and also in a conspicuous place in the office of such clerk of the peace, or other proper officer, for public inspection, a schedule of the returns so made by such justices; and the same shall continue to be so posted up and exhibited until the end of the next ensuing General or Quarter

Sessions of the Peace, or of the term or sitting of such other court as aforesaid; and for every schedule so made and exhibited by such clerk or officer, he shall be allowed the expense of publication, and such fee as is fixed by competent authority. 32-33 V., c. 31, s. 80.

Fee for posting up.

104. Such clerk of the peace or other officer of each district or county, within twenty days after the end of each General or Quarter Sessions of the Peace, or the sitting of such court as aforesaid, shall transmit to the Minister of Finance and Receiver General a true copy of all such returns made within his district or county. 32-33 V., c. 31, s. 81.

Copy of returns to be sent to Minister of Finance.

105. Nothing in the six sections next preceding shall have the effect of preventing any person aggrieved from prosecuting, by indictment, any justice, for any offence, the commission of which would subject him to indictment at the time of the coming into force of this Act. 32-33 V., c. 31, s. 82.

Not to prevent prosecution of a justice in default.

GENERAL PROVISIONS.

106. No return purporting to be made by any justice under this Act shall be vitiated by the fact of its including, by mistake, any convictions or orders had or made before him in any matter over which any Provincial Legislature has exclusive jurisdiction, or with respect to which he acted under the authority of any provincial law. 32-33 V., c. 36, s. 7.

Returns not vitiated by certain matters being included therein

107. No information, summons, conviction, order or other proceeding shall be held to charge two offences, or shall be held to be uncertain on account of its stating the offence to have been committed in different modes, or in respect of one or other of several articles, either conjunctively or disjunctively; for example, in charging an offence under section twenty-four of the "*Act respecting Malicious Injuries to Property*," it may be alleged that "the defendant unlawfully and maliciously did cut, break, root up and otherwise destroy or damage a tree, sapling or shrub;" and it shall not be necessary to define more particularly the nature of the act done, or to state whether such act was done in respect of a tree, or a sapling, or a shrub. 49 V., c. 49, s. 4.

Offences may be laid conjunctively or disjunctively.

Example.

108. If it is stated in any summons, warrant, document or other instrument issued at any time in any Province of Canada, by any justice, that the same is given under the hand and seal of the justice signing it, such seal shall be presumed to have been affixed by him, and its absence shall not invalidate the instrument; or such justice may, at any time thereafter, affix such seal with the same effect as if it had been affixed when such instrument was signed. 32-33 V., c. 36, s. 4, part.

Seals to warrants and other documents.

Power to pre-
serve order,
&c.

109. Every judge of Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate, shall have such and like powers and authority to preserve order in the said courts during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any court in Canada, or by the judges thereof, during the sittings thereof. 32-33 V., c. 31, s. 92.

Power to pun-
ish resistance
to process, &c.

110. Every judge of the Sessions of the Peace, police magistrate, district magistrate or stipendiary magistrate, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases. 32-33 V., c. 31, s. 93.

Forms to be
sufficient.

111. The several forms in the schedule to this Act contained, varied to suit the case, or forms to the like effect, shall be deemed good, valid and sufficient in law. 32-33 V., c. 31, ss. 91, *part*, and 96.

SCHEDULE.

(A.)

FORM OF INFORMATION OR OF COMPLAINT ON OATH.

Canada.

Province of
district (or county,
united counties, or
as the case may be),
of

The information (or complaint) of C. D., of the township of _____, in the said district (or county, united counties, or as the case may be), of _____ (labourer). *If preferred by an attorney or agent, say—*by D. E., his duly authorized agent or attorney, in this behalf), taken upon oath before me, the undersigned, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, at N., in the said district (or county, as the case may be) of _____ this _____ day of _____, in the year _____,

who says that he has just cause to suspect and believe and does suspect and believe that A. B., of the (township) of _____, in the said district (or county, as the case may be) of _____, within the space of _____ (the time within which the information (or complaint) should be laid), last past, to wit, on the _____ day of _____, at the (township) of _____, in the district (county,

or as the case may be) aforesaid, did (*here set out the offence, &c.*), contrary to the form of the statute in such case made and provided.

C. D. (*or D. E.*)

Taken and sworn before me, the day and year and at the place above mentioned.

J. S.

(B.)

SUMMONS TO THE DEFENDANT UPON AN INFORMATION OR COMPLAINT.

Canada.
Province of
district (*or county,*
united counties, *or*
as the case may be),
of

To A. B., of (labourer):

Whereas information has this day been laid (*or complaint has this day been made*) before the undersigned, a justice of the peace in and for the said district (*or county, united counties, city, town, etc., as the case may be*), of for that you (*here state shortly the matter of the information or complaint*): These are, therefore, to command you, in Her Majesty's name, to be and appear on at o'clock in the (fore) noon, at before me, or such justice or justices of the peace for the said district (*or county, united counties, or as the case may be*), as shall then be there, to answer to the said information (*or complaint*) and to be further dealt with according to law.

Given under my hand and seal this day of in the year , at in the district (*or county, or as the case may be*), aforesaid.

J. S. [L.S.]

(C.)

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Canada.
Province of
district (*or county,*
united counties, *or*
as the case may be),
of

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

Whereas on last past, information was laid (*or complaint was made*) before , a justice of the peace

in and for the said district (or county, united counties, or as the case may be), of _____, for that A. B. (&c., as in the summons); And whereas (I) the said justice of the peace then issued (my) summons unto the said A. B., commanding him, in Her Majesty's name, to be and appear on _____, at _____ o'clock in the (fore) noon, at _____, before (me) or such justice or justices of the peace as should then be there, to answer unto the said information (or complaint), and to be further dealt with according to law; And whereas the said A. B. has neglected to be and appear at the time and place so appointed in and by the said summons, although it has now been proved to me upon oath that the said summons was duly served upon the said A. B.: These are, therefore, to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or some one or more justices of the peace in and for the said district (or county, united counties, or as the case may be), to answer to the said information (or complaint), and to be further dealt with according to law.

Given under my hand and seal, this _____ day of _____ in the year _____ at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

(D.)

WARRANT IN THE FIRST INSTANCE.

Canada,
Province of
district (or county,
united counties, or
as the case may be),
of

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

Whereas information has this day been laid before the undersigned, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____ for that A. B. (*here state shortly the matter of information*); and oath being now made before me substantiating the matter of such information: These are, therefore, to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (me) or some one or more justices of the peace in and for the said district (or county, united counties, or as the case may be), to answer to the said information, and to be further dealt with according to law.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (county, &c., as the case may be) aforesaid.

J. S. [L.S.]

(E. 1.)

SUMMONS TO A WITNESS.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

To E. F., of _____, in the said district (or county, united counties, or as the case may be), of _____.

Whereas information was laid (or complaint was made) before _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (&c., as in the summons), and it has been made to appear to me (upon oath) that you are likely to give material evidence on behalf of the prosecutor (or complainant or defendant), in this behalf: These are, therefore, to require you to be and appear on _____ at _____ o'clock in the (fore) noon, at _____, before me or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as shall then be there, to testify what you know concerning the matter of the said information (or complaint).

Given under my hand and seal this _____ day of _____ in the year _____, at _____, in the district (or county, or as the case may be), aforesaid.

J. S. [L. S.]

(E. 2.)

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

* * * * *
 Repealed by 51 V., c. 45, s. 2.

(E. 3.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

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

Whereas information was laid (or complaint was made) before the undersigned _____, a justice of the

peace in and for the said district (or county, united counties, or as the case may be), of _____ for that (&c., as in the summons), and it being made to appear before me upon oath, that E. F., of _____, (labourer), is likely to give material evidence on behalf of the (prosecutor, or as the case may be), in this matter, and it is probable that the said E. F. will not attend to give evidence without being compelled so to do : These are, therefore, to command you to bring and have the said E. F., on _____, at _____,

o'clock in the (fore) noon, at _____, before me or such other justice or justices of the peace, for the district (or county, united counties, or as the case may be), as shall then be there, to testify what he knows concerning the matter of the said information (or complaint).

Given under (my) hand and seal this _____ day of _____, in the year _____, at _____, in the district (or county, or as the case may be), aforesaid.

J. S. [L. s.]

(E. 4.)

COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN OR GIVE EVIDENCE.

Canada.

Province of _____ }
 district (or county, }
 united counties, or }
 as the case may be,) }
 of _____ }

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of _____ and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), at _____

Whereas information was laid (or complaint was made) before (me) _____, a justice of the peace, in and for the said district (or county, united counties, or as the case may be), of _____, for that (&c., as in the summons), and one E. F., now appearing before me, such justice as aforesaid, on _____, at _____, and being required by me to make oath (or affirmation) as a witness in that behalf, refuses so to do [or being now here duly sworn as a witness in the matter of the said information (or complaint) refuses to answer certain questions concerning the premises which are now here put to him, and more particularly the following question, here insert the exact words of the question], without offering any just excuse for such his refusal : These are, therefore, to command you, or any one of the said constables or peace officers, to take the said E. F., and him safely to convey to the common gaol at _____

aforesaid, and there deliver him to the said keeper thereof, together with this precept; And I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody in the said common gaol and there imprison him for such his contempt for the term of days, unless he shall in the meantime consent to be examined and to answer concerning the premises, and for so doing this shall be your sufficient warrant.

Given under (my) hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, or as the case may be), aforesaid.

J. S. [L. S.]

(F.)

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

Canada.
Province of _____
district (or county, united counties, or as the case may be),
of _____

To all or any of the constables, or other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol (or lock-up house) at _____

Whereas information was laid (or complaint was made) before _____, a justice of the peace in and for the district (or county, united counties, or as the case may be), of _____, for that, (&c., as in the summons or warrant);

And whereas the said A. B. has been apprehended, under and by virtue of a warrant, upon such information (or complaint), and is now brought before me as such justice as aforesaid: These are, therefore, to command you, or any one of the said constables or peace officers, in Her Majesty's name, forthwith to convey the said A. B. to the common gaol (or lock-up house) at _____, and there to deliver him to the said keeper thereof, together with this precept; And I do hereby command you, the said keeper, to receive the said A. B. into your custody in the said common gaol (or lock-up house), and there safely keep him until _____ next, the day of _____ (instant), when you are hereby commanded to convey and have him at _____, at _____ o'clock in the _____ noon of the same day, before me, or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as shall then be there, to answer to the said information (or complaint), and to be further dealt with according to law.

Given under (my) hand and seal, this day of
 in the year , at , in the district (or county,
 or as the case may be), aforesaid.

J.S. [L.S.]

(G.)

WARRANT OF COMMITMENT FOR SAFE CUSTODY DURING AN ADJOURN-
 MENT OF THE HEARING.

Canada.
 Province of)
 district (or county,)
 united counties, or)
 as the case may be,)
 of

To all or any of the constables or peace officers in the district
 (or county, united counties, or as the case may be), of ,
 and to the keeper of the common gaol (or lock-up house)
 at

Whereas, on last past, information was laid (or com-
 plaint made) before , a justice of the peace in and
 for the said district (or county, united counties, or as the case
 may be), of , for that (&c., as in the summons); And
 whereas the hearing of the same is adjourned to the
 of (instant) at o'clock in the (fore) noon, at
 , and it is necessary that the said A.B. should, in the
 meantime, be kept in safe custody: These are, therefore, to
 command you, or any one of the said constables or peace
 officers, in Her Majesty's name, forthwith to convey the said
 A.B. to the common gaol (or lock-up house), at , and
 there deliver him into the custody of the keeper thereof, toge-
 ther with this precept; And I do hereby require you, the said
 keeper, to receive the said A.B. into your custody in the said
 common gaol (or lock-up house), and there safely keep him
 until the day of , (instant) when you are
 hereby required to convey and have him, the said A.B., at the
 time and place to which the said hearing is so adjourned as
 aforesaid, before such justices of the peace for the said district
 (or county, united counties, or as the case may be), as shall then
 be there, to answer further to the said information (or com-
 plaint), and to be further dealt with according to law.

Given under my hand and seal, this day of ,
 in the year , at , in the district (or county, &c.,
 as the case may be), aforesaid.

J.S. [L.S.]

(H.)

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT WHEN
THE CASE IS ADJOURNED OR NOT AT ONCE PROCEEDED WITH.

Canada.
Province of
district (or county,
united counties, or
as the case may be),
of

Be it remembered, that on _____, A.B., of
(labourer), and L.M., of _____ (grocer), and O.P. of
(yeoman), personally came and appeared before the under-
signed, _____, a justice of the peace in and for the said
district (or county, united counties, or as the case may be) of
_____, and severally acknowledged themselves to owe
to our Sovereign Lady the Queen the several sums following,
that is to say: the said A.B., the sum of _____, and the
said L.M. and O.P. the sum of _____, each, of good and
lawful current money of Canada, to be made and levied of
their several goods and chattels, lands and tenements respect-
ively, to the use of our said Lady the Queen, her heirs and
successors, if he, the said A.B., fails in the condition indorsed
(or hereunder written).

Taken and acknowledged the day and year first above men-
tioned at _____ before me.

J.S. [L.S.]

The condition of the within (or the above) written recogni-
zance is such that if the said A.B. personally appears on the
_____ day of _____, (instant) at _____ o'clock in the
(fore) noon, at _____, before me or such justices of the
peace for the said district (or county, united counties, or as the
case may be), as shall then be there, to answer further to the
information (or complaint) of C. D.. exhibited against the said
A.B., and to be further dealt with according to law, then the
said recognizance to be void, otherwise to remain in full force
and virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT
AND HIS SURETIES.

Take notice that you, A.B., are bound in the sum of _____
, and you, L.M. and O.P., in the sum of _____ each,
that you A.B., appear personally on _____ at _____ o'clock in
the (fore) noon at _____, before me or such justice of the
peace for the district (or county, united counties, or as the case
may be), of _____, as shall then be
there, to answer further to a certain information (or com-

plaint of C. D., the further hearing of which was adjourned to the said time and place, and unless you appear accordingly, the recognizance entered into by you, A. B., and by L. M. and O. P. as your sureties, will forthwith be levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____

J. S. [L. s.]

(J. 1.)

CONVICTION FOR A PENALTY TO BE LEVIED BY DISTRESS, AND, IN DEFAULT OF SUFFICIENT DISTRESS, BY IMPRISONMENT.

Canada. }
Province of }
district (or county, }
united counties, or }
as the case may be), }
of }

Be it remembered, that on the _____ day of _____ in the year _____, at _____ in the said district (or county, united counties, or as the case may be), A. B. is convicted before the undersigned, _____, a justice of the peace for the said district (or county, united counties, or as the case may be), for that the said A. B. (&c., stating the offence, and the time and place when and where committed), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (stating the penalty, and also the compensation, if any), to be paid and applied according to law, and also to pay to the said C. D. the sum of _____, for his costs in this behalf; and if the said several sums are not paid forthwith, (or on or before the _____ of _____ next), * I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____ in the said district (or county) of _____ (there to be kept at hard labour, if such is the sentence) for the term of _____ unless the said several sums and all costs and charges of the said distress (and of the commitment and conveying of the said A. B. to the said gaol) are sooner paid.

Given under (my) hand and seal, the day and year first above mentioned, at _____, in the district (or county, united counties, or as the case may be), as aforesaid.

J. S. [L. s.]

* Or when the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears he has no goods whereon to levy a distress, then instead of the words between the asterisks * * say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A.B. and his family," [or, "that the said A. B. has no goods or chattels whereon to levy the said sums by distress"], I adjudge, &c., [as above, to the end].

(J. 2.)

CONVICTION FOR A PENALTY, AND, IN DEFAULT OF PAYMENT,
IMPRISONMENT.

Canada.
Province of
district (or county,
united counties, or
as the case may be),
of

Be it remembered, that on the _____ day of _____ in the year _____, at _____, in the said district (or county, united counties, or as the case may be), A. B. is convicted before the undersigned, _____, a justice of the peace for the said district (or county, united counties, or as the case may be), for that he the said A. B. (&c., stating the offence, and the time and place when and where it was committed), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (stating the penalty and the compensation, if any), to be paid and applied according to law; and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums are not paid forthwith (or, on or before _____ next), I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____ in the said district (or county) of _____ (and there to be kept at hard labour) for the term of _____, unless the said sums and the costs and charges of conveying the said A. B. to the said common gaol are sooner paid.

Given under (my) hand and seal, the day and year first above mentioned, at _____ in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L. s.]

(J. 3.)

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, ETC.

Canada.
 Province of
 district (or county,
 united counties, or
 as the case may be),
 of

Be it remembered, that on the _____ day of _____ in the year _____, in the said district (or county, united counties, or as the case may be), A. B. is convicted before the undersigned, _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), for that he the said A. B. (&c., stating the offence, and the time and place when and where it was committed); and I adjudge the said A. B. for his said offence to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____ in the county of _____ (and there to be kept at hard labour) for the term of _____; and I also adjudge the said A. B. to pay to the said C. D. the sum of _____, for his costs in this behalf, and if the said sum for costs are not paid forthwith (or on or before _____ next,) then * I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the said common gaol (and kept there at hard labour) for the term of _____, to commence at and from the term of his imprisonment aforesaid, unless the said sum for costs is sooner paid.

Given under (my) hand and seal, the day and year first above mentioned at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L.S.]

* Or, when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks * * say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," (or, "that the said A. B. has no goods or chattels whereon to levy the said sum for costs by distress") I adjudge, &c.

(K 1.)

ORDER FOR PAYMENT OF MONEY TO BE LEVIED BY DISTRESS, AND,
IN DEFAULT OF DISTRESS, IMPRISONMENT.

Canada.
Province of
district (or county,
united counties, or
as the case may be),
of

Be it remembered, that on _____, complaint was made before the undersigned, _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (stating the facts entitling the complainant to the order, with the time and place when and where they occurred), and now at this day, to wit, on _____ at _____; the parties aforesaid appear before me the said justice (or, the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me on oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here on this day before me or such justice or justices of the peace for the district (or county, united counties, or as the case may be), as should now be here, to answer the said complaint, and to be further dealt with according to law), and now having heard the matter of the said complaint, I do adjudge the said A.B. to pay to the said C.D. the sum of

_____ forthwith (or on or before _____ next, or as the Act or law requires), and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before _____ next), then, * I hereby order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress in that behalf,* I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county) of _____, (and there kept at hard labour) for the term of _____, unless the said several sums, and all costs and charges of the said distress (and the commitment and conveyance of the said A. B. to the said common gaol) are sooner paid.

Given under (my) hand and seal, this _____ day of _____ in the year _____, at _____ in the district (or county, or as the case may be), aforesaid.

J. S. [L.S.]

* Or, when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears he has no goods whereon to levy a distress, then, instead of the words between the asterisks ** say, "inasmuch as it is now made to appear

to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family," (or, "that the said A. B. has no goods or chattels whereon to levy the said sums by distress.")

(K. 2.)

ORDER FOR PAYMENT OF MONEY, AND, IN DEFAULT OF PAYMENT,
IMPRISONMENT.

Canada.
Province of
district (or county,
united counties (or
as the case may be),
of

Be it remembered, that on _____, complaint was made before the undersigned, _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be) of _____, for that (stating the facts entitling the complainant to the order, with the time and place when and where they occurred), and now on this day, to wit, on _____, at _____, the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me upon oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here this day before me, or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as should now be here, to answer to the said complaint, and to be further dealt with according to law), and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of _____ forthwith (or on or before _____ next, or as the Act or law requires), and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before _____ next), then I adjudge the said A. B. to be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county) of _____ (there to be kept at hard labour, if the Act or law authorizes this) for the term of _____ unless the said several sums (and costs and charges of commitment and conveying the said A. B. to the said common gaol) are sooner paid.

Given under (my) hand and seal this _____ day of _____ in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L. s.]

(K. 3.)

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING OF IT IS PUNISHABLE WITH IMPRISONMENT.

Canada.

Province of
 district (or county,
 united counties, or
as the case may be),
 of

Be it remembered, that on _____, complaint was made before the undersigned, _____, a justice of the peace in and for the said district (or county, united counties, or *as the case may be*), of _____, for that (*stating the facts entitling the complainant to the order, with the time and place where and when they occurred*); and now on this day, to wit, on _____, at _____, the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me, upon oath, that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here this day before me, or such justice or justices of the peace for the said district (or county, united counties, or *as the case may be*), as should now be here, to answer to the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. to (*here state the matter required to be done*), and if, upon a copy of the minute of this order being served upon the said A. B., either personally or by leaving the same for him at his last or most usual place of abode, he neglects or refuses to obey the same, in that case I adjudge the said A. B., for such his disobedience, to be imprisoned in the common gaol of the said district (or county, united counties, or *as the case may be*), at _____, in the said county of _____ (there to be kept at hard labour, *if the statute authorizes this*), for the term of _____ unless the said order is sooner obeyed; and I do also adjudge the said A. B. to pay to the said C. D. the sum of _____, for his costs in this behalf, and if the said sum for costs is not paid forthwith (or on or before _____ next), I order the same to be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress in that behalf, I adjudge the said A. B. to be imprisoned in the said common gaol (there to be kept at hard labour) for the space of _____, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs is sooner paid.

Given under (my) hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or *as the case may be*), aforesaid.

J. S. [L s.]

(L.)

FORM OF ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada.
 Province of
 district (or county,
 united counties, or
as the case may be),
 of

Be it remembered, that on _____, information was laid
 (or complaint was made) before the undersigned, _____ a
 justice of the peace in and for the said district (or county,
 united counties, or *as the case may be*), of _____, for that
 (*etc., as in the summons of the defendant*) and now at this day,
 to wit, on _____, at _____, (if at any adjournment
insert here: "to which day the hearing of this case was duly
adjourned, of which the said C.D. had due notice"), both the
 said parties appear before me in order that I should hear and
 determine the said information (or complaint) (or the said A.B.
 appears before me, but the said C.D., although duly called,
 does not appear); [whereupon the matter of the said informa-
 tion (or complaint) being by me duly considered, it manifestly
 appears to me that the said information (or complaint) is not
 proved, and] (*if the informant (or complainant) does not appear,*
these words may be omitted), I do therefore dismiss the same,
 and do adjudge that the said C.D. do pay to the said A.B. the
 sum of _____, for his costs incurred by him in defence in
 his behalf; and if the said sum for costs is not paid forthwith
 (or on or before _____), I order that the same be levied
 by distress and sale of the goods and chattels of the said C.D.,
 and in default of sufficient distress in that behalf, I adjudge the
 said C.D. to be imprisoned in the common gaol of the said
 district (or county, united counties, or *as the case may be*), of
 _____, at _____, in the said (county) of _____ (and
 there kept at hard labour) for the term of _____, unless
 the said sum for costs, and all costs and charges of the said
 distress (and of the commitment and conveying of the said
 C.D. to the said common gaol) are sooner paid.

Given under my hand and seal, this _____ day of
 in the year _____, at _____, in the district (or county,
 united counties, or *as the case may be*), aforesaid.

J. S. [L.S.]

(M.)

FORM OF CERTIFICATE OF DISMISSAL.

I hereby certify that an information (or complaint) preferred by C.D. against A.B. for that (&c., as in the summons) was this day considered by me, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, and was by me dismissed (with costs).

Dated this _____ day of _____, one thousand

J. S.

(N. 1.)

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

Canada.
Province of
district (or county,
united counties, or
as the case may be),
of

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

Whereas A.B., late of _____ (labourer) was on this day (or on _____ last past) duly convicted before a justice of the peace, in and for the said district (or county, united counties, or as the case may be), of _____, for that (stating the offence, as in the conviction), and it was thereby adjudged that the said A.B. should for such his offence, forfeit and pay (&c., as in the conviction), and should also pay to the said C.D. the sum of _____, for his costs in that behalf; and it was thereby ordered that if the said several sums were not paid (forthwith) the same should be levied by distress and sale of the goods and chattels of the said A.B., and it was thereby also adjudged that the said A.B., in default of sufficient distress, should be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said county of _____ (and there kept at hard labour) for the space of _____, unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A.B. to the said common gaol were sooner paid; *And whereas the said A.B., being so convicted as aforesaid, and being (now) required to pay the said sums of _____ and _____ has not paid the same or any part thereof, but therein has made default:

These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B. ; and if within _____ days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale unto me (*the convicting justice, or one of the convicting justices*) that I may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A. B. ; and if no such distress is found, then to certify the same unto me, that such further proceedings may be had thereon as to law appertain.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, or as the case may be), aforesaid.

J. S. [L.S.]

(N. 2.)

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

Canada.
Province of _____ }
district (or county, }
united counties, or }
as the case may be), }
of _____

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

Whereas on _____, last past, a complaint was made before _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), for that (&c., as in the order), and afterwards to wit, on _____, at _____, the said parties appeared before _____ (as in the order), and thereupon the matter of the said complaint having been considered, the said A. B. was adjudged (to pay to the said C. D. the sum of _____, on or before _____ then next), and also to pay to the said C. D. the sum of _____, for his costs in that behalf; and it was ordered that if the said several sums were not paid on or before the said _____ then next, the same should be levied by distress and sale of the goods and chattels of the said A.B. ; and it was adjudged that in default of sufficient distress in that behalf, the said A. B. should be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in _____

the said county of _____ (and there kept at hard labour)
 for the term of _____, unless the said several sums
 and all costs and charges of the distress (and of the commit-
 ment and conveying of the said A. B. to the said common
 gaol) were sooner paid; *And whereas the time in and by
 the said order appointed for the payment of the said several
 sums of _____, and _____ has elapsed, but the said
 A. B. has not paid the same, or any part thereof, but therein
 has made default: These are, therefore, to command you, in
 Her Majesty's name, forthwith to make distress of the goods
 and chattels of the said A. B.; and if within the space of
 _____ days after the making of such distress, the said
 last mentioned sums, together with the reasonable charges of
 taking and keeping the said distress, are not paid, then to sell
 the said goods and chattels so by you distrained, and to pay
 the money arising from such sale unto me (or some other of the
 convicting justices, as the case may be), that I (or he) may pay
 and apply the same as by law directed, and may render the
 overplus, if any, on demand to the said A. B.; and if no such
 distress can be found, then to certify the same unto me, to the
 end that such proceedings may be had therein as to law
 appertain.

Given under my hand and seal, this _____ day of _____,
 in the year _____, at _____, in the district (or
 county, or as the case may be), aforesaid.

J. S. [L. s.]

(N. 3.)

INDORSEMENT IN BACKING A WARRANT OF DISTRESS or of commitment.
 (title amended by 52 V., c. 45, s. 3.)

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be), }
 of }

Whereas proof upon oath has this day been made before
 me, _____, a justice of the peace in and for the said dis-
 trict (or county, united counties, or as the case may be), that
 the name of J. S. to the within warrant subscribed is of the
 handwriting of the justice of the peace within mentioned, I
 do therefore authorize U. T., who brings me this warrant, and
 all other persons to whom this warrant was originally directed,
 or by whom the same may be lawfully executed, and also all
 constables and other peace officers in the said district (or
 county, united counties, or as the case may be), of
 to execute the same within the said district (or county, united
 counties, or as the case may be).

Given under my hand, this _____ day of _____, one
 thousand eight hundred and _____

O. K.

(N. 4.)

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W.T., constable of _____, in the district (or county, united counties, or as the case may be), of _____, hereby certify to J.S., Esquire, a justice of the peace in and for the district (or county, united counties, or as the case may be), of _____, that by virtue of this warrant I have made diligent search for the goods and chattels of the within mentioned A.B., and that I can find no sufficient goods or chattels of the said A.B. whereon to levy the sums within mentioned.

Witness my hand, this _____ day of _____, one thousand eight hundred and _____

W.T.

(N. 5.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

Canada. }
 Province of }
 district (or county, }
 united counties, or }
 as the case may be, }
 of }

To all or any of the constables, or other peace officers in the district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), of _____, at _____, in the said district (or county) of _____

Whereas (&c., as in either of the foregoing distress warrants, N1, N2, to the asterisk*, and then thus): And whereas, afterwards on the _____ day of _____, in the year aforesaid, I, the said justice, issued a warrant to all or any of the constables or other peace officers of the district (or county, united counties, or as the case may be), of _____, commanding them, or any of them, to levy the said sums of _____ and _____ by distress and sale of the goods and chattels of the said A.B.; And whereas it appears to me, as well by the return of the said warrant of distress, by the constable who had the execution of the same, as otherwise, that the said constable has made diligent search for the goods and chattels of the said A.B., but that no sufficient distress whereon to levy the sums above mentioned could be found: These are, therefore, to command you, the said constables or peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at _____ aforesaid, and there deliver him to the said keeper, together with

this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A.B. into your custody, in the said common gaol, there to imprison him (and keep him at hard labour) for the term of _____, unless the said several sums, and all the costs and charges of the said distress (and of the commitment and conveying of the said A.B. to the said common gaol) amounting to the further sum of _____, are sooner paid unto you, the said keeper; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J.S. [L.S.]

(O. 1.)

WARRANT OF COMMITMENT UPON A CONVICTION FOR A PENALTY IN THE FIRST INSTANCE.

Canada.
Province of _____
district (or county,
united counties, or
as the case may be),
of _____

To all or any of the constables and other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), of _____, at _____, in the said district (or county) of _____

Whereas A.B., late of _____ (labourer), was on this day convicted before the undersigned _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), for that (stating the offence, as in the conviction), and it was thereby adjudged that the said A.B., for his offence, should forfeit and pay the sum of _____ (&c., as in the conviction), and should pay to the said C.D. the sum of _____, for his costs in that behalf; and it was thereby further adjudged that if the said several sums were not paid (forthwith) the said A.B. should be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), at _____, in the said district (or county) of _____ (and there kept at hard labour) for the term of _____, unless the said several sums (and the costs and charges of conveying the said A.B. to the said common gaol) were sooner paid; And whereas the time in and by the said conviction appointed for the payment of the said several sums has elapsed, but the said

A. B. has not paid the same, or any part thereof, but therein has made default : These are, therefore, to command you, the said constables or peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at aforesaid, and there to deliver him to the said keeper thereof, together with this precept : And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour) for the term of _____, unless the said several sums (and costs and charges of carrying him to the said common gaol, amounting to the further sum of _____), are sooner paid unto you, the said keeper ; and for your so doing, this shall be your sufficient warrant.

Given under (my) hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.
J. S. [L. S.]

(O. 2.)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Canada.
Province of _____
district (or county, united counties, or as the case may be),
of _____

To all or any of the constables and other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol of the district (or county, united counties, or as the case may be), of _____, at _____, in the said district (or county) of _____

Whereas, on _____ last past, complaint was made before the undersigned _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (&c., as in the order), and afterwards, to wit, on the _____ day of _____, at _____, the parties appeared before me, the said justice (or as it is in the order), and thereupon, having considered the matter of the complaint, I adjudged the said A. B. to pay the said C. D. the sum of _____, on or before the _____ day of _____ then next, and also to pay to the said C. D. the sum of _____, for his costs in that behalf ; and I also thereby adjudged that if the said several sums were not paid on or before the _____ day of _____ then next, the said A. B. should be imprisoned in the common gaol of the district (or county, united counties,

or as the case may be), of _____, at _____, in the said county of _____ (and there be kept at hard labour) for the term of _____, unless the said several sums (and the costs and charges of conveying the said A. B. to the said common gaol, *as the case may be*), were sooner paid; And whereas the time in and by the said order appointed for the payment of the said several sums of money has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, the said constables and peace officers, or any of you, to take the said A. B. and him safely to convey to the said common gaol, at _____ aforesaid, and there to deliver him to the keeper thereof, together with this precept; And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour) for the term of _____, unless the said several sums (and the costs and charges of conveying him to the said common gaol, amounting to the further sum of _____), are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [i. s.]

(P. 1.)

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR DISMISSAL OF AN INFORMATION OR COMPLAINT.

Canada.
Province of _____
district (or county,
united counties, or
as the case may be),
of _____

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

Whereas on _____ last past, information was laid (or complaint was made) before _____ a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, for that (*dec.*, *as in the order of dismissal*) and afterwards, to wit, on _____ at _____, both parties appearing before _____, in order that (I) should hear and determine the same, and the several proofs adduced to (me) in that behalf, being by (me) duly heard and considered, and it manifestly appearing to (me) that the said information (or complaint) was not proved, (I) therefore dismissed

the same and adjudged that the said C. D. should pay to the said A. B. the sum of _____, for his costs incurred by him in his defence in that behalf; and (I) ordered that if the said sum for costs was not paid (forthwith) the same should be levied on the goods and chattels of the said C. D., and (I) adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be), of _____, at _____, in the said district or county of _____ (and there kept at hard labour) for the space of _____, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said common gaol, were sooner paid; *And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said C. D., and if within the term of _____ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale to me (the justice who made such order or dismissal, as the case may be) that (I), may pay and apply the same as by law directed, and may render the overplus (if any) on demand to the said C. D., and if no distress can be found, then to certify the same unto me (or to any other justice of the peace for the same district or county, united counties, or as the case may be), that such proceedings may be had therein as to law appertain.

Given under my hand and seal this _____ day of _____ in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L. S.]

(P. 2.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
LAST CASE.

Canada.
Province of _____ }
district (or county, }
united counties, or }
as the case may be), }
of _____

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), of _____, at _____, in the said district (or county) of _____

Whereas (&c., as in the last form, to the asterisk, * and then thus): And whereas afterwards, on the _____ day of _____, in the year aforesaid, I, the said justice, issued a warrant to all or any of the constables or other peace officers of the said district (or county, united counties, or as the case may be), commanding them, or any one of them, to levy the said sum of _____, for costs, by distress and sale of the goods and chattels of the said C. D.: And whereas it appears to me, as well by the return to the said warrant of distress of the constable (or peace officer) charged with the execution of the same, as otherwise, that the said constable has made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found: These are, therefore, to command you, the said constables and peace officers, or any one of you, to take the said C. D., and him safely convey to the common gaol of the said district (or county, united counties, or as the case may be), at _____ aforesaid, and there deliver him to the keeper thereof, together with this precept; And I hereby command you, the said keeper of the said common gaol, to receive the said C. D. into your custody in the said common gaol, there to imprison him (and keep him at hard labour) for the term of _____, unless the said sum, and all the costs and charges of the said distress (and of the commitment and conveying of the said C. D. to the said common gaol, amounting to the further sum of _____), are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year _____, at _____, in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L. S.]

(Q.)

CERTIFICATE OF NON-APPEARANCE TO BE INDORSED ON THE
DEFENDANT'S RECOGNIZANCE.

I hereby certify that the said A. B. has not appeared at the time and place in the said condition mentioned, but therein has made default, by reason whereof the within written recognizance is forfeited.

J. S. [L. S.]
J. P.

(R.)

NOTICE OF APPEAL AGAINST A CONVICTION OR ORDER.

To C. D., of, &c., and —— (the names and additions of the parties to whom the notice of appeal is required to be given).

Take notice, that I, the undersigned, A. B., of intend to enter and prosecute an appeal at the next General Sessions of the Peace (or other court, as the case may be), to be holden at _____, in and for the district (or county, united counties, or as the case may be), of _____, against a certain conviction (or order) bearing date on or about the _____ day of _____, instant, and made by (you) C.D., Esquire, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, whereby I, the said A.B. was convicted of having (or was ordered) to pay _____, (here state the offence as in the conviction, information, or summons, or the amount adjudged to be paid, as in the order, as correctly as possible).

Dated this _____ day of _____, one thousand eight hundred and _____.

A. B.

MEMORANDUM.—If this notice is given by several defendants, or by an attorney, it may be adapted to the case.

(S.)

FORM OF RECOGNIZANCE TO TRY THE APPEAL.

Be it remembered, that on _____, A.B., of _____ (labourer), and L.M., of _____, (grocer), and N.O., of _____, (yeoman), personally came before the undersigned _____, a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said A.B. the sum of _____, and the said L.M. and N.O. the sum of _____, each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if the said A.B. fails in the condition indorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned at _____, before me.

J. S.

The condition of the within (or the above) written recognizance is such that if the said A.B. personally appears at the

(next) General Sessions of the Peace (or other court discharging the functions of the court of General Sessions, as the case may be), to be holden at _____, on the _____ day of _____ next, in and for the said district (or county, united counties, or as the case may be), of _____, and tries an appeal against a certain conviction, bearing date the _____ day of _____ instant, and made by (me) the said justice, whereby he, the said A.B., was convicted, for that he, the said A.B., did, on the _____ day of _____, at the township of _____, in the said district (or county, united counties, or as the case may be), of _____, (here set out the offence as stated in the conviction); and also abides by the judgment of the court upon such appeal and pays such costs as are by the court awarded, then the said recognizance to be void, otherwise to remain in full force and virtue.

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE
DEFENDANT (APPELLANT) AND HIS SURETIES.

Take notice, that you, A.B., are bound in the sum of _____, and you L. M. and N. O. in the sum of _____, each, that you the said A. B. will personally appear at the next General Sessions of the Peace to be holden at _____, in and for the said district (or county, united counties, or as the case may be), of _____, and try an appeal against a conviction (or order) dated the _____ day of _____ (instant) whereby you A. B. were convicted of (or ordered, &c.), (stating offence or the subject of the order shortly), and abide by the judgment of the court upon such appeal and pay such costs as are by the court awarded, and unless you the said A. B. personally appear and try such appeal and abide by such judgment and pay such costs accordingly, the recognizance entered into by you will forthwith be levied on you, and each of you.

Dated this _____ day of _____, one thousand eight hundred and _____.

(T.)

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF AN
APPEAL ARE NOT PAID.

Office of the clerk of the peace for the district (or county, united counties, or as the case may be), of _____

Title of the Appeal.

I hereby certify, that at a court of General Sessions of the Peace, (or other court discharging the functions of the Court of General Sessions, as the case may be), holden at _____

in and for the said district (or county, united counties, or as the case may be), on _____ last past, an appeal by A. B. against a conviction (or order) of J. S., Esquire, a justice of the peace in and for the said district (or county, united counties, or as the case may be), came on to be tried, and was there heard and determined, and the said court of General Sessions (or other court, as the case may be), thereupon ordered that the said conviction (or order) should be confirmed (or quashed), and that the said (appellant) should pay to the said (respondent) the sum of _____, for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the clerk of the peace for the said district (or county, united counties, or as the case may be), on or before the _____ day of _____ instant, to be by him handed over to the said (respondent), and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated this _____ day of _____, one thousand eight hundred and _____

G. H.,
Clerk of the Peace.

(U. 1.)

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST A
CONVICTION OR ORDER.

Canada.
Province of _____
district (or county,
united counties, or
as the case may be),
of _____

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

Whereas (&c., as in the warrants of distress, N 1, N 2, ante, and to the end of the statement of the conviction or order, and then thus): And whereas the said A. B. appealed to the court of General Sessions of the Peace (or other court discharging the functions of the Court of General Sessions, as the case may be) for the said district (or county, united counties, or as the case may be), against the said conviction or order, in which appeal the said A. B. was the appellant, and the said C. D. (or J. S., Esquire, the justice of the peace who made the said conviction or order) was the respondent, and which said appeal came on to be tried and was heard and determined at the last General Sessions of the Peace (or other court,

as the case may be) for the said district (or county, united counties, or as the case may be), holden at _____, on _____; and the said court thereupon ordered that the said conviction (or order) should be confirmed (or quashed) and that the said (appellant) should pay to the said (respondent) the sum of _____, for his costs incurred by him in the said appeal, which said sum was to be paid to the clerk of the peace for the said district (or county, united counties, or as the case may be), on or before the _____ day of _____, one thousand eight hundred and _____, to be by him handed over to the said C.D.; and whereas the clerk of the peace of the said district (or county, united counties, or as the case may be), has, on the _____ day of _____ instant, duly certified that the said sum for costs had not been paid:* These are, therefore, to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B., and if, within the term of _____ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale to the clerk of the peace for the said district (or county, united counties, or as the case may be), of _____, that he may pay and apply the same as by law directed; and if no such distress can be found, then to certify the same unto me or any other justice of the peace for the same district (or county, united counties, or as the case may be), that such proceedings may be had therein as to law appertain.

Given under my hand and seal, this _____ day of _____ in the year _____, at _____, in the district (or county, or as the case may be), aforesaid.

O. K. [L.S.]

(U. 2.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
LAST CASE.

Canada.

Province of _____
district (or county,
united counties, or
as the case may be),
of _____

To all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of _____, and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), of _____, at _____, in the said county of _____

Whereas (&c., as in the last form, to the asterisk,* and then thus): And whereas, afterwards, on the day of in the year aforesaid, I, the undersigned, issued a warrant to all or any of the constables or other peace officers in the said district (or county, united counties, or as the case may be), of , commanding them, or any of them, to levy the said sum of , for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said warrant of distress of the constable (or peace officer) who was charged with the execution of the same, as otherwise, that the said constable has made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found: These are, therefore, to command you, the said constables or peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol of the said district, (or county, united counties, or as the case may be), of at aforesaid, and there deliver him to the said keeper thereof, together with this precept; And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour) for the term of , unless the said sum and all costs and charges of the said distress (and for the commitment and conveying of the said A. B. to the said common gaol, amounting to the further sum of), are sooner paid unto you, the said keeper; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year , at , in the district (or county, united counties, or as the case may be), aforesaid.

J. N. [L.S.]

V.

RETURN of convictions made by me (or us, as the case may be),
during the quarter ending 18 .

Name of the Prosecutor.	Name of the Defendant.	Nature of the Charge.	Date of Conviction.	Name of Convicting Justice.	Amount of Penalty, Fine or Damage.	Time when paid or to be paid to the said Justice.	To whom paid over by the said Justice.	If not paid, why not, and general observations, if any.

A. B., Convicting Justice,

or

A. B. and C. D., Convicting Justices, (as the case may be).
32-35 V., c. 31, s. 76, part, and sch., part ;—33 V., c. 27, s. 4.

W.

TARIFF OF FEES.

Added by 52 V., c. 45, s. 7, q. v.



CHAPTER 179.

A. D. 1886.

An Act respecting Recognizances.

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

Surety may obtain order to render.

1. Any surety for any person charged with any indictable offence may, upon affidavit showing the grounds therefor, with a certified copy of the recognizance, obtain from a judge of a superior court or from a judge of a county court having criminal jurisdiction, an order in writing under his hand, to render such person to the common gaol of the county where the offence is to be tried. 1 R. S. N. B., c. 157, s. 1.

Sureties may arrest, &c.

2. The sureties, under such order, may arrest such person, and deliver him, with the order, to the gaoler named therein, who shall receive and imprison him in the said gaol, and shall be charged with the keeping of such person until he is discharged by due course of law. 1 R. S. N. B., c. 157, s. 2.

Application for admission to bail.

3. The person rendered may apply to a judge of a superior court, or in cases in which a judge of a county court may admit to bail, to a judge of a county court, to be again admitted to bail, who may on examination allow or refuse the same, and make such order as to the number of the sureties and the amount of recognizance as he deems meet,—which order shall be dealt with in the same manner as the first order for bail, and so on as often as the case requires. 1 R. S. N. B., c. 157, s. 3.

Entry of such render.

4. On due proof of such render, and certificate of the sheriff, proved by the affidavit of a subscribing witness, that such person has been so rendered, a judge of the superior or county court, as the case may be, shall order an entry of such render to be made on the recognizance by the officer in charge thereof, which shall vacate the recognizance, and may be pleaded or alleged in discharge thereof. 1 R. S. N. B., c. 157, s. 4.

Effect of entry.

Render in open court.

5. The sureties may bring the person charged as aforesaid into the court at which he is bound to appear, during the sitting thereof, and then, by leave of the court, render him in discharge of such recognizance at any time before

trial, and such person shall be committed to gaol, there to remain until discharged by due course of law ; but such court may admit such person to bail for his appearance at any time it deems meet. 1 R. S. N. B., c. 157, s. 5.

6. The arraignment or conviction of any person charged and bound as aforesaid, shall not discharge the recognizance, but the same shall be effectual for his appearance for trial or sentence, as the case may be ; and the court may commit such person to gaol upon his arraignment or trial, or may require new or additional sureties for his appearance for trial or sentence, as the case may be, notwithstanding such recognizance ; and such commitment shall be a discharge of the sureties. 1 R. S. N. B., c. 157, s. 6.

Arraignment or conviction not to discharge recognizance.

7. Nothing in the foregoing provisions shall limit or restrict any right which a surety now has of taking and rendering to custody any person charged with any such offence, and for whom he is such surety.

Other rights not affected.

8. Unless otherwise provided, all fines, issues, amercements and forfeited recognizances, the disposal of which is within the legislative authority of the Parliament of Canada, set, imposed, lost or forfeited before any court of criminal jurisdiction shall, within twenty-one days after the adjournment of such court be fairly entered and extracted on a roll by the clerk of the court, or in case of his death or absence, by any other person, under the direction of the judge who presided at such court,—which roll shall be made in duplicate and signed by the clerk of the court, or in case of his death or absence, by such judge :

Fines, forfeited recognizances, &c. to be entered on a roll. [3 G. IV, c. 46, s. 2.]

2. If such court is a superior court of criminal jurisdiction, one of such rolls shall be filed with the clerk, prothonotary, registrar or other proper officer,—

With whom roll shall be filed.

(a.) In the Province of Ontario, of a division of the High Court of Justice,—

(b.) In the Provinces of Nova Scotia, New Brunswick and British Columbia, of the Supreme Court of the Province,—

(c.) In the Province of Prince Edward Island, of the Supreme Court of Judicature of that Province,—

(d.) In the Province of Manitoba, of the Court of Queen's Bench of that Province, and,—

(e.) In the North-West Territories, of the Supreme Court of the said Territories,—

On or before the first day of the term next succeeding the court by or before which such fines or forfeitures were imposed or forfeited :

Time for filing.

3. If such court is a court of General Sessions of the Peace, or a county court, one of such rolls shall remain deposited in the office of the clerk of such court. C. S. U. C., c. 117, ss. 1 and 2, part, 3 and 4, part ;—49 V., c. 25, s. 14.

Copy with clerk of certain courts.

Duplicate to be transmitted to sheriff.

9. The other of such rolls shall, as soon as the same is prepared, be sent by the clerk of the court making the same, or in case of his death or absence, by such judge as aforesaid, with a writ of *feri facias* and *capias*, according to the form in the schedule to this Act, to the sheriff of the county in and for which such court was holden ; and such writ shall be authority to the sheriff for proceeding to the immediate levying and recovering of such fines, issues, amercements and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made ; and every person so taken shall be lodged in the common gaol of the county, until satisfaction is made, or until the court into which such writ is returnable, upon cause shown by the party, as hereinafter mentioned, makes an order in the case, and until such order has been fully complied with. C. S. U. C., 117, ss. 2, *part*, 4, *part*, and 5.

Powers of the sheriff thereunder.
[7 G. IV, c. 46, s. 2.]

List of estreats to be prepared.
[7 G. IV, c. 64, s. 31.]

10. If any person bound by recognizance for his appearance (or for whose appearance any other person has become so bound) to prosecute or given evidence in any case of felony or misdemeanour, or to answer for any common assault, or to articles of the peace, makes default, the officer of the court by whom the estreats are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety, was so bound, together with the residence, trade, profession or calling of every such person and surety,—and shall, in such list, distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of the non-appearance of such person, the ends of justice have been defeated or delayed. C. S. C., c. 99, s. 120.

What the list shall set forth.

To be submitted to the judge.
[7 G. IV, c. 64, s. 31.]

11. Every such officer shall, before any such recognizance is estreated, lay such list before the judge or one of the judges who presided at the court, or if such court was not presided over by a judge, before two justices of the peace who attended at such court, and such judge or justices shall examine such list, and make such order touching the estreating or putting in process any such recognizance as appears just, subject, in the Province of Quebec, to the provisions hereinafter contained ; and no officer of any such court shall estreat or put in process any such recognizance without the written order of the judge or justices of the peace before whom respectively such list has been laid. C. S. C., c. 99, s. 121.

No estreat without order.

Court may forbear estreating recognizances

12. Except in the cases of persons bound by recognizance for their appearance, or for whose appearance any other person has become bound to prosecute or give evidence in any

case of felony or misdemeanour, or to answer for any common assault, or to articles of the peace, in every case of default whereby a recognizance becomes forfeited, if the cause of absence is made known to the court in which the person was bound to appear, the court, on consideration of such cause, and considering also, whether, by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated; and, with respect to all recognizances estreated, if it appears to the satisfaction of the judge who presided at such court that the absence of any person for whose appearance any recognizance was entered into, was owing to circumstances which rendered such absence justifiable, such judge may make an order directing that the sum forfeited upon such estreated recognizance shall not be levied. C. S. U. C., c. 117, s. 6, *part*.

under certain circumstances.

13. The clerk of the court shall, for such purpose, before sending to the sheriff any roll, with a writ of *fiery facias* and *capias*, as directed by this Act, submit the same to the judge who presided at the court, and such judge may make a minute on the said roll and writ of any such forfeited recognizances and fines as he thinks fit to direct not to be levied; and the sheriff shall observe the direction in such minute written upon such roll and writ, or indorsed thereon, and shall forbear accordingly to levy any such forfeited recognizance or fine. C. S. U. C., c. 117, s. 7.

Minute on roll by the judge and effect thereof.

14. If upon any writ issued under this Act, the sheriff takes lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place in less than twelve months from the time the writ came to the hands of the sheriff. C. S. U. C., c. 117, s. 8.

Proceedings when lands are seized.

15. The clerk of the court shall, at the foot of each roll made out as herein directed, make and take an affidavit in the following form, that is to say:—

Affidavit to be made by clerk of the court. [3 G. IV, c. 46, s. 3.]

“I, A. B. (*describing his office*), make oath that this roll is truly and carefully made up and examined, and that all fines, issues, amercements, recognizances and forfeitures which were set, lost, imposed or forfeited, at or by the court therein mentioned, and which, in right and due course of law, ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful discharge, omission, misnomer or defect whatsoever. So help me God;”

Which oath any justice of the peace for the county is hereby authorized to administer. C. S. U. C., c. 117, s. 9.

Release of a person or goods of a person in custody.
[3 G. IV, c. 46, s. 5.]

16. If any person on whose goods and chattels a sheriff, bailiff or other officer is authorized to levy any such forfeited recognizance, gives security to the said sheriff or other officer for his appearance at the return day mentioned in the writ, in the court into which such writ is returnable, then and there to abide the decision of such court, and also to pay such forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as are adjudged and ordered by the court, such sheriff or officer shall discharge such person out of custody; and if such person does not appear in pursuance of his undertaking, the court may forthwith issue a writ of *fi. facias* and *capias* against the surety or sureties of the person so bound as aforesaid. C. S. U. C., c. 117, s. 10.

Forfeited recognizances may be discharged under certain circumstances.
[3 G. IV, c. 46, s. 6.]

17. The court, into which any writ of *fi. facias* and *capias*, issued under this Act, is returnable, may inquire into the circumstances of the case, and may, in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as to such court appears just; and such order shall accordingly be a discharge to the sheriff, or to the party, according to the circumstances of the case. C. S. U. C., c. 117, s. 11.

Return of writ by the sheriff.
[3 G. IV, c. 46, s. 8.]

18. The sheriff, to whom any writ is directed under this Act, shall return the same on the day on which the same is made returnable, and shall state, on the back of the roll attached to such writ, what has been done in the execution thereof; and such return shall be filed in the court into which such return is made. C. S. U. C., c. 117, s. 12.

Copy of roll and return for Minister of Finance.

19. A copy of such roll and return, certified by the clerk of the court into which such return is made, shall be forthwith transmitted to the Minister of Finance and Receiver General, with a minute thereon of any of the sums therein mentioned, which have been remitted by order of the court, in whole or in part, or directed to be forborne, under the authority of this Act. C. S. U. C., c. 117, s. 13.

Payments by the sheriff.

20. The sheriff or other officer shall, without delay, pay over all moneys collected under this Act by him, to the Minister of Finance and Receiver General, or other person entitled to receive the same. C. S. U. C., c. 117, s. 14.

QUEBEC.

Provisions applicable to Quebec.

21. The provisions of sections eight and nine and of twelve to nineteen, both inclusive, shall not apply to the Province of Quebec, and the following provisions shall apply to that Province only.

22. Whenever default is made in the condition of any recognizance lawfully entered into or taken in any criminal case, proceeding or matter, in the Province of Quebec, within the legislative authority of the Parliament of Canada, so that the penal sum therein mentioned becomes forfeited and due to the Crown, such recognizance shall thereupon be estreated or withdrawn from any record or proceeding in which it then is—or a certificate or minute of such recognizance, under the seal of the court, shall be made from the records of such court where the recognizance has been entered into orally in open court :

Forfeited recognizances in criminal cases in Quebec to be estreated.

2. Such recognizance, certificate or minute, as the case may be, shall be transmitted by the court, recorder, justice of the peace, magistrate or other functionary before whom the cognizor, or the principal cognizor, where there is a surety or sureties, was bound to appear, or to do that, by his default to do which the condition of the recognizance is broken, to the Superior Court in the district in which the place where such default was made is included for civil purposes, with the certificate of the court, recorder, justice of the peace, magistrate or other functionary as aforesaid, of the breach of the condition of such recognizance, of which and of the forfeiture to the Crown of the penal sum therein mentioned, such certificate shall be conclusive evidence :

And certified to Superior Court.

3. The date of the receipt of such recognizance or minute and certificate by the prothonotary of the said court, shall be indorsed thereon by him, and he shall enter judgment in favour of the Crown against the cognizor for the penal sum mentioned in such recognizance, and execution may issue therefor after the same delay as in other cases, which shall be reckoned from the time when the judgment is entered by the prothonotary of the said court :

Judgment for the Crown to be entered.

4. Such execution shall issue upon fiat or *precipe* of the Attorney General, or of any person thereunto authorized in writing by him ; and the Crown shall be entitled to the costs of execution and to costs on all proceedings in the case subsequent to execution, and to such costs for the entry of the judgment, as are fixed by any tariff :

Execution to issue on fiat of Attorney General.

5. Nothing in this section contained shall prevent the recovery of the sum forfeited by the breach of any recognizance from being recovered by suit in the manner provided by law, whenever the same cannot, for any reason, be recovered in the manner provided in this section :

Other modes of recovery not affected.

6. In such case the sum forfeited by the non-performance of the conditions of such recognizance shall be recoverable, with costs, by action in any court having jurisdiction in civil cases to the amount, at the suit of the Attorney General of Canada or of Quebec, or other person or officer authorized to sue for the Crown ; and in any such action it shall be held that the person suing for the Crown is duly empowered so to do, and that the conditions of the recognizance were not performed, and that the sum therein mentioned is, therefore, due to the Crown, unless the defendant proves the contrary :

Proceedings in such case.

Cognizor
defined.

7. In this section, unless the context otherwise requires, the expression "cognizor" includes any number of cognizors in the same recognizance, whether as principals or sureties. C.S. L.C., c. 106, s. 2.

Recogni-
zances trans-
mitted to have
the same effect
as if taken
where the
court is held.

23. When a person has been arrested in any district for a crime or offence committed within the limits of the Province of Quebec, and a justice of the peace has taken recognizances from the witnesses heard before him or another justice of the peace, for their appearance at the next session or term of the court of competent criminal jurisdiction, before which such person is to undergo his trial, there to testify and give evidence on such trial, and such recognizances have been transmitted to the office of the clerk of such court, the said court may proceed on the said recognizances in the same manner as if they had been taken in the district in which such court is held. C.S.L. C., c. 106, s. 1.

SCHEDULE.

FORM.

Victoria, by the Grace of God, &c.

To the sheriff of _____, Greeting :

You are hereby commanded to levy of the goods and chattels, lands and tenements, of all and singular, the persons mentioned in the roll or extract to this writ annexed, all and singular the debts and sums of money upon them severally imposed and charged, as therein is specified ; and if any of the said several debts cannot be levied, by reason that no goods or chattels, lands or tenements can be found belonging to the said persons, respectively, then, and in all such cases, that you take the bodies of such persons, and keep them safely in the gaol of your county, there to abide the judgment of our court (*as the case may be*) upon any matter to be shown by them, respectively, or otherwise to remain in your custody as aforesaid, until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said court, on the return day hereof, for which you will be held answerable ; and what you do in the premises make appear before us in our court (*as the case may be*), on the _____ day of _____ term next, and have then and there this writ. Witness, &c., A.B., clerk (*as the case may be*). C.S.U.C., c. 117, sch.



CHAPTER 180.

An Act respecting Fines and Forfeitures.

A. D. 1886.

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

- 1.** Whenever any pecuniary penalty or any forfeiture is imposed for any violation of any Act, and no other mode is prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable or enforceable, with costs, by civil action or proceeding at the suit of Her Majesty only, or of any private party suing as well for Her Majesty as for himself—in any form allowed in such case by the law of that Province in which it is brought—before any court having jurisdiction to the amount of the penalty in cases of simple contract—upon the evidence of any one credible witness other than the plaintiff or party interested ; and if no other provision is made for the appropriation of any penalty or forfeiture so recovered or enforced, one moiety shall belong to Her Majesty, and the other moiety shall belong to the private party suing for the same, if any, and if there is none, the whole shall belong to Her Majesty. 31 V., c. 1, s. 7, *part*.

Recovery of penalties when no other mode is prescribed.

Appropriation.
- 2.** Whenever no other provision is made by any law of Canada for the application of any fine, penalty or forfeiture imposed for the violation of any such law, the same shall belong to the Crown for the public uses of Canada. 49 V., c. 48, s. 1.

To belong to the Crown in certain cases.
- 3.** The Governor in Council may, from time to time, direct that any fine, penalty or forfeiture, or any portion thereof, which would otherwise belong to the Crown for the public uses of Canada, be paid to any provincial, municipal or local authority, which wholly or in part bears the expenses of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law and to secure its due administration. 49 V., c. 48, s. 2.

May be otherwise applied by Order in Council.
- 4.** Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is, by any Act, given to the Crown, shall, if no other provision is made respecting it, form part of the Crown's share when not otherwise appropriated.

to form part
of the Con.
Rev. Fund.

Consolidated Revenue Fund of Canada, and shall be accounted for and otherwise dealt with accordingly. 31 V., c. 1, s. 7, *part*.

Limitation of
actions.

5. No action, suit or information shall be brought or laid for any penalty or forfeiture under any Act except within two years after the cause of action arises or after the offence is committed, unless the time is otherwise limited by such Act. C. S. U. C., c. 78, s. 7, *part*;—C. S. L. C., c. 108, s. 1, *part*, and s. 2;—29 V. (N.S.), c. 12, s. 15, *part*;—1 R. S. N. B., c. 140, s. 2.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 181.

An Act respecting Punishments, Pardons and the Com- A. D. 1886.
mutation of Sentences.

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

PUNISHMENTS.

1. Whenever a person doing a certain act is declared to be guilty of any offence, and to be liable to punishment therefor, it shall be understood that such person shall only be deemed guilty of such offence and liable to such punishment after being duly convicted of such act. 32-33 V., c. 29, s. 1, *part*. Punishment after conviction only.

2. Whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, the punishment to be inflicted shall, subject to the limitations contained in the enactment, be in the discretion of the court or tribunal before which the conviction takes place. 32-33 V., c. 29, s. 1, *part*. Degree of punishment in the discretion of the court.

3. Whenever any offender is punishable under two or more Acts or two or more sections of the same Act, he may be tried and punished under any of such Acts or sections; but no person shall be twice punished for the same offence. 32-33 V., c. 20, ss. 40, *part*, and 41, *part*, and c. 21, s. 90, *part*;—36 V., c. 55, s. 33;—40 V., c. 35, s. 6. If offender is punishable under two or more Acts, &c.

CAPITAL PUNISHMENT.

4. Every one who is indicted as principal or accessory for any offence made capital by any statute, shall be liable to the same punishment, whether he is convicted by verdict or on confession. 32-33 V., c. 29, s. 82. Conviction by verdict or on confession.

5. In all cases of treason, the sentence or judgment to be pronounced against any person convicted and adjudged guilty thereof shall be, that he be hanged by the neck until he is dead. 31 V., c. 69, s. 4. Sentence on conviction for treason. [54 G. III, c. 146, s. 1.]

6. Upon every conviction for murder, the court shall pronounce sentence of death, and the same may be carried into Sentence on conviction for murder.

[24-25 V., c.
100, s. 2.]

execution, and all other proceedings upon such sentence and in respect thereof may be had and taken in the same manner, and the court before which the conviction takes place shall have the same powers in all respects, as after a conviction for any other felony for which a prisoner may be sentenced to suffer death as a felon. 32-33 V., c. 20, s. 2.

Court to direct execution of sentence of death.

7. Whenever any offender has been convicted before any court of criminal jurisdiction, of an offence for which such offender is liable to and receives sentence of death, the court shall order and direct execution to be done on the offender in the manner provided by law. 32-33 V., c. 29, s. 106.

Report to be made by the judge.

8. In the case of any prisoner sentenced to the punishment of death, the judge before whom such prisoner has been convicted shall forthwith make a report of the case to the Secretary of State, for the information of the Governor General; and the day to be appointed for carrying the sentence into execution shall be such as, in the opinion of the judge, will allow sufficient time for the signification of the Governor's pleasure before such day, and if the judge thinks such prisoner ought to be recommended for the exercise of the Royal mercy, or if, from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution, he, or any other judge of the same court, or who might have held or sat in such court, may, from time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as are necessary for the consideration of the case by the Crown. 32-33 V., c. 29, s. 107;—36 V., c. 3, s. 1.

Reprieve in certain cases.

Treatment of persons condemned to death.

[25 G. II, c.
37, s. 6;
28-29 V., c.
127, Sch. 61.]

9. Every one who is sentenced to suffer death shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners; and no person except the gaoler and his servants, the medical officer or surgeon of the prison, a chaplain or a minister of religion, shall have access to any such convict, without the permission, in writing, of the court or judge before whom such convict has been tried, or of the sheriff. 32-33 V., c. 29, s. 108.

Judgment to be executed within walls of prison.

[31 V., c. 24,
s. 2.]

10. Judgment of death to be executed on any prisoner shall be carried into effect within the walls of the prison in which the offender is confined at the time of execution. 32-33 V., c. 29, s. 109.

Sheriff, &c., to be present.
[31 V., c. 24,
s. 3.]

11. The sheriff charged with the execution, and the gaoler and medical officer or surgeon of the prison, and such other officers of the prison and such persons as the sheriff requires, shall be present at the execution. 32-33 V., c. 29, s. 110.

12. Any justice of the peace for the district, county or place to which the prison belongs, and such relatives of the prisoner or other persons as it seems to the sheriff proper to admit within the prison for the purpose, and any minister of religion who desires to attend, may also be present at the execution. 32-33 V., c. 29, s. 111.

Justices of the peace, &c., may be present. [31 V., c. 24, s. 3.]

13. As soon as may be after judgment of death has been executed on the offender, the medical officer or surgeon of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof, and deliver the same to the sheriff. 32-33 V., c. 29, s. 112.

Surgeon to certify death. [31 V., c. 24, s. 4.]

14. The sheriff and the gaoler of the prison, and such justices and other persons present, if any, as the sheriff requires or allows, shall also sign a declaration to the effect that judgment of death has been executed on the offender. 32-33 V., c. 29, s. 113.

Declaration to be signed by sheriff, &c. [31 V., c. 24, s. 4.]

15. The duties imposed upon the sheriff, gaoler, medical officer or surgeon by the four sections next preceding, may and shall, in his absence, be performed by his lawful deputy or assistant, or other officer or person ordinarily acting for him, or conjointly with him, in the performance of his duties. 32-33 V., c. 29, s. 114.

Deputies may act. [31 V., c. 24, s. 11.]

16. A coroner of the district, county or place to which the prison belongs, wherein judgment of death is executed on any offender, shall, within twenty-four hours after the execution, hold an inquest on the body of the offender; and the jury at the inquest shall inquire into and ascertain the identity of the body, and whether judgment of death was duly executed on the offender; and the inquisition shall be in duplicate, and one of the originals shall be delivered to the sheriff. 32-33 V., c. 29, s. 115.

Coroner's inquest on the body. [31 V., c. 24, s. 5.]

17. No officer of the prison or prisoner confined therein shall, in any case, be a juror on the inquest. 32-33 V., c. 29, s. 116.

Officers and prisoners not to be jurors. [31 V., c. 24, s. 5.]

18. The body of every offender executed shall be buried within the walls of the prison within which judgment of death is executed on him, unless the Lieutenant Governor in Council, being satisfied that there is not, within the walls of any prison, sufficient space for the convenient burial of offenders executed therein, permits some other place to be used for the purpose. 32-33 V., c. 29, s. 117.

Burial of the body. [31 V., c. 24, s. 6.]

19. Every one who knowingly and wilfully signs any false certificate or declaration required with respect to any execution, is guilty of a misdemeanour, and liable to imprisonment for any term less than two years. 32-33 V., c. 29, s. 120.

Penalty for signing false certificate. [31 V., c. 24, s. 9.]

Certificate, &c., to be sent to Secretary of State, and exhibited at entrance to prison.

[31 V., c. 24, s. 10.]

20. Every certificate and declaration, and a duplicate of the inquest required by this Act, shall, in every case, be sent with all convenient speed by the sheriff to the Secretary of State, or to such other officer as is, from time to time, appointed for the purpose by the Governor in Council; and printed copies of such several instruments shall, as soon as possible, be exhibited, and shall, for twenty-four hours at least, be kept exhibited on or near the principal entrance of the prison within which judgment of death is executed. 32-33 V., c. 29, s. 121.

Saving clause as to legality of execution.

[31 V., c. 24, s. 15.]

21. The omission to comply with any provision of the preceding sections of this Act shall not make the execution of judgment of death illegal in any case in which such execution would otherwise have been legal. 32-33 V., c. 29, s. 123.

As to other matters.

[31 V., c. 24, s. 16.]

22. Except in so far as is hereby otherwise provided, judgment of death shall be carried into effect in the same manner as if this Act had not been passed. 32-33 V., c. 29, s. 124.

IMPRISONMENT.

Offence not punishable with death. 7-8 G. IV, c. 28, s. 8.]

23. Every one who is convicted of any offence not punishable with death shall be punished in the manner, if any, prescribed by the statute especially relating to such offence. 32-33 V., c. 29, s. 88, *part*.

Felony when there is no special punishment.

24. Every person convicted of any felony for which no punishment is specially provided, shall be liable to imprisonment for life :

And misdemeanour on indictment.

2. Every one who is convicted on indictment of any misdemeanour for which no punishment is specially provided, shall be liable to five years' imprisonment :

And on summary conviction.

[7-8 G. IV, c. 28, s. 8.]

3. Every one who is summarily convicted of any offence for which no punishment is specially provided, shall be liable to a penalty not exceeding twenty dollars, or to imprisonment, with or without hard labour, for a term not exceeding three months, or to both. 32-33 V., c. 29, s. 88, *part*.

Second conviction for felony.

[7-8 G. IV, c. 28, s. 11.]

25. Every one who is convicted of felony, not punishable with death, committed after a previous conviction for felony, is liable to imprisonment for life, unless some other punishment is directed by any statute for the particular offence,—in which case the offender shall be liable to the punishment thereby awarded, and not to any other. 32-33 V., c. 29, s. 83.

Term of imprisonment in the discretion of the court. [9-10 V., c. 24, s. 1.]

26. Every one who is liable to imprisonment for life, or for any term of years, or other term, may be sentenced to imprisonment for any shorter term : Provided, that no one shall be sentenced to any shorter term of imprisonment than the

minimum term, if any, prescribed for the offence of which he is convicted. 32-33 V., c. 29, ss. 89 and 90, *part*.

27. When an offender is convicted of more offences than one, before the same court or person at the same sitting, or when any offender, under sentence or undergoing punishment for one offence, is convicted of any other offence, the court or person passing sentence may, on the last conviction, direct that the sentences passed upon the offender for his several offences shall take effect one after another. 32-33 V., c. 29, s. 92.

Offender convicted of more offences than one, &c. [7-8 G. IV, c. 28, s. 10.]

28. Every one who is sentenced to imprisonment for life, or for a term of years, not less than two, shall be sentenced to imprisonment in the penitentiary for the Province in which the conviction takes place :

Imprisonment in a penitentiary. [16-17 V., c. 93, s. 6.]

2. Every one who is sentenced to imprisonment for a term less than two years shall, if no other place is expressly mentioned, be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or if there is no common gaol there, then in that common gaol which is nearest to such locality, or in some lawful prison or place of confinement, other than a penitentiary, in which the sentence of imprisonment may be lawfully executed :

In the common gaol.

3. * * * * *

Repealed and new sub-section substituted by 53 V., c. 37, s. 31.

4. Imprisonment in a penitentiary, in the Central Prison for the Province of Ontario, in the Andrew Mercer Ontario Reformatory for females, and in any reformatory prison for females in the Province of Quebec, shall be with hard labour, whether so directed in the sentence or not :

Hard labour in penitentiary, &c.

5. * * * * *

Repealed and new sub-section substituted by 51 V., c. 47, s. 1.

6. The term of imprisonment, in pursuance of any sentence, shall, unless otherwise directed in the sentence, commence on and from the day of passing such sentence, but no time during which the convict is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced :

Commencement of term of imprisonment.

7. Every one who is sentenced to imprisonment in any penitentiary, gaol, or other public or reformatory prison, shall be subject to the provisions of the statutes relating to such penitentiary, gaol or prison, and to all rules and regulations lawfully made with respect thereto. 32-33 V., c. 29, ss. 1, *part*, 91, 93, 94, *part*, 96, *part*, and 97 ;—34 V., c. 30, s. 3, *part* ;—43 V., c. 39, s. 14, *part* ;—43 V., c. 40, s. 9, *part* ;—44 V., c. 32, s. 4 ;—46 V., c. 37, s. 4.

Prisoners subject to regulations, &c.

REFORMATORIES.

29. The court or person before whom any offender whose age at the time of his trial does not, in the opinion of the

Certain offenders may be sentenced to

imprisonment
in a reformatory.
[29-30 V., c.
117, s. 14.]

As to term of
imprisonment.

Labour in a re-
formatory.

court. exceed sixteen years, is convicted whether summarily or otherwise, of any offence punishable by imprisonment, may sentence such offender to imprisonment in any reformatory prison in the Province in which such conviction takes place, subject to the provisions of any Act respecting imprisonment in such reformatory; and such imprisonment shall be substituted, in such case, for the imprisonment in the penitentiary or other place of confinement by which the offender would otherwise be punishable under any Act or law relating thereto: Provided, that in no case shall the sentence be less than two years' or more than five years' confinement in such reformatory prison; and in every case where the term of imprisonment is fixed by law to be more than five years, then such imprisonment shall be in the penitentiary:

2. Every person imprisoned in a reformatory shall be liable to perform such labour as is required of such person. 38 V., c. 43;—43 V., c. 39, ss. 1, *part*, and 14, *part*, and c. 40, ss. 1, *part*, and 9, *part*.

WHIPPING.

Whipping.
[24-25 V., c.
96, s. 119; c.
97, s. 73; c.
100, s. 70.]

Time for its
infliction.

No female to
be whipped.

30. Whenever whipping may be awarded for any offence, the court may sentence the offender to be once, twice or thrice whipped, within the limits of the prison, under the supervision of the medical officer of the prison; and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence; and, whenever practicable, every whipping shall take place not less than ten days before the expiration of any term of imprisonment to which the offender is sentenced for the offence:

2. Whipping shall not be inflicted on any female. 32-33 V., c. 20, ss. 20, 21, *parts*, and c. 29, s. 95;—40 V., c. 26, s. 6.

SURETIES FOR KEEPING THE PEACE, AND FINES.

Sureties may
be required in
cases of
felony.

[24 V., c. 96,
s. 117; c. 97,
s. 73; c. 98, s.
51; c. 99, s.
38; c. 100, s.
71.]

And in cases
of misde-
meanour.

Imprisonment
in default
limited.

31. Every one who is convicted of felony may be required to enter into his own recognizances, and to find sureties, both or either, for keeping the peace, in addition to any punishment otherwise authorized:

2. Every one who is convicted of any misdemeanour may, in addition to or in lieu of any punishment otherwise authorized, be fined, and required to enter into his own recognizances, and to find sureties, both or either, for keeping the peace and being of good behaviour:

3. No person shall be imprisoned for not finding sureties under this section for any term exceeding one year. 31 V., c. 72, s. 5, *part*;—32-33 V., c. 18, s. 34, and c. 19, s. 58, and c. 20, s. 77, and c. 21, s. 122, and c. 22, s. 74.

32. * * * * *

Repealed and new section substituted by 51 V., c. 47, s. 2.

33. Whenever a fine may be awarded or a penalty imposed for any offence, the amount of such fine or penalty shall, within such limits, if any, as are prescribed in that behalf, be in the discretion of the court or person passing sentence or convicting, as the case may be. 32-33 V., c. 29, s. 90, *part*.

Amount of fine at the discretion of the court.

SOLITARY CONFINEMENT.—PILLORY.

34. The punishment of solitary confinement or of the pillory shall not be awarded by any court. 32-33 V., c. 29, s. 81.

No solitary confinement or pillory.

[7 W. IV and 1 V., c. 23.]

DEODAND.

35. There shall be no forfeiture of any chattels which have moved to or caused the death of any human being, in respect of such death. 32-33 V., c. 29, s. 54.

No deodand. [9-10 V., c. 62.]

ATTAINDER.

36. Except in cases of treason, or of abetting, procuring or counselling the same, no attainder shall extend to the disinheriting of any heir, or to the prejudice of the right or title of any person, other than the right or title of the offender during his natural life only. 32-33 V., c. 29, s. 55.

Except for high treason attainder not to disinherit the heir. [3-4 W. IV, c. 106, s. 10.]

37. Every one to whom, after the death of any such offender, the right or interest to or in any lands, tenements or hereditaments, should or would have appertained, if no such attainder had taken place, may, after the death of such offender, enter into the same. 32-33 V., c. 19, s. 56.

The heir may enter after death of offender.

PARDONS.

38. The Crown may extend the Royal mercy to any person sentenced to imprisonment by virtue of any statute, although such person is imprisoned for non-payment of money to some person other than the Crown. 32-33 V., c. 29, s. 125.

Pardon when the committal is for non-payment of moneys.

[22 V., c. 32, s. 1.]

39. Whenever the Crown is pleased to extend the Royal mercy to any offender convicted of a felony punishable with death or otherwise, and grants to such offender either a free or a conditional pardon, by warrant under the Royal Sign Manual, countersigned by one of the principal Secretaries of State, or by warrant under the hand and seal-at-arms of the Governor General, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon of such offender, under the Great Seal, as to the felony for which such pardon has been granted; but no free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the con-

Effect of pardon.

[7-8 G. IV, c. 28, s. 13; 9 G. IV, c. 32, s. 3.]

As to subsequent convictions.

dition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any felony or offence other than that for which the pardon was granted. 32-33 V., c. 29, s. 126.

COMMUTATION OF SENTENCE.

Crown
may commute
sentence of
death.

Form and
effect of com-
mutation.

40. The Crown may commute the sentence of death passed upon any person convicted of a capital crime, to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in any other gaol or place of confinement for any period less than two years, with or without hard labour; and an instrument under the hand and seal-at-arms of the Governor General, declaring such commutation of sentence, or a letter or other instrument under the hand of the Secretary of State or of the Under Secretary of State, shall be sufficient authority to any judge or justice, having jurisdiction in such case, or to any sheriff or officer to whom such letter or instrument is addressed, to give effect to such commutation, and to do all such things and to make such orders, and to give such directions, as are requisite for the change of custody of such convict, and for his conduct to and delivery at such gaol or place of confinement or penitentiary, and his detention therein, according to the terms on which his sentence has been commuted. 32-33 V., c. 29, s. 127.

UNDERGOING SENTENCE EQUIVALENT TO A PARDON.

Undergoing
sentence
equivalent to
a pardon.
[9 G. IV,
c. 32, s. 3.]

Proviso.

41. When any offender has been convicted of an offence not punishable with death, and has endured the punishment to which such offender was adjudged,—or if such offence is punishable with death and the sentence has been commuted, then if such offender has endured the punishment to which his sentence was commuted, the punishment so endured shall, as to the offence whereof the offender was so convicted, have the like effect and consequences as a pardon under the Great Seal; but nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced, on a subsequent conviction for any other offence. 32-33 V., c. 29, s. 128.

Undergoing
punishment
&c., a bar to
further pro-
ceedings.
[24-5 V., c.
36, s. 109; c.
37, s. 67.]

42. When any person convicted of any offence has paid the sum adjudged to be paid, together with costs, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been discharged from his conviction by the justice of the peace in any case in which such justice of the peace may dis-

charge such person, he shall be released from all further or other proceedings for the same cause. 32-33 V., c. 21, s. 120, and c. 22, s. 73.

43. Nothing in this Act shall, in any manner, limit or affect Her Majesty's Royal prerogative of mercy. 32-33 V., c. 29, s. 129. Royal prerogative saved. (16-17 V., c. 99, s. 13.)

GENERAL PROVISIONS.

44. The Governor in Council may, from time to time, make such rules and regulations to be observed on the execution of judgment of death in every prison, as he, from time to time, deems expedient for the purpose, as well of guarding against any abuse in such execution, as also of giving greater solemnity to the same, and of making known without the prison walls the fact that such execution is taking place. 32-33 V., c. 29, s. 118. Governor in Council to make rules, &c., as to executions.

45. All such rules and regulations shall be laid upon the tables of both Houses of Parliament within six weeks after the making thereof, or if Parliament is not then sitting, within fourteen days after the next meeting thereof. 32-33 V., c. 29, s. 119. Such rules to be laid before Parliament.

46. The forms set forth in the schedule to this Act, with such variations or additions as circumstances require, shall be used for the respective purposes indicated in the said schedule, and according to the directions contained therein. 32-33 V., c. 29, s. 122. Forms in schedule to be used.

47. Nothing in this Act shall alter or affect any laws relating to the government of Her Majesty's land or naval forces. 32-33 V., c. 29, s. 137. Laws as to army and navy not affected.

SCHEDULE.

CERTIFICATE OF SURGEON.

I, A. B., surgeon (or as the case may be) of the (describe the prison), hereby certify that I, this day, examined the body of C. D., on whom judgment of death was this day executed in the said prison; and that on such examination I found that the said C. D. was dead.

(Signed), A. B.

Dated this day of 18 .

DECLARATION OF SHERIFF AND OTHERS.

We, the undersigned, hereby declare that judgment of death was this day executed on C. D., in the (*describe the prison*) in our presence.

Dated this day of 18 .

E. F., Sheriff of ———

L. M., Justice of the Peace for ———

G. H., Gaoler of ———

&c., &c.

32-33 V., c. 29, sch. B.

SURETIES.

COMPLAINT BY THE PARTY THREATENED, FOR SURETIES FOR THE PEACE.

Canada.

Province of |
 district (*or county,* |
 united counties, *or* |
as the case may be), |
 of

The information (*or complaint*) of C. D., of the township of in the said district (*or county, united counties, or as the case may be*), of (labourer). (*If preferred by an attorney or agent, say—*by D. E., his duly authorized agent (*or attorney*), in this behalf), taken upon oath, before me, the undersigned, a justice of the peace, in and for the said district (*or county, united counties, or as the case may be*) of , at N., in the said district (*county, or as the case may be*) of , this day of , in the year one thousand eight hundred and , who says that A.B., of the (township) of , in the district (*county, or as the case may be*), of , did, on the day of (*instant or last past, as the case may be*), threaten the said C.D. in the words or to the effect following, that is to say: (*set them out, with the circumstances under which they were used*): and that from the above and other threats used by the said A.B. towards the said C.D., he, the said C.D., is afraid that the said A.B. will do him some bodily injury, and therefore prays that the said A.B. may be required to find sufficient sureties to keep the peace and be of good behaviour towards him, the said C.D.; and the said C.D. also says that he does not make this complaint against nor require such sureties from the said A.B. from any malice or ill-will, but merely for the preservation of his person from injury.

FORM OF RECOGNIZANCE FOR THE SESSIONS.

Be it remembered that on day of , in the year , A.B., of (labourer), L.M., of (grocer), and N.O., of (butcher), personally came before (us) the undersigned, (two) justices of the peace for the district (or county, united counties, or as the case may be), of , and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A.B. the sum of , and the said L.M. and N.O. the sum of , each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, her heirs and successors, if he, the said A.B., fails in the condition indorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned, at before us.

J. S.
J. T.

The condition of the within (or above) written recognizance is such that if the within bound A.B., of, &c.), appears at the next court of General Sessions of the Peace, (or other court discharging the functions of the court of General Sessions, or as the case may be), to be holden in and for the said district (or county, united counties, or as the case may be), of to do and receive what is then and there enjoined him by the court, and in the meantime keeps the peace and is of good behaviour towards Her Majesty and her liege people, and specially towards C.D. (of, &c.), for the term of now next ensuing, then the said recognizance to be void, otherwise to stand in full force and virtue.

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

Canada.
Province of)
 district (or county,)
 united counties, or)
 as the case may be,)
 of .)

To all or any of the constables or other peace officers in the district (or county, united counties, or as the case may be), of , and to the keeper of the common gaol of the said district (or county, united counties, or as the case may be), at , in the said district (or county, &c.).

Whereas on the day of instant, complaint on oath was made before the undersigned (or J.L., Esquire) a jus-

tice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, by C.D., of the township of _____, in the said district (or county, or as the case may be) (labourer), that A.B., of (&c.), on the _____ day of _____, at the township of _____, aforesaid, did threaten (&c., follow to end of complaint, as in the form above, in the past tense, then): And whereas the said A.B. was this day brought and appeared before the said justice (or J.L., Esquire), a justice of the peace in and for the said district (or county, united counties, or as the case may be), of _____, to answer unto the said complaint: and having been required by me to enter into his own recognizance in the sum of _____, with two sufficient sureties in the sum of _____ each, as well for his appearance at the next General Sessions of the Peace (or other court discharging the functions of the court of General Sessions, or as the case may be), to be held in and for the said district (or county, united counties, or as the case may be), of _____, to do what shall be then and there enjoined him by the court, as also in the meantime to keep the peace and be of good behaviour towards Her Majesty and her liege people, and especially towards the said C.D., has refused and neglected, and still refuses and neglects, to find such sureties: These are therefore to command you, and each of you, to take the said A.B., and him safely to convey to the (common gaol) at _____, aforesaid, and there to deliver him to the keeper thereof, together with this precept; And I do hereby command you, the said keeper of the (common gaol), to receive the said A.B. into your custody in the said (common gaol), there to imprison him until the said next General Sessions of the Peace (or the next term of sitting of the said court discharging the functions of the court of General Sessions, or as the case may be), unless he, in the meantime, finds sufficient sureties as well for his appearance at the said sessions (or court) as in the meantime to keep the peace as aforesaid.

Given under my hand and seal, this _____ day of _____ in the year _____, at _____ in the district (or county, or as the case may be) aforesaid.

32-33 V., c. 31, sch., part.

J. S. [L.S.]



CHAPTER 182.

An Act respecting Penitentiaries.

A. D. 1886.

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

1. This Act may be cited as "*The Penitentiary Act.*" 46 V., Short title. c. 37, s. 81.

2. All the penitentiaries in Canada and such other prisons, hospitals, asylums and other public institutions as are, from time to time, designated for that purpose by the Governor in Council, by proclamation in the *Canada Gazette*, and all prisoners and other persons confined therein and inmates thereof, shall be under the control of the Minister of Justice, who shall exercise over them complete administrative power. 46 V., c. 37, s. 1, *part.*

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

3. The Minister of Justice shall submit to the Governor General an annual report upon all the penitentiaries, prisons and other institutions under his control, to be laid before both Houses of Parliament within the first twenty-one days of each session thereof, showing the state of each penitentiary, prison or other institution, and the amounts received and expended in respect thereof, with such further information as is requisite. 46 V., c. 37, s. 1, *part.*

Annual report thereon by the Minister.

4. The penitentiary situate near the city of Kingston, in the Province of Ontario, known as the Kingston Penitentiary,—the penitentiary situate at St. Vincent de Paul, in the Province of Quebec, known as the St. Vincent de Paul Penitentiary,—the penitentiary situate at Dorchester, in the Province of New Brunswick, known as the Dorchester Penitentiary,—the penitentiary situate in the county of Lisgar, in the Province of Manitoba, known as the Manitoba Penitentiary, and the penitentiary situate in the district of New Westminster, in the Province of British Columbia, known as the British Columbia Penitentiary, together with all the land appertaining to the same respectively, according to the respective metes and bounds thereof as now known and defined, and all the buildings and property thereon belonging to the same, are, all and each of them, hereby declared to be penitentiaries of Canada. 46 V., c. 37, s. 2.

Penitentiaries enumerated and described.

Penitentiaries
for the several
Provinces.

5. The Kingston Penitentiary, for the Province of Ontario,—the St. Vincent de Paul Penitentiary, for the Province of Quebec,—the Dorchester Penitentiary, for the Provinces of Nova Scotia, New Brunswick and Prince Edward Island,—the Manitoba Penitentiary, for the Province of Manitoba, the North-West Territories and the District of Keewatin, and the British Columbia Penitentiary, for the Province of British Columbia, shall each be maintained as a prison for the confinement and reformation of persons lawfully convicted of crime before the courts of criminal jurisdiction of the Province, Territory or District for which it is the penitentiary, and sentenced to confinement for life, or for any term not less than two years. 32-33 V., c. 29, s. 96, *part* ;—46 V., c. 37, s. 3.

Governor in
Council may
establish
penitentiaries,
and declare
any lands
established as
such not to
be so.

6. The Governor in Council may declare, from time to time, by proclamation, to be published in the *Canada Gazette*, that any tract of land within Canada, of which the boundaries shall be particularly defined in the proclamation, is a penitentiary, and is to be so held within the meaning of this Act,—and by such proclamation may declare for what part of Canada the same shall be a penitentiary ; and the Governor in Council, by any proclamation published as aforesaid, may declare that any tract of land established as a penitentiary by the fourth section of this Act, or by any other law, or by proclamation under this section, from and after a certain day to be named in such proclamation, shall cease to be a penitentiary, or a penitentiary for a part of Canada named in such proclamation,—and such tract of land shall cease to be a penitentiary, or a penitentiary for such part of Canada, accordingly. 46 V., c. 37, s. 5.

What shall be
included as
part of a peni-
tentiary.

7. Every penitentiary now established, or hereafter established by virtue of this Act, shall be held to include all carriages, wagons, sleighs and other vehicles for land carriage, and all boats, scows and other vessels for water carriage, being property belonging to such penitentiary, or employed by hire or otherwise in its service,—and also every wharf at or near the said penitentiary, which, although not within the limits mentioned in the proclamation establishing the same, is used for the accommodation of such boats, scows or other vessels, when so employed in or about any work or labour connected with such penitentiary. 46 V., c. 37, s. 6.

Streets, roads,
&c., when to
be part of a
penitentiary.

8. Every street, highway or public thoroughfare of any kind, along or across which it is necessary that convicts should, pass in going to and returning from their work, shall be considered, while so used, as a portion of the tract of land forming the penitentiary ; and every escape, or attempt at escape, and every rescue, or aid in rescue, which takes place on such street, highway or public thoroughfare, while so used, shall have the same effect as if such escape, or attempt at escape, or such rescue, or aid in rescue, had taken place within the prison walls or penitentiary limits. 46 V., c. 37, s. 7.

Escapes.

9. The inspector of penitentiaries, with the approval of the Minister of Justice, may authorize the warden of any penitentiary to construct rail or tram roads to communicate between any one part of the penitentiary and any other part, and to carry the same across, upon or along any public road or street intervening, in such manner as to cause the least possible inconvenience to passengers or carriages using such road or street ; but the warden of such penitentiary shall not break ground upon any public road or street for the purpose of constructing such rail or tram roads, in virtue of such authority from the inspector, until after the lapse of one month after a copy of the writing giving such authority, certified by the warden, together with a plan showing the line which such rail or tram roads are to occupy, has been served upon the officer or person charged with the care or supervision of such public road. 46 V., c. 37, s. 8.

Tram roads may be made.

Notice to municipality.

10. The construction and repairs of buildings and other works in the penitentiaries shall be under the control of the Minister of Public Works. 46 V., c. 37, s. 9.

Construction and repair of buildings.

INSPECTOR.

11. The Governor in Council may appoint some fit and proper person to be inspector of all penitentiaries, and of such other prisons, hospitals, asylums and other public institutions as are, from time to time, designated by the Governor in Council ; and the inspector shall hold office during pleasure, and shall be an officer of the Department of Justice, and, as such inspector, shall act as the representative of the Minister of Justice. 46 V., c. 37, s. 10.

Governor in Council may appoint inspector.

12. The inspector, under direction from the Minister of Justice, shall visit, examine and report to him, upon the state and management of all the penitentiaries, and all suggestions which the wardens thereof make for the improvement of such penitentiaries. 46 V., c. 37, s. 11.

Inspector to visit penitentiaries and report.

13. The inspector shall keep an exact record of all minutes of inspection made by him in the inspection books of the said institutions, together with all his proceedings in connection therewith, and, after each visit of inspection, shall transmit a copy thereof, under his hand, to the Minister of Justice. 46 V., c. 37, s. 12.

To keep minutes and transmit copy to Minister.

14. The inspector, by virtue of his office, without any property qualification, shall be a justice of the peace for every district, county, city or town of Canada, but shall have power to act in matters connected with the criminal law of Canada only. 46 V., c. 37, s. 13.

To be a justice of the peace.

To make rules and regulations, &c., subject to approval of the Governor in Council.
[28-29 V., c. 126, s. 21.]

15. The inspector shall, subject to the approval of the Governor in Council, make rules and regulations for the management, discipline and police of the penitentiaries, and for the duties and conduct of the wardens thereof, and of every other officer or class of officers or servants employed therein, and for the diet, clothing, maintenance, employment, instruction, discipline, correction, punishment and reward of convicts imprisoned therein, and may, from time to time, with such approval, annul, alter or amend the same; and the wardens of the penitentiaries, and every other officer and servant employed in or about the same, shall be bound to obey such rules and regulations when so approved. 46 V., c. 37, s. 14, *part.*

To make an annual report.

16. The inspector shall make an annual report to the Minister of Justice on or before the first day of December in each year, which shall contain a full and accurate statement of the state, condition and management of the penitentiaries under his control and supervision, and inspected during the preceding fiscal year, together with such suggestions for the improvement of the same as he deems necessary and expedient, and accompanied by copies of the annual reports of the officers of the penitentiaries, and by such financial and statistical statements and tables as the books kept by them contain; and such report shall also comprise and embrace the following particulars, that is to say:—

What the report shall contain.

Statistics, facts and suggestions.

(a.) Such statistical information in respect to each penitentiary as is embraced in the registers of such penitentiaries, together with any facts which have come to his knowledge with respect to the working of the criminal laws and penal system of Canada, or any injustice or hardship which, in his opinion, has arisen therefrom, and such suggestions for the improvement or amendment of the same, and for the prevention of crime or the reformation of criminals, as he deems expedient;

Inventory and valuation of property.

(b.) An inventory and valuation of all the movable and immovable property belonging to the penitentiaries, respectively—distinguishing the estimated value of the several descriptions of property;

Receipts, expenditure and statement of debts.

(c.) A detailed statement showing the money receipts of the penitentiaries, and the sources from which they have been derived; also, the expenditures, together with a statement of all debts due on account of the penitentiaries, showing the names of the persons to whom each is due, and showing also the debts, if any, due to the penitentiary, with the amount and nature of each debt;

Estimates for ensuing year.

(d.) An estimate of the expense of the penitentiaries for the ensuing year—distinguishing the ordinary from the extraordinary;

Officers to furnish information.

2. The wardens and other officers shall furnish to the inspector all information necessary for the preparation of his report, on or before the first day of October in each year. 46 V., c. 37, s. 15.

17. If the inspector at any time finds that any penitentiary is out of repair, or does not possess the proper and requisite sanitary arrangements, or has become unsafe or unfit for the confinement of prisoners, or that the same does not afford sufficient space or room for the number of prisoners confined therein, or the requisite amount of shop and yard space for the proper industrial employment of the prisoners, he shall forthwith report the same to the Minister of Justice, and at the same time shall furnish a copy of such report for the Minister of Public Works. 46 V., c. 37, s. 16.

Special reports as to improvements and repairs.

Copy to Minister of Public Works.

EXAMINATIONS AND INVESTIGATIONS.

18. The inspector may, at all times, enter into and remain within any penitentiary or other public institution placed under his control as aforesaid, and have access to every part of the same, and examine all papers, documents, vouchers, records and books of every kind belonging thereto. 46 V., c. 37, s. 17, *part.*

Entry and examination of papers, &c.

19. The inspector may investigate the conduct of any officer or servant employed in or about any penitentiary, or other such public institution, as aforesaid, or of any person found within the precincts thereof; and, for that purpose, by subpoena issued by him, may summon before him any person, and examine such person upon oath,—which oath the inspector may administer, and may compel the production of papers and writings before him; and if any person duly summoned neglects or refuses to appear at the time and place specified in the subpoena legally served upon him, or refuses to give evidence or to produce the papers demanded of him, the inspector may cause the said person, by warrant under his hand, to be taken into custody and to be imprisoned in the common gaol of the locality, as for contempt of court, for a period not exceeding fourteen days. 46 V., c. 37, s. 17, *part.*

Inquiries into conduct of officers, &c.

Summoning witnesses and administering oaths.

Punishment for refusal to give evidence.

20. The Minister of Justice, at any time when he deems it necessary, may appoint one or more persons to make a special report on the state and management of any penitentiary, and in such case the person or persons so appointed, in order to enable him or them to make such special report, shall have the powers given to the inspector by the two sections next preceding. 46 V., c. 37, s. 18.

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

ACCOUNTANT OF PENITENTIARIES.

21. The Governor in Council may appoint a fit and proper person to be the accountant of penitentiaries, who shall be an officer of the Department of Justice, and shall be charged generally with the direction, inspection and audit of the books, accounts, money transactions and financial affairs of the peni-

Accountant of penitentiaries.

His duties.

tentiaries, and shall have such other powers as are assigned to him by the Governor in Council; and he shall perform such other duties as are required of him by the Minister of Justice:

To audit accounts and inquire into money matters.

2. He shall audit the accounts of the penitentiaries and transmit the same, duly certified as to correctness, to the Minister of Justice; he shall also inquire into the money transactions and financial affairs of the penitentiaries, prisons, hospitals, asylums or other public institutions supported wholly or in part by Canada:

Powers.

3. He shall, in the performance of his duties, have all the powers given to the inspector by sections eighteen and nineteen of this Act. 46 V., c. 37, s. 19.

WARDENS AND OTHER OFFICERS.

Appointment of officers for each penitentiary.

22. The Governor in Council may appoint, for any penitentiary, a warden, a deputy warden, a Protestant chaplain, an assistant Protestant chaplain when required, a Roman Catholic chaplain, an assistant Roman Catholic chaplain when required, a surgeon and an accountant, all of whom shall hold their offices during pleasure:

Inspector may suspend any officer.

2. The inspector may summarily suspend any of the above named officers for misconduct, until the circumstances of the case, of which the Minister of Justice shall be at once notified, have been decided upon by the Minister, and the inspector may, until such decision has been so intimated, cause any officer so suspended to be removed beyond the precincts of the prison; and the inspector shall recommend the removal of any of the above named officers whom he deems incapable, inefficient or negligent in the execution of his duty, or whose presence in the penitentiary he considers detrimental to the interests thereof. 46 V., c. 37, s. 20, *part.*

Minister of Justice may appoint certain officers.

23. The Minister of Justice may appoint, for any penitentiary, a schoolmaster, a schoolmistress, a storekeeper, a steward, a chief keeper, an engineer, a matron, a deputy matron, and such trade instructors as are, from time to time, required, who shall hold their offices during pleasure:

Warden may suspend any of them.

2. The warden may, for misconduct, summarily suspend any of the officers named in this section until the next visit of the inspector, when the warden shall submit to the inspector a report of the circumstances of the case, to be dealt with as to the inspector seems meet. 46 V., c. 37, s. 21, *part.*

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

24. The warden may appoint, for any penitentiary, an assistant deputy matron and a clerk, and such and so many keepers and guards and other servants, for the proper protection and care of the institution, as the Minister authorizes, and may suspend any of them for neglect of duty, for such time as he sees fit, or dismiss them, without further charge than that, in his opinion, they are inefficient; and such suspension or dis-

missal shall be reported forthwith to the inspector. 46 V., c. 37, s. 22.

25. The pay of every officer so suspended by the inspector or by the warden shall cease during the period of his suspension; but the Minister of Justice may direct payment of the same. 46 V., c. 37, s. 23. As to pay in case of suspension.

26. The warden may impose upon any officer or servant appointed by him or by the Minister of Justice, for any act of negligence or carelessness committed by him, a fine, payable in money, of such reasonable amount, not exceeding one month's pay, as the warden, under the circumstances of the case, thinks fit; and, under like circumstances, the Minister of Justice may impose a like fine on the deputy warden and accountant. 46 V., c. 37, s. 24. Warden may impose fines for neglect of duty.

27. The warden of a penitentiary shall be the chief executive officer of the same; and as such shall have the entire executive control and management of all its concerns, subject to the rules and regulations duly established, and the written instructions of the inspector authorized by the Minister of Justice; and, in all cases not provided for, and where the said inspector cannot readily be consulted, the warden shall act in such manner as he deems most advantageous for the penitentiary; he shall be responsible for the faithful and efficient administration of the affairs of every department of the penitentiary *and he shall reside at the penitentiary.* Powers and duties of the warden. Residence.

* * * * *

Amended by 50-51 V., c. 52, s. 2.

28. In the absence or during the incapacity of the warden the deputy warden shall exercise all the powers and perform all the duties of the warden; and in the absence or during the incapacity of the deputy warden the chief keeper shall exercise all the powers and perform all the duties of the deputy warden. 46 V., c. 37, s. 20, *part*, and s. 21, *part*. Absence, &c., of the warden and deputy.

29. Every warden, accountant, storekeeper, steward, and every such other officer as is, from time to time, designated by the Governor in Council, shall give and enter into a bond or bonds for the faithful performance of the duties of his office according to law, and in such sum, and with such sufficient surety or sureties, as the Governor in Council or the Minister of Justice approves of, and such bonds shall be filed in the office of the Secretary of State of Canada. 46 V., c. 37, s. 27. What officers to give bonds and sureties of office.

30. Every warden, and every other officer and servant employed permanently in a penitentiary shall severally take and subscribe, in a book to be kept for that purpose by the accountant in his office, the oath of allegiance to Her Majesty, and an oath of office in the form following, that is to say:— Oaths of allegiance and office.

Form of oath
of office.

"I (A. B.) do promise and swear that I will faithfully,
"diligently and justly serve in the office and perform the
"duties of _____ in the _____ penitentiary, to the
"best of my abilities; and that I will carefully observe and
"carry out all the regulations of the prison. So help me God:"

Before whom.

2. The inspector or warden is hereby authorized to admin-
ister such oaths. 46 V., c. 37, s. 28.

Penalty if in-
specter,
warden, &c.,
acts as con-
tractor.
[28-29 V., c.
126, Sch. 65.]

31. Every inspector, warden, or other officer or servant
employed in a penitentiary, who, either in his own name or in
the name of, or in connection with, any other person, provides,
furnishes or supplies any materials, goods or provisions for the
use of any penitentiary, or is concerned directly or indirectly
in furnishing or supplying the same, or in any contract relating
thereto, shall incur a penalty of five hundred dollars, recover-
able, with costs, by any person who sues for the same in any
court of competent jurisdiction. 46 V., c. 37, s. 29.

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

Nor to buy or
sell from or
to convicts,
&c.

[28-29 V., c.
126, Sch. 64
and 66.]

32. No warden, officer or servant, except the surgeon and
chaplain, shall carry on any trade or calling of profit or emolu-
ment other than his office in the penitentiary; and, except in
the case mentioned in section sixty-four, no officer shall buy
from or sell to or for any convict anything whatsoever; or
take or receive for his own use, or for that of any other person,
any fee or gratuity or emolument from any convict or visitor
or other person; or, without the consent of the Minister,
employ any convict in working for him. 46 V., c. 37, s. 30.

33. * * * * *

Repealed and new section substituted by 50-51 V., c. 52, s. 3.

Warden to be
a corporation
sole.

[5-6 V., c. 29,
s. 11; 6-7 V.,
c. 26, s. 10.]

34. The warden shall be a corporation sole known by the
name of "The Warden of the _____ Penitentiary,"
(designating the place as named in this Act, or named in the
proclamation establishing it as a penitentiary), and by that
name he and his successors shall have perpetual succession,
and may sue and be sued, and may plead and be pleaded unto
in any of Her Majesty's courts. 46 V., c. 37, s. 32.

Contracts,
dealings, per-
sonal prop-
erty, &c.,
to be in his
name.

[5-6 V., c. 29,
s. 12; 6-7 V.,
c. 26, s. 10.]

35. All dealings and transactions on account of any peni-
tentiary, and all contracts for goods, wares or merchandise
necessary for maintaining and carrying on the penitentiary,
or for the sale of goods prepared or manufactured in the peni-
tentiary shall be entered into and carried out in the corporate
name of the warden; and all personal property belonging to
the penitentiary shall be held in the corporate name of the
warden, for Her Majesty. 46 V., c. 37, s. 33.

Real prop-
erty, how
vested and
managed.

36. The real property of every penitentiary, as well as all
the other property thereto belonging, shall be vested in Her
Majesty; but the warden and his successors in office shall have

the custody and care thereof under the provisions of this Act. 46 V., c. 37, s. 34.

37. Whenever any difference arises between the warden and any person having dealings with him on account of the penitentiary, such difference may, by order of the inspector, and with the consent of such person, be referred either to one arbitrator, selected by the warden and such person, or to three arbitrators,—one of whom shall be named by the warden, and another by such other person, and a third by the two so named as aforesaid; and, in the one case, the award of the arbitrator, and, in the other case, of any two of the arbitrators, shall be final. 46 V., c. 37, s. 35.

Arbitration in case of difference between warden and contractors, &c.

38. The warden of a penitentiary shall exercise due diligence in enforcing the payment of debts due to the penitentiary, and with as little expense as possible; and, on the report of the inspector approved by the Governor in Council, he may accept of such security from any debtor on granting time, or such composition in full settlement, as is thought conducive to the interests of the penitentiary. 46 V., c. 37, s. 36.

Warden to collect debts to penitentiary.

39. All books of account and other books, bills, registers, returns, receipts, bills of parcels and vouchers, and all other papers and documents of every kind relating to the affairs of the penitentiary, shall be the property of the penitentiary, and shall remain therein; and the warden shall preserve therein at least one set of copies of all official reports made to Parliament respecting the penitentiary,—for which purpose, and for the purpose of enabling him to distribute such official reports in exchange for like documents from other similar institutions abroad, he shall, as soon as they are printed, be furnished by the clerk of the House of Commons with fifty copies of such reports as are printed by order of the House. 46 V., c. 37, s. 37.

Books, documents, &c., to be property of penitentiary.

Copies of reports to be kept.

By whom to be furnished.

40. The warden and accountant shall transmit, monthly, to the accountant of penitentiaries, a statement of the receipts and expenditures for the preceding month, verified under oath in the manner following:—

Monthly statement by warden and accountant.

“I, _____ warden, and I, _____ accountant, of the _____ penitentiary, make oath and say, that the foregoing statement of receipts and expenditures on account of the said penitentiary for the month of _____ 18 _____, is true and correct.

Oath of warden and accountant.

“Sworn before me at _____ the _____ day _____ of _____ A.D. 18 _____, _____
“Inspector, or as the case may be.”

“I, _____ storekeeper of the _____ penitentiary, make oath and say that the articles mentioned in the foregoing statement, as purchased for the said peni-

Storekeeper's oath.

“tentiary for the month of 18 , were duly received.
 “Sworn before me at the
 “day of A.D., 18 .
 “ Inspector, or as the case may be.”

By whom administered.

2. Such oaths may be administered by the inspector or the accountant of penitentiaries, or by any justice of the peace, notary public, or commissioner for taking affidavits. 46 V., c. 37, s. 38.

PRIVILEGED VISITORS.

Who shall have the right of visiting.

41. The following persons, other than the inspector or persons specially appointed by the Minister of Justice may visit any penitentiary at pleasure, that is to say,—the Governor General of Canada, the Lieutenant Governor of any Province of Canada, any member of the Queen’s Privy Council for Canada, any member of the Executive Council of any of the said Provinces, any member of the Parliament of Canada or of any of the local Legislatures, any judge of any court of record in Canada or in any of the said Provinces, and any Queen’s Counsel; but no other person shall be permitted to enter within the walls wherein the prisoners are confined, except by the special permission of the warden, and under such regulations as the inspector prescribes. 46 V., c. 37, s. 39.

CONVEYANCE, RECEIPT AND REMOVAL OF CONVICTS.

What shall be sufficient authority for conveying convicts to penitentiary.

42. The sheriff or deputy sheriff of any county or district, or any bailiff, constable, or other officer, or other person, by his direction or by the direction of a court, or any officer appointed by the Governor in Council and attached to the staff of a penitentiary for that purpose, may convey to the penitentiary named in the sentence, any convict sentenced or liable to be imprisoned therein, and shall deliver him to the warden thereof, without any further warrant than a copy of the sentence taken from the minutes of the court before which the convict was tried, and certified by a judge or by the clerk or acting clerk of such court. 46 V., c. 37, s. 40.

When brought from any other penitentiary or gaol.
 [5-6 V., c. 29,
 s. 14; 6-7 V.,
 c. 26, s. 12.]

43. Whenever a prisoner is ordered, by competent authority, to be conveyed to any penitentiary from any other penitentiary, or from a reformatory prison, or from a common gaol, there shall be delivered to the warden of the penitentiary receiving such prisoner, together with all other necessary documents, a certificate signed by the medical officer of the institution from which such prisoner has been taken, and countersigned by the warden, if the prisoner has been taken from a penitentiary or a reformatory prison, or by the sheriff or his deputy if from a common gaol, declaring that such prisoner is free from any putrid, infectious or cutaneous disease, and that he is fit to be removed. 46 V., c. 37, s. 41.

44. The warden shall receive into the penitentiary every convict legally certified to him as sentenced to imprisonment therein, and shall there detain him, subject to all the rules, regulations and discipline thereof, until the term for which he has been sentenced is completed, or until he is otherwise discharged in due course of law. 46 V., c. 37, s. 42.

Duty of warden as to receiving and detaining convicts. [5-6 V., c. 29, s. 16; 6-7 V., c. 26, s. 14.]

45. The Governor General may, by warrant signed by the Secretary of State of Canada, or by such other officer as is, from time to time, authorized by the Governor in Council, direct the removal of any convict from any one penitentiary to another; and the warden of the penitentiary having the custody of any convict so ordered to be removed, when required so to do, shall deliver up the said convict to the constable or other officer or person who produces the said warrant, together with a copy, attested by the said warden, of the sentence and date of conviction of such convict as given to him on reception of such convict into his custody; and the constable or other officer or person shall give a receipt to the warden for the convict, and shall thereupon, with all convenient dispatch, convey and deliver up such convict, with the said attested copy, into the custody of the warden of the penitentiary mentioned in the warrant, who shall give a receipt in writing for every convict so received into his custody, to such constable or other officer or person, as his discharge; and the convict shall be kept in custody in the penitentiary to which he is so removed, until his removal to another penitentiary, or until the termination of his sentence, or until his pardon or release, or discharge by law. 46 V., c. 37, s. 43.

Governor may authorize removal from or to any penitentiary.

Proceedings in such case.

Detention of convict.

46. The sheriff, or other officer or person employed by competent authority to convey any convict to any penitentiary to which such convict is ordered to be taken, either by sentence of a court or by order of the Secretary of State or other officer, as in the next preceding section mentioned, may secure and convey him through any county or district through which he has to pass in any of the Provinces of Canada; and until the convict has been delivered to the warden of such penitentiary, such sheriff, officer or person shall, in all territorial divisions or parts of Canada through which it may be necessary to convey such convict, have the same authority and power over and with regard to such convict, and to command the assistance of any person in preventing his escape, or in recapturing him in case of an escape, as the sheriff of the territorial division in which he was convicted would himself have, in conveying him from one part of that division to another. 46 V., c. 37, s. 44.

Powers of sheriff or officer conveying convicts to a penitentiary.

Assistance in case of escape.

47. If sentence of death has been passed upon any convict by any court in Canada, and the Governor General, on behalf of Her Majesty, has been pleased to commute such sentence to imprisonment for life, or for any term of years, such commuta-

Power to convey a convict whose sentence of death has been commuted, and

effect of com-
mutation.

tion shall have the same effect as the judgment of a competent court legally sentencing such convict to such imprisonment for life or other term, and the sheriff, or other officer, or other person having such convict in custody, on receipt of a letter from the Secretary of State or such other officer as aforesaid, notifying him of the fact of such commutation, and directing him to convey such convict to a penitentiary therein named, shall forthwith convey such convict thereto, and shall have the same rights and powers, in conveying such convict to such penitentiary, as if the conveyance took place by virtue of the sentence of a competent court. 46 V., c. 37, s. 45.

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

48. A letter signed by the Secretary of State or such other officer as aforesaid, notifying the warden of the fact of the commutation of any sentence of death to imprisonment for life or for a term of years, and of the term of years or life term to which the sentence has been commuted, shall be sufficient authority to the warden to receive such convict into the penitentiary, and to deal with him as if he had been sentenced by a competent court to confinement therein for the period or life term in the said letter mentioned; and it shall not be necessary, for the purpose of commuting such sentence, or of authorizing the conveyance of a prisoner to any penitentiary, or for his reception and detention therein for the term to which such sentence is commuted, that the warden should have in his possession a copy of any pardon. 46 V., c. 37, s. 46.

TRANSFER OF JUVENILE OFFENDERS FROM AND TO REFORMATORY PRISONS.

Juvenile
offenders
found incor-
rigible may
be removed
from reforma-
tory to peni-
tentiary.
[1-2 V., c. 82,
ss. 5-6.]

49. If a juvenile offender has been ordered by competent authority to be imprisoned in any reformatory prison, and after being imprisoned therein has become incorrigible, and is so certified by the warden and one of the chaplains, the Lieutenant Governor of the Province in which the reformatory prison is situate, by a warrant under his hand, addressed to the warden of such reformatory prison, setting forth the sentence or order under which the juvenile offender was imprisoned therein, and the fact that he is incorrigible, may direct that such juvenile offender be removed to any penitentiary named in the said warrant; and the warden, or any other officer of the prison, or any other person authorized by him, shall have the same powers in conveying such juvenile offender to such penitentiary as are hereinbefore given to a sheriff or other person in like cases:

And dealt
with as if
sentenced to
the peniten-
tiary.

2. The warden of the penitentiary therein named shall receive such juvenile offender and deal with him for the unexpired term of the sentence or order under which he was ordered to be imprisoned in such reformatory prison, as if he had been sentenced to such penitentiary by a competent court: Provided that, together with the said offender, a copy of the said sentence or order, attested by the warden of the reformatory prison, and

Copy of sen-
tence or order
to be de-
livered.

also an order from the Lieutenant Governor, directing the warden of such penitentiary to receive such juvenile offender, shall be delivered to the warden of the penitentiary. 46 V., c. 37, s. 47.

50. The Governor General may, at any time, in his discretion, by warrant under his hand, cause any convict in a penitentiary, whose sentence is for a term not less than two years, and who appears to the inspector to be under sixteen years of age, and susceptible of reformation, to be transferred, for the remainder of his term of imprisonment, to the reformatory prison, if there is one, of the Province where such convict was sentenced. 46 V., c. 37, s. 48.

Juvenile offenders in penitentiary may be transferred to reformatory prison.

TREATMENT OF CONVICTS.

51. The following general rules shall be observed in the treatment of convicts in a penitentiary:—

(a.) Every convict shall, during the term of his confinement, be clothed, at the expense of the penitentiary, in suitable prison garments;

General rules.
Clothing.
[28-29 V., c. 126, Sch. 23.]

(b.) He shall be fed on a sufficient quantity of wholesome food;

Food.
[28-29 V., c. 126, Sch. 21.]

(c.) He shall be provided with a bed and pillow with sufficient covering, varied according to the season; and—

Bedding.

(d.) He shall, except in case of sickness, be kept in a cell by himself at night, and during the day when not employed. 46 V., c. 37, s. 49.

Solitary confinement.
[28-29 V., c. 126, s. 17 (5).]

52. Convict labour may be of two descriptions,—

(a.) Obligatory, that is to say: every convict, except during sickness or other incapacity, shall be kept constantly at hard labour during at least ten hours, exclusive of hours for meals or schools, of every day, except Sunday, Good Friday, Christmas Day, and such other days as the Governor General sets apart for days of fasting or thanksgiving, and such days as are designated in the rules made by the inspector in that behalf; and the warden shall determine the kind of such labour; but no convict professing the Roman Catholic faith shall be compelled to labour on any of the obligatory holidays of his church,—that is to say, Circumcision, Epiphany, Annunciation, Corpus Christi, Saint Peter and Saint Paul, All Saints, Conception and Ascension, or other festival days of obligation;

Convict labour.
Obligatory.
[28-29 V., c. 126, s. 19.]

Holidays.
[5-6 V., c. 29, s. 18;
6-7 V., c. 26, s. 16;
28-29 V., c. 126, Sch. 36.]
As to R. C. holidays.

(b.) Voluntary, that is to say: a convict of exemplary conduct may be allowed by the warden, if he sees fit, to work over hours at such work as may be conveniently done in the penitentiary, and at such rates as are fixed by the inspector, the value of which overwork, at such rates, may either be paid to the convict's family during his imprisonment, should he so desire it, or be credited to him in the books of the penitentiary, to be paid him on his discharge, subject, however, to any general rules which the inspector makes upon the subject:

Voluntary.
Over hours, and payment therefor.

Labour of convicts not to be let out.

2. The convicts may be employed either in labour or at trades under the control of the Crown ; but no labour shall be let out to any company or private person. 46 V., c. 37, s. 50.

FEMALE PRISONERS.

Female convicts to be kept separate and under female officers.

[28-29 V., c. 126, s. 17 (3).]

53. The female convicts shall be kept separate and secluded from the male convicts, and shall be under the charge of a matron, with such and so many female officers as the inspector, from time to time sees fit to order to be employed, reference being had to the number of such convicts and the kinds of work in which they are engaged. 46 V., c. 37, s. 51.

PENAL CELLS.

Penal cells may be constructed.

[28-29 V., c. 126, s. 17 (2).]

54. The Governor in Council, whenever he deems it expedient, may order such and so many penal cells to be constructed at any penitentiary, as he sees fit. 46 V., c. 37, s. 52.

SHORTENING OF SENTENCE.

Rules as to rewards for good conduct and diligence.

55. The inspector may, for the purpose of encouraging convicts to good behaviour, diligence and industry, and of rewarding them for the same, make rules and regulations under which a correct record may be kept of the daily conduct of every convict in any penitentiary, noting his industry, diligence and faithfulness in the performance of his work, and the strictness with which he observes the prison rules, with a view to permit such convict, under the prison rules, to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding five days for every month during which he is exemplary in industry, diligence and faithfulness in his work, and does not violate any of the prison rules :

Remission of time within a certain limit.

Provision for increased rates of remission.

2. When any convict has earned and has at his credit any of the several numbers of days of remission hereinafter respectively mentioned, he may be allowed, for every subsequent month during which his industry, diligence, faithfulness in his work and observance of the prison rules continue satisfactory, the following increased rates of remission, that is to say :—

When 30 days are earned.

(a.) When he has thirty days' remission at his credit, seven days and one half day's remission may be allowed him for every month thereafter ;

When 120 days are earned.

(b.) When he has one hundred and twenty days' remission at his credit, ten days' remission may be allowed him for every month thereafter :

Remission in case of sickness.

3. If any convict, by reason of sickness or any other infirmity, not intentionally produced by himself, is unable to labour, he shall be entitled, by good conduct, to one-half the remission from his sentence every month to which he would otherwise be entitled :

4. Every convict who escapes, attempts to escape, breaks prison, attempts to break prison, breaks out of his cell, or makes any breach therein with intent to escape, or assaults any officer or servant of the penitentiary, shall forfeit the whole of such remission which he has earned. 46 V., c. 37, ss. 54, 55 and 56, parts.

Forfeiture for certain offences.

OFFENCES AND PENALTIES.

56. Every convict confined in any penitentiary, who assaults any officer or servant employed therein, is guilty of an aggravated assault and liable to imprisonment in the said penitentiary for a term not exceeding two years. 46 V., c. 37, s. 56, part.

Assaulting officers.
[5-6 V., c. 29, s. 21 ; 6-7 V., c. 26, s. 19.]

57. The inspector shall draw up a list of prison offences, by way of general warning to the convicts as to their conduct in the prison, among which it shall specially be declared that no convict shall be permitted to speak to another convict upon any pretence whatsoever, nor to any officer or guard, or other servant of the institution, except with respect to the work at which he is employed, and then only in the fewest words possible and in a respectful manner: and such list shall be printed, and a copy of the same placed in every cell of the penitentiary. 46 V., c. 37, s. 60.

Inspector to make list of prison offences.

No talking allowed.

Posting up list.

58. The inspector may, subject to the approval of the Minister of Justice, make and, from time to time, alter rules for the discipline and correction of convicts confined in any penitentiary as hereinbefore provided; but in case any convict is accused of having committed any offence which, if proved, would be followed by the infliction of corporal punishment or a remand to the penal prison, where such penal prison is established, the warden shall investigate, under oath, the facts of the case, before awarding such punishment or remand, and make a minute of the evidence taken by him, which shall be forwarded forthwith to the inspector; and no such punishment shall be inflicted unless the surgeon of the penitentiary has certified that the prisoner is in a physical condition to bear such punishment, and unless the surgeon is present during its infliction; and not more than sixty lashes shall be inflicted upon any prisoner for any such offence. 46 V., c. 37, s. 61.

Inspector to make rules for discipline and correction.

Corporal punishment.

Investigation

Surgical certificate, &c.

Limited to 60 lashes.

[28-29 V., c. 126, Sch. 58 and 60.]

59. Every officer, guard or servant of any penitentiary, or other person, who brings in or carries out, or endeavours to bring in or carry out, or knowingly allows to be brought in or carried out, to or from any convict, or carries to any convict while employed outside the prison walls, any money, clothing, provisions, tobacco, spirits, letters, papers or other articles whatsoever, not allowed by the rules of the penitentiary shall,

Bringing money, spirits, letters, &c., to convicts.

[5-6 V., c. 29, s. 26 ; 6-7 V., c. 26, s. 24 ; 28-29 V., c. 126, ss. 38-39.]

Penalty. on summary conviction, be liable to a penalty not exceeding one hundred dollars, or to imprisonment with hard labour, for a term not exceeding three months. 46 V., c. 37, s. 59.

TRESPASSES.

Punishment of persons trespassing on penitentiary grounds.

60. Every person who is found trespassing upon any grounds, buildings, yards, offices or other premises whatsoever, belonging or appertaining to any penitentiary, or who enters the same, not being an officer or servant of the penitentiary, or authorized by the warden, shall, on summary conviction for a first offence, be liable to a penalty not exceeding ten dollars, and in default of payment to imprisonment, with or without hard labour, for a term not exceeding one month; and for a subsequent offence to a penalty not exceeding fifty dollars, and in default of payment to imprisonment with or without hard labour, for a term not exceeding three months. 46 V., c. 37, s. 62.

Subsequent offence.

Penalty if vessels are moored within 300 feet of shore or wharf bounding penitentiary.

61. Every person who moors or anchors, or causes to be moored or anchored, any raft, boat, vessel or craft of any kind within three hundred feet of the shore or wharf bounding the lands of any penitentiary towards any lake, arm of the sea, bay or river, without the permission of the warden of such penitentiary, shall, on summary conviction, be liable to a penalty of twenty dollars, and in default of payment of such penalty and costs, to imprisonment with hard labour, for a term not exceeding two months; and the amount of such penalty may be levied upon such raft, boat, vessel or craft, in whomsoever the property thereof may be, as well as on the offender's own goods and chattels. 46 V., c. 37, s. 63.

LIQUORS.

No spirits allowed in penitentiary except for warden, &c.

Giving liquor or tobacco, &c., to convicts.

[28-29 V., c. 126 s. 34.]
Penalty.

62. No spirituous or fermented liquors shall be brought into the penitentiary for the use of any officer or person therein (except the warden or deputy warden, if the latter is resident therein), or for the use of any convict confined therein, except under the rules of the penitentiary; and any person who gives any spirituous or fermented liquor, tobacco, snuff or cigars, to any convict, except under the rules of the penitentiary, or conveys the same to any convict, shall incur a penalty of forty dollars, which shall be recoverable by the warden before any court of competent jurisdiction, and placed to the credit of the Minister of Finance and Receiver General. 46 V., c. 37, s. 64.

DISCHARGE OF CONVICTS.

Discharge of convicts at certain times and under

63. No convict shall be discharged from a penitentiary on the termination of his sentence, or otherwise, if he is labouring under any contagious or infectious disease; or, unless at his

own request, during the months of November, December, January, February or March, or if he is labouring under any acute or dangerous disease; but such convict may remain in the penitentiary until he recovers from such disease, or until the first day of April following the termination of his sentence: but a convict remaining from any cause in a penitentiary after the termination of his sentence, shall be under the same discipline and control as if his sentence were still unexpired:

certain circumstances.

2. On the first day of April a list shall be made of all the prisoners whose sentences have expired during the five preceding months, and who are still in prison, according to the dates when their sentences expired; and according to such order they shall be discharged, one convict on the said first day of April, and one on every day thereafter, until the whole are discharged:

Order of discharge of convicts in April.

3. Whenever the term of any prisoner's sentence expires on a Sunday, he shall be discharged on the Saturday preceding, unless he desires to remain until the Monday following:

Sentence expiring on Sunday.

4. Every convict under sentence for life, or for a term not less than two years, shall, upon his discharge, either by expiration of sentence, or otherwise, be furnished, at the expense of the penitentiary, with a suit of clothing other than prison clothing, and with such sum of money as is sufficient to pay his travelling expenses to the place at which he received his sentence, and such other sum in addition, not exceeding twenty dollars, as the warden deems proper; and if any sum remains at his credit for earnings for overwork, such sum shall be paid to him at such times, and in such amounts, as the prison rules direct; but if the warden is of opinion that a convict, on being discharged, does not intend *bonâ fide* to return to the place at which he received his sentence, but intends to go to some other place, nearer to the penitentiary, such convict shall be furnished with such less sum of money as is, in the warden's opinion, sufficient to pay his travelling expenses to such nearer place.

[28-29 V., c. 126, s. 41.]
Clothing and money to convicts discharged.

[28-29 V., c. 126, s. 43.]

Money for overwork.

As to convict not returning to place of conviction.

46 V., c. 37, s. 65.

PRISONERS' EFFECTS.

64. Every article found upon the person of a convict at the time of his reception into the penitentiary, which is considered worth preservation, shall be taken from him, and a description thereof entered in a book kept for that purpose; and if the convict does not see fit otherwise to dispose of it at the time, it shall be carefully put away until the day of his discharge, when it shall be delivered up to him again in the state in which it then is; but the warden shall not be liable for any deterioration which takes place in such article in the interval:

Articles found on convict on entry to be kept for him.

[28-29 V., c. 126, Sch. 8.]

2. If, at the time of his reception, the convict desires to dispose of any such article, and it is so disposed of, a memorandum of the fact shall be noted in the said book, and signed by the proper officer who has charge thereof, and also by the convict;

May be sold if he desires to dispose of them.

and any money received therefor shall be placed to his credit. 46 V., c. 37, s. 66.

CORONERS' INQUESTS.

Coroner to hold inquest in certain cases. [28-29 V., c. 126, s. 48.]

65. If a convict dies in a penitentiary, and the inspector, warden, surgeon or chaplain has reason to believe that the death of such convict arose from any other than ordinary causes, he shall call upon a coroner having jurisdiction to hold an inquest upon the body of such deceased convict; and upon such requisition by one or more of the officers above named, the said coroner shall hold such inquest, and, for that purpose, he and the jury, and all other persons necessarily attending such inquest, shall have admittance to the prison. 46 V., c. 37, s. 67.

Admittance of coroner and jury.

DECEASED CONVICTS.

How the body of convicts shall be disposed of.

66. The body of every convict who dies in a penitentiary shall, if claimed by his relatives, be given up to and shall be taken away by them; but if not so claimed, the body may be delivered to an inspector of anatomy, duly appointed under any Act authorizing such appointment, or to the professor of anatomy in any college wherein medical science is taught; or if not so delivered shall be decently interred at the expense of the penitentiary. 46 V., c. 37, s. 68.

INSANE CONVICTS.

Kingston penitentiary insane ward.

67. The Governor in Council may direct the Warden of the Kingston Penitentiary to set apart a portion thereof for the reception, confinement and treatment of insane convicts; and the portion so set apart shall be used for such purposes accordingly, and shall be known as the ward for the insane. 46 V., c. 37, s. 69.

Surgeons to report cases of insanity among convicts.

[5-6 V., c. 29, s. 23; 6-7 V., c. 26, s. 21.]

68. If, at any time, it appears to a surgeon of a penitentiary that any convict confined therein is insane and ought to be removed to the ward for the insane, he shall report the same in writing to the warden, and on such report the warden shall forthwith remove such convict to the ward for the insane. 46 V., c. 37, s. 70.

If insane convict becomes sane.

[5-6 V., c. 29, s. 23; 6-7 V., c. 26, s. 21.]

69. If, at any time before the termination of the sentence of such convict, it is certified to the warden by the surgeon that such convict has recovered his reason, and is in a fit state to be removed from the ward for the insane, the warden shall remove such convict therefrom. 46 V., c. 37, s. 71.

If insane when his term expires.

70. If the term of imprisonment of any convict expires while detained as insane in the ward for the insane, he may continue to be detained therein pending the proceedings author-

ized by this Act ; and in such case the surgeon shall forthwith certify to the warden whether the person is sane or insane. 46 V., c. 37, ss. 72 and 73.

71. If the surgeon certifies that such person is sane, he shall be forthwith discharged. 46 V., c. 37, s. 74. Discharge, if sane.

72. If the surgeon certifies that the person is insane, the warden shall report the fact to the inspector ; and the Secretary of State shall thereupon communicate the fact to the Lieutenant Governor of the Province within which the person was sentenced, so that he may be removed to a place of safe keeping :

2. The Lieutenant Governor may, thereupon, order the removal of the person to a place of safe keeping within the Province, and he shall, upon such order, be delivered to the person therein designated, for transport to such place, and he shall remain and be detained there or in such other place of safe keeping as the Lieutenant Governor, from time to time, orders, until it appears to the Lieutenant Governor that he is of sound mind, when the Lieutenant Governor may order him to be discharged ; but if, at any time after his removal to such place of safe keeping, and before his complete recovery, the Lieutenant Governor thinks fit to order that he shall be given up to any person by him named, he shall be given up accordingly. 46 V., c. 37, ss. 75 and 76. Report in order to removal of insane convict.
Lt. Governor may order removal.
Further power of Lieutenant Governor.

73. If the Lieutenant Governor of the Province within which any such person was sentenced has made arrangements with the Lieutenant Governor of the Province of Ontario for the safe keeping of any such person in Ontario, and such arrangements have been communicated to the Secretary of State by the Lieutenant Governors of the Provinces concerned, the Secretary of State shall, in the case of any such person, communicate, under the next preceding section, with the Lieutenant Governor of Ontario, who shall, in such cases have all the powers thereby given :

2. If the Lieutenant Governor does not, within two months after the Secretary of State has communicated, as provided by the next preceding section, cause the person to be removed under the provisions thereof, the Secretary of State may, on the recommendation of the Minister of Justice, direct the convict to be removed for safe keeping to the gaol in which he was last confined previous to his transfer to the penitentiary, or to any other gaol in the Province within which he was sentenced ; and, after such removal, all the provisions of the next preceding section shall apply to his case. 46 V., c. 37, ss. 77 and 78. Provision if Lt. Governor does not provide for removal.

74. If any question arises as to the sanity of any convict, the Minister of Justice may order an inquiry and report to be made by one or more medical men, in conjunction with the Question of sanity, how decided.

surgeon, and may, upon such report, direct such action as is necessary to carry out the provisions of this Act. 46 V., c. 37, s. 79.

SCHEDULE.

* * * * *
Repealed and new schedule substituted by 50-51 V., c. 52, s. 10.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 183.

An Act respecting Public and Reformatory Prisons. A. D. 1886.

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

1. In this Act, unless the context otherwise requires, the expression "Lieutenant Governor" means the Lieutenant Governor in Council. Interpretation.
"Lieutenant
"Governor."

PART I.

INSECURE PRISONS.

2. The Lieutenant Governor of any Province of Canada may, by proclamation published in the official Gazette of the Province, and in the *Canada Gazette*, declare that the common gaol of any district, county or place in such Province is insecure, and may name the gaol of any adjoining district, county or place as the gaol to which offenders within such first mentioned district, county or place, may, from and after a time stated, be committed or sentenced. 40 V., c. 37, s. 1. Lt.-Governor may substitute a neighbouring gaol for an insecure one.

3. The Lieutenant Governor may, after the issue of such proclamation, from time to time, direct the sheriff to transfer such of the prisoners then confined in such insecure gaol, as the Lieutenant Governor thinks proper, to the gaol so named as aforesaid; and such order shall be a sufficient authority to the respective sheriffs and officers to deliver and receive, and to the keeper of such last mentioned gaol to detain therein, any such prisoner, according to the exigency of the warrant or sentence under which he was confined in such insecure gaol. 40 V., c. 37, s. 4. Transfer of prisoners to substituted gaol.

4. During the continuance of such proclamation, any person who would otherwise be committed to or sentenced to imprisonment in the common gaol so declared insecure, shall be committed to or sentenced to imprisonment in the gaol named in the proclamation for the purpose, and the respective sheriffs and officers shall have authority to deliver and receive such person; and a warrant directed to the gaoler of the insecure gaol shall be a sufficient authority for the gaoler of Effect of such proclamation as to persons who would otherwise be imprisoned in the insecure gaol.

the gaol so named as aforesaid to detain in such gaol the person named in such warrant, according to the exigency of the warrant, or until he is removed, as is hereinafter provided. 40 V., c. 37, s. 2.

As to place of trial of prisoners in substituted gaol, &c.

5. Every person so confined in the gaol named in such proclamation, may be tried in the district, county or place in the gaol whereof he is confined, unless the judge, or other person presiding at the court at which it is proposed to try such person, or a judge of a court having jurisdiction to try the offence, otherwise directs; and the court of general gaol delivery or General Sessions of the Peace, or other court having like powers, held in such district, county or place, and every judge presiding thereat, shall have jurisdiction to make, in reference to any person committed in default of sureties for good behaviour, or to keep the peace, the like order as such court or judge might make if the court was being held in the district, county or place in which such person was committed. 40 V., c. 37, s. 3.

Powers of court and judges.

Proclamation superseding that first issued.

6. The Lieutenant Governor may, at any time, by his proclamation published in the official Gazette of the Province, and in the *Canada Gazette*, declare that any proclamation issued under the second section of this Act, shall, from and after a time stated, cease to have effect; and such proclamation shall cease to have effect accordingly. 40 V., c. 37, s. 5.

Re-transfer of prisoners in consequence.

7. The Lieutenant Governor may, after the issue of such last mentioned proclamation, direct the sheriff to transfer so many of the prisoners then confined in the gaol so named as aforesaid, as the Lieutenant Governor thinks proper, to the gaol of the district, county or place in which, but for the operation of the preceding sections, such prisoners would have been confined; and such order shall be sufficient authority to the respective sheriffs and officers to deliver and receive, and to the keeper of such last mentioned gaol to detain therein, any such prisoners, according to the exigency of the warrant or sentence under which they were originally confined. 40 V., c. 37, s. 6.

EMPLOYMENT OF PRISONERS.

Lt.-Governor in Council may make regulations.

8. The Lieutenant Governor of any Province may, from time to time, make regulations for the purpose of preventing escapes and preserving discipline in the case of prisoners in any common gaol, employed beyond the limits thereof. 40 V., c. 36, s. 1.

And may then authorize employment of

9. After such regulations are made, the Lieutenant Governor may, from time to time, direct or authorize the employment, upon any specific work or duty, beyond the limits of

any common gaol, of any prisoner who is sentenced to be imprisoned with hard labour in such gaol, for any offence against any law of Canada. 48-49 V., c. 81, s. 1. prisoners outside of gaols.

10. Every such prisoner shall, during such employment, be subject to such regulations and to all the rules, regulations and discipline of the gaol, so far as applicable. 40 V., c. 36, s. 3. Discipline of the gaol to be observed.

11. No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. 40 V., c. 36, s. 4. Supervision.

12. Every street, highway or public thoroughfare of any kind, along or across which prisoners pass in going to or returning from their work, and every place where they are so employed, shall, while so used, be considered as a portion of the gaol; and any escape or attempt at escape, and any rescue or attempt at rescue, made on such street, highway or thoroughfare, shall be held to have been made within or from such gaol. 40 V., c. 36, s. 5. Place of work, &c., to be deemed part of gaol.

IMPROVEMENT OF PRISON DISCIPLINE.

13. If, in any Province, there is at any time a prison of such a character as to render practicable the application of the three sections next following to such Province, and if the Lieutenant Governor makes rules for keeping a correct record of the daily conduct of every prisoner in such prison, noting his behaviour, industry, diligence and faithfulness, and the strictness with which he observes the prison regulations, and if such prison, and the rules so made, are by the Governor in Council declared adequate, the Governor in Council may, by proclamation published in the *Canada Gazette*, reciting the premises and describing the prison, declare such sections in force within such Province from and after a day named in such proclamation. 40 V., c. 39, ss. 1 and 5. On certain conditions the three sections next following may be declared in force in any Province.

14. Any judge sentencing any prisoner to imprisonment in any prison named in the proclamation in the next preceding section mentioned, may sentence such prisoner for a term not more than one sixth longer than the maximum term at present prescribed by law for the offence; and any such sentence may be carried out in such prison, although it is for any term not exceeding two years and four months. 40 V., c. 39, s. 2. Power to judge sentencing a prisoner in certain cases.

15. Every prisoner sentenced to such prison shall be entitled to earn a remission of a portion of the time for which he is sentenced, not exceeding five days for every month during which he is exemplary in behaviour, industry and faithfulness, and does not violate any of the prison rules; and if prevented from labour by sickness, not intentionally produced by himself, Prisoner may earn a remission of part of sentence.

he shall be entitled to earn, by good conduct, a remission not exceeding two and one half days for every such month. 40 V., c. 39, s. 3.

Forfeiture of remission in certain cases.

16. Every such prisoner who commits any breach of the laws or of the prison regulations shall, besides any other penalty to which he is liable, be liable to forfeit the whole or any part of any remission which he has so earned. 40 V., c. 39, s. 4.

PART II.

ONTARIO.

Provisions applicable to Ontario.

17. The provisions of sections eighteen to forty-eight both inclusive, being Part two of this Act apply only to the Province of Ontario. 43 V., c. 39, s. 16, *part*, and c. 40, s. 10, *part*.

Interpretation. "Court."

18. In this part of this Act, the expression "court" includes a police or stipendiary magistrate, but does not include one or more justices of the peace. 43 V., c. 39, s. 2, and c. 40, s. 2; —44 V., c. 32, s. 1, *part*, and s. 6, *part*.

The Central Prison for the Province of Ontario.

Imprisonment in the Central Prison.

19. Every court in the Province of Ontario, before which any person is convicted for an offence against the laws of Canada, punishable by imprisonment in the common gaol, for the term of two months, or for any longer time, may sentence such person to imprisonment in the central prison for the Province of Ontario, instead of the common gaol of the county or judicial district where the offence was committed or was tried. 44 V., c. 32, s. 6, *part*.

Transfer of prisoners to the Central Prison.

20. Every person confined in any one of the common gaols of the said Province, under sentence of imprisonment for any offence, may, by direction of the Provincial Secretary, be transferred from such common gaol to such central prison, there to be imprisoned for the unexpired portion of the term of imprisonment to which such person was originally sentenced or committed to such common gaol; and such person shall thereupon be imprisoned in such central prison for the residue of such term, unless in the meantime he is lawfully discharged or removed, and shall be subject to all the rules and regulations of such central prison. 36 V., c. 69, s. 2.

Transfer although imprisonment is for non-payment of fine.

21. Such person may be removed to the central prison, notwithstanding such imprisonment, or any part thereof, is imposed in default of the payment of a fine or penalty in money

and that such person is entitled to be discharged upon payment of such fine or penalty :

2. If the fine or penalty is paid after the removal of the offender, the same shall be paid to the proper officer of such prison, to defray the expenses of the removal of the said offender to such prison, and otherwise for the uses of such prison ; but nothing herein contained shall affect the right of any private person to such fine or penalty, or any part thereof. 44 V., c. 32, s. 5. If fine is paid subsequently.

22. The warden of the central prison shall receive into the said prison every offender legally certified to him as sentenced to imprisonment therein ; and shall detain him, subject to all the rules, regulations and discipline thereof, until the term for which he has been sentenced is completed, or until he is otherwise discharged in due course of law. 36 V., c. 69, s. 3. Warden to receive and detain offenders.

23. The Lieutenant Governor may, from time to time, authorize, direct or sanction the employment upon any specific work or duty, without or beyond the walls or limits of such central prison, of any of the prisoners confined or sentenced to be imprisoned therein ; and all such prisoners shall, during such last mentioned employment, be subject to all the rules, regulations and discipline of such prison, so far as the same are applicable, and to such other regulations, for the purpose of preventing escapes, and otherwise, as are approved by the Lieutenant Governor in that behalf : Provided, that when prisoners are so employed without the walls or limits of such prison, it shall only be done under the strictest care and supervision of officers appointed to that duty. 36 V., c. 69, s. 4. Employment of prisoners on works without the prison.

24. The Lieutenant Governor may, from time to time, by warrant signed by the Provincial Secretary, or by such other officer as is authorized by the Lieutenant Governor in that behalf, direct the removal of any offender from the central prison to the Ontario reformatory for boys, or from the central prison to the common gaol of the county in which he was sentenced, or to any other gaol, or from the said reformatory to the said central prison. 48-49 V., c. 79, s. 1. Transfer of prisoners to common gaol.

Ontario Reformatory for Boys.

25. If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which such boy is convicted is satisfied that a due regard for the material and moral welfare of the boy What offenders may be sentenced to the Ontario Reformatory for boys.

manifestly requires that he should be committed to the Ontario reformatory for boys, then such court may sentence the boy to be imprisoned in such reformatory for such term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence; and may further sentence such boy to be kept in such reformatory for an indefinite time after the expiration of such fixed term: Provided, that the whole period of confinement in such reformatory shall not exceed five years from the commencement of his imprisonment. 43 V., c. 39, s. 1, *part.*

As to term of imprisonment.

In certain cases offenders summarily convicted may be sentenced to such reformatory.

26. If any boy, apparently under the age of sixteen years, is convicted of any offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of fourteen days at the least, any judge of any one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and when he considers the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy to be sent either forthwith or at the expiration of his imprisonment in such gaol, to such reformatory, to be there detained for the purpose of his industrial and moral education, for an indefinite period, not exceeding in the whole five years, from the commencement of his imprisonment in the common gaol. 43 V., c. 39, s. 3.

Detention for purposes of reform.

27. Every boy so sentenced shall be detained in such reformatory until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions hereof and to any regulations made, as hereinafter provided, be detained in such reformatory for a period not to exceed five years from the commencement of his imprisonment, for the purpose of his industrial and moral education. 43 V., c. 39, s. 4.

Commitment of boy to gaol until conveyed to reformatory.

28. A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or other magistrate by whom any boy is sentenced to confinement in such reformatory, shall be a sufficient authority to the sheriff, constable or other officer who is directed, verbally or otherwise, so to do, to convey such boy to the common gaol of the county where such sentence is pronounced, and for the gaoler of such gaol to receive and detain such boy, until some person, lawfully authorized, requires the delivery of such boy for removal to the reformatory. 43 V., c. 39, s. 6.

If the boy is in bad health.

29. If any boy sentenced to be confined in such reformatory is in such a weak state of health that he cannot safely or conveniently be removed to the reformatory, he may be

detained in the common gaol or other place of confinement in which he is, until he is sufficiently recovered to be safely and conveniently removed to the reformatory. 43 V., c. 39, s. 7.

30. No boy shall be discharged from such reformatory at the termination of his term of confinement, if then labouring under any contagious or infectious disease, or under any acute or dangerous illness, but he shall be permitted to remain in such reformatory until he recovers from such disease or illness: Provided, that any boy remaining in such reformatory for any such cause shall be under the same discipline and control as if his term was still unexpired. 43 V., c. 39, s. 13.

As to discharge when boy is in bad health.

Proviso.

The Andrew Mercer (Ontario) Reformatory for Females.

31. Every court in the Province of Ontario, before which any female is convicted of an offence against the laws of Canada, punishable by imprisonment in the common gaol for the term of two months, or for any longer time, may sentence such female to imprisonment in the Andrew Mercer (Ontario) reformatory for females, instead of the common gaol of the county or judicial district where the offence was committed or was tried. 44 V., c. 32, s. 1, *part*.

When females may be sentenced to Andrew Mercer Reformatory.

32. Any female, from time to time, confined in any common gaol in the said Province, under sentence of imprisonment for any offence against the laws of Canada, may, by direction of the Provincial Secretary, be transferred from such common gaol to such reformatory, to be imprisoned for the unexpired portion of the term of imprisonment to which such female was originally sentenced or committed to the common gaol; and such female shall thereupon be imprisoned in such reformatory for the residue of the said term, and shall be subject to all the rules and regulations of the reformatory. 44 V., c. 32, s. 2.

Transfer of prisoners to such reformatory.

33. Any female so sentenced to imprisonment may be removed to such reformatory, notwithstanding such imprisonment, or any part thereof, is imposed in default of the payment of a fine or penalty in money, and that such offender is entitled to be discharged upon payment of such fine or penalty:

Transfer although imprisonment is for non-payment of a fine.

2. If the fine or penalty is paid after the removal of the offender, the same shall be paid to the proper officer of such reformatory, to defray the expense of the removal of the said offender to such reformatory, and otherwise for the uses of such reformatory; but nothing herein contained shall affect the right of any private person to such fine or penalty, or any part thereof. 42 V., c. 43, s. 3.

If fine is paid subsequently.

34. Whenever any female is convicted under the eighth section of the "*Act respecting Offences against Public Morals and Public Convenience*," or, under "*The Summary Trials Act*,"

Term of imprisonment in certain cases.

she may be sentenced to the said reformatory for any term less than two years; but if any term exceeding six months is inflicted, no fine shall be imposed in addition. 44 V., c. 32, s. 3.

Conveyance
of prisoners.

35. Any officer appointed by the Lieutenant Governor, or other officer or person, by his direction or by direction of the court or other lawful authority, may convey to such reformatory any convict sentenced, or liable to be imprisoned therein, and deliver her to the superintendent or keeper thereof, without any further warrant than a copy of the sentence, taken from the minutes of the court before which the offender was tried, and certified by a judge or the clerk or acting clerk of such court. 42 V., c. 43, s. 7.

Superinten-
dent to re-
ceive and
detain offend-
ers.

36. The superintendent of the reformatory shall receive into the same every offender legally certified to her as sentenced to imprisonment therein, and shall there detain her, subject to all the rules, regulations and discipline thereof, until the term for which she has been sentenced is completed, or until she is otherwise discharged in due course of law. 42 V., c. 43, s. 8.

Transfer of
prisoners to
common gaol.

37. The Lieutenant Governor may, from time to time, by warrant signed by the Provincial Secretary, or by such other officer as is authorized by the Lieutenant Governor in that behalf, direct the removal from such reformatory back to the common gaol, or to any other gaol in Ontario, of any person removed to such reformatory under this Act. 42 V., c. 43, s. 9.

Delivery of
offender to
the proper
officer.

38. The superintendent of such reformatory, or the keeper of any common gaol, having the custody of any offender ordered to be removed, shall, when required so to do, deliver up to the constable or other officer or person who produces the said warrant, such offender, together with a copy, attested by the said superintendent or gaoler, of the sentence and date of conviction of such offender, as given on the reception of the offender into the custody of such superintendent or keeper. 42 V., c. 43, s. 10.

The Industrial Refuge for Girls.

On conviction
for certain
offences girls
may be sen-
tenced to In-
dustrial
Refuge.

39. If any girl who, at the time of her trial appears to the court to be under the age of fourteen years, is convicted of any offence for which a sentence of imprisonment for a term of one month or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which the girl is convicted is satisfied that a due regard for her material and moral welfare manifestly requires that she should be committed to the Industrial Refuge for Girls of Ontario, such court may sentence such girl to be imprisoned in the Andrew Mercer (Ontario) reformatory for females, for such fixed term as the court thinks fit, not being

greater than the term of imprisonment which could be imposed upon an adult for the like offence, and may further sentence the said girl to be kept in such industrial refuge for girls for an indefinite time after the expiration of such fixed term: Provided, that the whole term of confinement in such reformatory and industrial refuge shall not exceed five years from the commencement of her imprisonment. 43 V., c. 40, s. 1, *part*.

As to term of imprisonment.

40. If any girl apparently under the age of fourteen years, is convicted of any offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a term of fourteen days at the least, any judge of one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and if he considers the material and moral welfare of the girl requires it, he may, as an additional sentence for such offence, sentence such girl to be sent either forthwith, or at the expiration of her imprisonment in such gaol, to such industrial refuge for girls, to be there detained for the purpose of her industrial and moral education for an indefinite period, not exceeding in the whole five years from the commencement of her imprisonment in the common gaol. 43 V., c. 40, s. 3.

In certain cases offenders summarily convicted may be sentenced to such refuge.

41. Every girl so sentenced shall be detained in such reformatory until the expiration of the fixed term of her sentence, unless sooner discharged by lawful authority; and such girl thereafter shall, and every girl sentenced under the next preceding section shall, subject, in both cases, to the provisions hereof, and to any regulations made as hereinafter provided, be detained in such industrial refuge for girls for a term not to exceed five years from the commencement of her imprisonment, for the purpose of her industrial and moral education. 43 V., c. 40, s. 4.

Detention for purposes of reform.

General Provisions.

42. Any sheriff or other person having the custody of any offender sentenced to imprisonment in the said central prison or either of the said reformatories, may detain the offender in the common gaol of the county or district in which such offender is sentenced, or other place of confinement in which such offender is, until some person lawfully authorized in that behalf requires such offender's delivery for the purpose of being conveyed to such prison or either of such reformatories. 38 V., c. 46, s. 1;—42 V., c. 43, s. 4;—43 V., c. 39, s. 5.

Detention in gaol until demanded by proper authority.

43. If the gaol surgeon, or other medical practitioner acting in that behalf, certifies that any offender sentenced to the central prison or to the Andrew Mercer (Ontario) reformatory for females, is in such a weak state of health that such offender

If offender is certified to be in weak health.

is unable to perform hard labour, such offender may be detained in the common gaol or other place of confinement in which such offender is, until such offender is sufficiently recovered to be employed at hard labour. 38 V., c. 46, s. 2;—42 V., c. 43, s. 5.

Computation of time in such cases.

44. The time for which any person, sentenced to imprisonment in the central prison or in the Andrew Mercer (Ontario) reformatory for females, is held in custody under the provisions of the two sections next preceding, shall be reckoned in computing the time served by such person in such prison or reformatory. 38 V., c. 46, s. 3;—42 V., c. 43, s. 6.

If term expires on Sunday.

45. Whenever the time of any offender's sentence in such prison, reformatories or refuge, under any law within the legislative authority of the Parliament of Canada, expires on a Sunday, such offender shall be discharged on the previous Saturday, unless such offender desires to remain until the Monday following. 36 V., c. 69, s. 6;—42 V., c. 43, s. 11;—43 V., c. 39, s. 12.

Apprenticeship of juvenile offenders.

46. If any respectable and trustworthy person is willing to undertake the charge of any boy committed to the Ontario Reformatory for Boys, when such boy is over the age of twelve years, or of any girl committed to the Industrial Refuge for Girls, as an apprentice to the trade or calling of such person, or for the purpose of domestic service, and such boy or girl is confined in the reformatory or refuge by virtue of a sentence or order pronounced under the authority of any Act of the Parliament of Canada, the superintendent of the reformatory or refuge may, with the consent and in the name of the inspector of prisons and public charities of Ontario, bind the said boy or girl to such person for any term not to extend, without his or her consent, beyond a term of five years, from the commencement of his or her imprisonment; and the inspector shall thereupon order that such boy or girl shall be discharged from the said reformatory or refuge on probation, to remain so discharged, provided his or her conduct during the residue of the term of five years, from the commencement of his or her imprisonment, continues good, and such boy or girl shall be discharged accordingly: Provided, that any wages reserved in any indenture of apprenticeship made under this section shall be payable to such boy or girl, or to some other person for his or her benefit:

Discharge on probation in such case.

As to wages.

Sanction of Governor General.

2. No boy or girl shall be discharged under this section until after the fixed term of his or her sentence has elapsed, unless by the authority of the Governor General. 43 V., c. 39, ss. 8 and 9;—43 V., c. 40, ss. 5 and 6.

Regulations as to discharge.

47. The Governor in Council may make such regulations as he considers advisable for the discharge, after the expira-

tion of the fixed term of sentence, of prisoners confined in such reformatory or refuge under any Act of the Parliament of Canada; and such discharge may be either absolute or upon probation, subject to such conditions as are imposed under the authority of the said regulations. 43 V., c. 39, s. 10;—43 V., c. 40, s. 7.

48. The judge of any county court or any police magistrate may, upon satisfactory proof that any boy or girl who was sentenced under the provisions of any Act of the Parliament of Canada, and who has been discharged on probation, has violated the conditions of his or her discharge, order such boy or girl to be recommitted to such reformatory or refuge, and thereupon such boy or girl shall be detained therein under his or her original sentence, as if such boy or girl had never been discharged. 43 V., c. 39, s. 11, and c. 40, s. 8.

Re-commitment for violation of conditions of discharge.

PART III.

QUEBEC.

Reformatory Schools for Boys.

49. The provisions of sections fifty to sixty, both inclusive, being Part three of this Act, apply only to the Province of Quebec. 32-33 V., c. 34, s. 10, *part.*

Provisions applicable to Quebec

50. Every person apparently under the age of sixteen years, who is convicted before any court of criminal jurisdiction or before any judge of the Sessions of the Peace, recorder, district or police magistrate, of any offence for which he would be liable to imprisonment, may be sentenced, on such conviction, to be detained in a certified reformatory school for any term not less than two years nor more than five years, or he may be sentenced to be first imprisoned in the common gaol for a term not in any case exceeding three months, and at the expiration of his sentence, to be sent to a certified reformatory school, and to be there detained for a term of not less than two years and not more than five years. 32-33 V., c. 34, s. 2.

Offenders under 16 years may be sent to Reformatory Schools.

51. The Lieutenant Governor may, at any time, in his discretion, order that any offender detained in such reformatory school, under a summary conviction, be discharged. 32-33 V., c. 34, s. 3.

Power to discharge.

52. The Lieutenant Governor may, at any time, on the report of one of the inspectors of prisons for the Province of Quebec, order any offender undergoing sentence in any certified reformatory school, on a conviction for felony, to be

Removal of incorrigibles.

removed as incorrigible; and in any such case, the offender shall be imprisoned in the penitentiary for the remainder of the term of his sentence. 32-33 V., c. 34, s. 4.

Detention of offenders under 16 years previous to trial.

53. A person apparently under the age of sixteen years, arrested on a charge of having committed any offence not capital, shall not, while awaiting trial for such offence, be detained in any common gaol, if there is a certified reformatory school within three miles of such gaol, but shall be detained in such reformatory school while awaiting trial; and if there is more than one such school within such distance, the person so charged shall be detained in that one of them which is conducted nearest in accordance with the religious belief to which his parents belong, or in which he has been educated. 32-33 V., c. 34, s. 5.

Punishment of persons breaking the rules of reformatory schools.

54. Every offender detained in a certified reformatory school, who wilfully neglects or refuses to conform to the rules thereof, shall, on summary conviction before a justice of the peace having jurisdiction in the place or district in which the school is situate, be imprisoned with hard labour, for any term not exceeding three months; and at the expiration of the term of his imprisonment, he shall, by and at the expense of the managers of the school, be brought back to the school from which he was taken, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to the prison. 32-33 V., c. 34, s. 6.

Reformatory Prisons for Females.

When Reformatory Prisons are established certain female convicts may be sentenced to be detained therein.

55. Whenever the Lieutenant Governor of the Province of Quebec has declared, by proclamation published in the *Official Gazette* of that Province, that suitable arrangements have been made in any district in that Province, for the detention and proper government and discipline of female convicts in any separate building or separate portion of the common gaol in such district, as a reformatory prison for such convicts, and that such separate building or portion of a common gaol shall be a reformatory prison for the purposes hereof,—then if any female person is convicted in the said Province of any felony, not capital, and for which she would, without this Act, otherwise be punishable by imprisonment for any term not less than two years, but not exceeding seven years, such female convict shall be punishable by imprisonment in the female reformatory prison for any term less than seven, but not less than five years, and she may be sentenced to such imprisonment accordingly, although otherwise she would not be liable to imprisonment in the penitentiary for so long a term as that for which she may be so sentenced to imprisonment in the female reformatory prison. 34 V., c. 30, s. 1.

56. If, after such proclamation, any female is convicted of any felony or misdemeanour otherwise punishable by imprisonment, but not for any term so long as two years, or of any offence under the eighth section of the "*Act respecting Offences against Public Morals and Public Convenience*," then, unless it is proved that she has been previously convicted and imprisoned twice or oftener, each of such convictions being for some such felony, misdemeanour or offence, as aforesaid, such convict shall be asked by the judge, recorder, judge of the Sessions of the Peace, commissioner of police, district, police or stipendiary magistrate, mayor, warden or the two justices of the peace, or other functionary before whom the conviction is had, whether she consents, instead of the imprisonment to which she is otherwise liable, to be sentenced to imprisonment for a term of five years, in the female reformatory prison; and if she refuses to give such consent, sentence shall be passed upon her as if this Act had not been passed, but if she gives such consent, or it is proved that she has been twice convicted as aforesaid, the fact shall be duly recorded or entered on the proceedings in the case, and she shall be sentenced accordingly to imprisonment in the female reformatory prison for a term of five years. 34 V., c. 30, s. 2.

And certain others after two convictions or with their own consent.

57. If, at the time of the passing of any such sentence, there is more than one female reformatory prison in such Province, the imprisonment under such sentence shall be in that one of such reformatory prisons which is in the same district as the place at which the sentence is passed, or if there is no reformatory prison in such district, then in the reformatory prison nearest to such place; but if there is not more than one such reformatory prison in the Province, then such imprisonment shall be in it; and in any case the sheriff of the district in which the sentence is passed, or any person thereunto by him deputed, shall have the like powers for conveying the convict to the reformatory prison in which she is to be imprisoned, as any sheriff has to convey any convict to the penitentiary. 34 V., c. 30, s. 3, *part*.

In what prison such sentence shall be carried out.

Power to convey prisoner to it.

58. Each such female reformatory prison as aforesaid, shall be a house of correction and a public reformatory prison, within the meaning of the sixth sub-section of the ninety-second section of "*The British North America Act, 1867*," and subject to such laws as the Legislature of such Province makes with respect to the establishment, maintenance and management thereof. 34 V., c. 30, s. 4.

Every such prison to be a house of correction, &c.

Employment of Prisoners.

59. Every sheriff or gaoler in the Province of Quebec, being thereunto authorized by the Lieutenant Governor, or in such manner as any Act of the Legislature of the Province

Convicts in common gaols may be employed outside the same.

Powers for preventing escapes, &c.

Sentence to include such employment.

provides, and under such regulations as the said Legislature makes or authorizes to be made in that behalf, may employ any male convict sentenced to hard labour in such prison, at hard labour outside the walls or precincts of such prison, and may exercise the same powers of restraint and discipline, and for preventing escape, while such convict is so outside of the walls or precincts, as if he was inside the same, and whether his labour is so employed directly by the Government of the said Province or by any contractor to whom such labour is let or hired out by the said Government, or by any competent authority ; and the sentence of any such male convict, whether pronounced before or after the passing of this Act, shall be understood to include such employment as aforesaid,—and any time during which a convict is so employed shall be reckoned as part of the term for which he was sentenced to be confined in such prison. 34 V., c. 30, s. 5.

Common Gaols.

Gaols to be houses of correction.

60. Every common gaol in such Province shall be a house of correction, reformatory prison and place of detention. 34 V., c. 30, s. 6.

PART IV.

NOVA SCOTIA.

The Halifax Industrial School.

61. * * * * *
Repealed and new section substituted by 53 V., c. 37, s. 34.

62. * * * * *
Repealed and new section substituted by 53 V., c. 37, s. 35.

School to be open to inspection.

63. The said industrial school shall, at all times, be open to inspection by the mayor and aldermen of the city of Halifax, and the stipendiary magistrate for the city of Halifax, or any of them. 33 V., c. 32, s. 3.

Boys to be educated and taught trades.

64. The committee of the said industrial school shall be bound to teach and instruct each boy so sentenced and detained as aforesaid, in reading and writing, and in arithmetic as far as the rule of three, and also to teach each such boy such one of the trades or occupations which is, from time to time, taught in the said school, as the committee deems most adapted to his capabilities. 33 V., c. 32, s. 4.

Halifax Reformatory School for Boys of the Roman Catholic Faith.

65. * * * * *
Repealed and new section substituted by 53 V., c. 37, s. 36.

66. * * * * *
Repealed and new section substituted by 53 V., c. 37, s. 37.

67. Such home shall, at all times, be open to inspection by any officer appointed by the Governor in Council to inspect the same, and, when and so long as any pecuniary aid is received from the city of Halifax, shall be open to inspection by the mayor, aldermen and stipendiary magistrate of such city, or any of them. 47 V., c. 45, s. 3. Reformatory to be open to inspection.

68. The governing body of such home shall be bound to teach and instruct each boy so sentenced and detained as aforesaid in reading and writing, and in arithmetic to the end of simple proportion, and also to teach each such boy such one of the trades or occupations which are, from time to time, taught in such home, as such governing body deems most adapted to his capabilities. 47 V., c. 45, s. 4. Boys to be educated and taught trades.

69. If any offender detained in such home becomes incorrigible, he may, on a certificate from the officer in charge of such home, be removed to a penitentiary, as provided in "The Penitentiary Act." 47 V., c. 45, s. 5. Removal of incorrigibles.

70. If any boy so sentenced and detained in such home has, in the opinion of the governing body of such home, so conducted himself during a term of six consecutive months as by his good behaviour, diligence and industry, to warrant his being set at large and no longer detained in the home, and if the police court or stipendiary magistrate of the city of Halifax concurs with the said governing body in recommending the issue of a license to such boy to be at large, then the Minister of Justice, or such person as he appoints to issue such licenses, may issue a license to such boy to be at large in the Province of Nova Scotia, or in such part thereof as is specified in such license : Ticket of leave may be granted by Minister of Justice.

2. Such license may be revoked or altered at pleasure by the Minister of Justice, or by such person as he appoints as aforesaid : And may be revoked or altered.

3. The Minister of Justice may make such regulations as he sees fit as to the form of such licenses, the conditions of enjoyment and forfeiture thereof, and for ascertaining that such conditions are duly complied with : Minister to make regulations.

4. Upon information on oath that the holder of any such license has contravened any of the conditions thereof, the police court or stipendiary magistrate of the city of Halifax may issue Contravention of conditions of ticket of

leave how
dealt with.

a warrant for his arrest, wherever in the Dominion of Canada he may be, and cause him to be brought before such court or magistrate, and upon conviction of such contravention, shall remand him to such home, there to serve the remainder of his original sentence, with such additional term, not exceeding one year, as to such court or magistrate seems proper. 49 V., c. 54, s. 1.

Jurisdiction
of police
court, &c.,
extended.

71. The jurisdiction of the police court and of the stipendiary magistrate of Halifax, and of the policemen and other officers of such court or magistrate, shall, for the purposes hereof, extend to every boy so convicted and sentenced as aforesaid, although he is in any place in the county of Halifax beyond the limits of the city of Halifax. 47 V., c. 45, s. 7.

PART V.

PRINCE EDWARD ISLAND.

Reformatory Prison.

Certain offend-
ers may be
sentenced to
P.E.I. Re-
formatory.

72. As soon as a proclamation has been issued by the Lieutenant Governor of the Province of Prince Edward Island, declaring that a reformatory for juvenile offenders has been established and made ready for the confinement of prisoners, any person, apparently under the age of sixteen, who is convicted in that Province, before the Supreme Court or stipendiary magistrate, of any offence for which, by law, he is liable to imprisonment, may, by the said court or stipendiary magistrate, be sentenced to be detained in the said reformatory for any term not exceeding five years and not less than two years, as to the said court or magistrate appears proper. 43 V., c. 41, s. 1.

Offenders
awaiting
trial.

73. Any person, apparently under the age of sixteen years, thereafter arrested on a charge of having committed any offence within the said Province, not capital, shall not, while awaiting trial for such offence, be detained in any common gaol, but shall be detained in such reformatory. 43 V., c. 41, s. 2.

Punishment
of offenders
violating
rules.

74. If any offender, detained in such reformatory, wilfully neglects to conform to the rules thereof, he may, upon summary conviction, be imprisoned in the common gaol, with hard labour, for any term not exceeding three months; and at the expiration of his term of imprisonment, he shall be brought back to the reformatory, there to be detained during a term equal to so much of his term of imprisonment as remained unexpired at the time of his being sent to the prison. 43 V., c. 41, s. 3.

Removal of Prisoners to the Gaol of Queen's County.

75. The Supreme Court of Judicature of the Province of Prince Edward Island, or any judge thereof, may, on the application of the Attorney General or other Crown officer of such Province, whenever any prisoner is sentenced to any term of imprisonment with hard labour, in either of the counties of Prince County or King's County, make an order or give directions for the transfer and removal of such prisoner from the gaol of the county in which the conviction of such prisoner takes place, to the gaol of the county of Queen's County, and such order may be made or directions given at the time of passing sentence. 17 V. (P.E.I.), c. 13, s. 1, *part*.

Removal of prisoners to gaol of Queen's County may be ordered.

76. Whenever such order is made or directions given, the sheriff of the county in which the conviction takes place shall cause such prisoner to be removed with all convenient despatch to the gaol of the county of Queen's County, pursuant to such order or direction. 17 V. (P.E.I.), c. 13, s. 1, *part*.

Sheriff to carry out such order.

77. Upon such removal, such prisoner shall be subject to the same authority and jurisdiction as if he had been convicted in the county of Queen's County. 17 V. (P.E.I.), c. 13, s. 1, *part*.

To what authority such prisoner shall be subject.

NOTE.—*Eight sections are added by 53 V., c. 37, s. 39.*



CHAPTER 184.

A. D. 1886.

An Act respecting the Police of Canada.

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

Governor may appoint commissioners of police.

1. The Governor in Council may, from time to time, appoint, by commission under the Great Seal, one or more fit and proper persons to be a commissioner or commissioners of police within Canada, or within one or more of the Provinces, Territories or Districts of Canada, or within any one or more of the districts or counties in any Province, Territory or District, or within any temporary judicial district, or any provisional judicial district in Ontario. 42 V., c. 37, s. 1.

Appointment of police constables.

2. The Governor in Council may, from time to time, direct and authorize any commissioner of police, under this Act to appoint any fit and proper persons to serve as police constables under and within the jurisdiction of such commissioner of police, and such commissioner may, at his pleasure, remove any such police constable ; and every such police constable shall obey all lawful directions and be subject to the government of such commissioner of police, and shall be charged with all the powers, rights and responsibilities which belong, by law, to constables duly appointed in the Province, District or county of the Province or Territory for which they are appointed, but for the purpose of carrying out the criminal laws and other laws of Canada only. 31 V., c. 73, s. 2.

Their duties and powers.

Powers of the commissioners in carrying out the laws of Canada.

3. Every such commissioner of police shall, for the purpose of carrying out the criminal laws and other laws of Canada only, have and exercise, within the limits of his jurisdiction, all the powers and authority, rights and privileges, by law appertaining to justices of the peace generally,—and shall, within the limits of his jurisdiction within any Province, have and exercise, for the purpose aforesaid, all the powers and authority, rights and privileges by law appertaining to police magistrates of cities in the same Province,—and shall, within the limits of his jurisdiction in any of the Territories or Districts of Canada, have and exercise, for the purpose aforesaid, all the powers and authority, rights and privileges by law appertaining to stipendiary magistrates in the same District or Territory, and shall be subject in

all respects, except as otherwise provided by this Act, to the regulations of the law of the Province, District or Territory, in which he is acting, respecting police magistrates and the office of justice of the peace ; but it shall not be necessary for any commissioner of police appointed under this Act to possess any property qualification, or to be actually resident within the Province, District or Territory for which, or part of which, he is appointed. 42 V., c. 37, s. 2.

No property qualification, &c., required.

4. Every such commissioner of police shall keep minutes of every proceeding had by and before him, and shall keep such accounts, make such returns and collect such information within his jurisdiction, and perform such other duties as the Governor in Council, from time to time, prescribes and requires. 31 V., c. 73, s. 5.

Duties of commissioners.

5. Every such commissioner of police and every such police constable, shall be subject to such regulations in respect to the order, management and disposition of the police and shall receive such rates of pay or allowance as are, from time to time, prescribed by the Governor in Council ; and an account shall be laid before Parliament, within the first fourteen days after the meeting of each session, of the average number of men employed during each month of the year, and of their pay and travelling expenses. 31 V., c. 73, s. 6.

Regulations, pay and annual account to Parliament.

6. Every such police constable, who is guilty of any disobedience of orders, neglect of duty, or any misconduct as such police constable, shall, on summary conviction before any commissioner of police, police magistrate or justice of the peace, be liable to a penalty not exceeding forty dollars and costs, and in default of immediate payment thereof, to imprisonment for any term not exceeding three months, unless such penalty and costs are sooner paid ; and any such person may be proceeded against by indictment for any offence committed by him as such constable, but not both by indictment and under this Act for the same offence. 31 V., c. 73, s. 3.

Penalty for misconduct by police constable.

7. All moneys arising from penalties, forfeitures and fines imposed by any commissioner of police, if not directed by law to be otherwise appropriated, shall be, from time to time, paid to such commissioner of police, who shall account for the same and pay over or disburse the moneys arising therefrom at such times and in such manner and to such persons as the Governor in Council, from time to time, directs. 31 V., c. 73, s. 7.

Application of penalties.



CHAPTER 185.

A. D. 1886. An Act respecting actions against persons administering the Criminal Law.

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

Limitation of actions and prosecutions.
[11-12 V., c. 44, ss. 8 and 10.]

1. Every action and prosecution against any person, for anything purporting to be done in pursuance of any Act of the Parliament of Canada relating to criminal law, shall, unless otherwise provided, be laid and tried in the district, county or other judicial division, where the act was committed, and not elsewhere, and shall not be commenced except within six months next after the act committed. 31 V., c. 15, s. 7, *part*;—32-33 V., c. 29, s. 130.

Notice to defendant.
[11-12 V., c. 44, s. 9.]

2. Notice in writing of such action and of the cause thereof, shall be given to the defendant, one month at least before the commencement of the action. 32-33 V., c. 29, s. 131.

General issue.
[11-12 V., c. 44, s. 10.]

3. In any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial had thereupon. 31 V., c. 15, s. 7, *part*;—32-33 V., c. 29, s. 132.

In case of tender of sufficient amends.
[11-12 V., c. 44, s. 11.]

4. No plaintiff shall recover in any such action, if tender of sufficient amends is made, before such action brought, or if a sufficient sum of money is paid into court by or on behalf of the defendant, after such action brought. 32-33 V., c. 29, s. 133.

Verdict or judgment for defendant in certain cases, and recovery of costs.
[11-12 V., c. 44, ss. 12 and 14.]

5. If such action is commenced after the time hereby limited for bringing the same, or is brought or the venue laid in any other place than as aforesaid, a verdict shall be found or judgment shall be given for the defendant; or if the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases; and although a verdict or judgment is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge, before whom the trial is had, cer-

tifies his approval of the action. 31 V., c. 15, s. 7, *part*;—
32-33 V., c. 29, s. 134.

6. Nothing herein shall prevent the effect of any Act in force in any Province of Canada, for the protection of justices of the peace or other officers from vexatious actions for things purporting to be done in the performance of their duty. 32-33 V., c. 29, s. 135. Protection of justices of the peace, &c.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 139.

A. D. 1886.

An Act respecting Evidence.

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

Short title.

1. This Act may be cited as "*The Evidence Act.*" 44 V., c. 28, s. 6.

Judicial notice to be taken of Provincial statutes.

2. In any criminal proceeding or any civil proceeding in respect of which the Parliament of Canada has jurisdiction in this behalf, whenever it becomes necessary or expedient to prove or give in evidence any statute of any Province of the Dominion of Canada or of the late Province of Canada, passed either before or after the passing of "*The British North America Act, 1867,*" the court or judge before whom such proceeding is pending, or being heard or tried, shall take judicial notice of any such provincial statute, in like manner and way as if such statute was a statute of the Province in which such proceeding is being heard or tried ; and any copy of any such statute purporting to be printed and published by the printer authorized to print and publish the same, shall be receivable and received in evidence to prove the contents thereof in every court having cognizance of any such proceeding. 49 V., c. 50, s. 1.

Primâ facie evidence of proclamations, &c., of Governor General, &c. 31-32 V., c. 37, s. 2.]

3. *Primâ facie* evidence of any proclamation, order, regulation or appointment, made or issued by the Governor General or by the Governor in Council or by or under the authority of any Minister or head of any department of the Government of Canada, may be given in all courts of justice established by the Parliament of Canada, and in all legal proceedings whatsoever, civil or criminal, over which the Parliament of Canada has legislative authority in all or any of the modes hereinafter mentioned, that is to say :—

Canada Gazette, &c.

(a.) By the production of a copy of the *Canada Gazette* or of a volume of the Acts of the Parliament of Canada purporting to contain a notice of such proclamation, order, regulation or appointment ;

Copy printed by Q. P.

(b.) By the production of a copy of such proclamation order, regulation or appointment, purporting to be printed by the Queen's Printer for Canada ; and—

(c.) By the production, in the case of any proclamation, order, regulation or appointment made or issued by the Governor General or by the Governor in Council, of a copy or extract purporting to be certified to be true by the clerk, or assistant or acting clerk of the Queen's Privy Council for Canada,—and in the case of any order, regulation or appointment made or issued by or under the authority of any such Minister or head of a department, by the production of a copy or extract purporting to be certified as true by the Minister, or by his deputy or acting deputy, or by the secretary or acting secretary of the department over which he presides. 44 V., c. 25, s. 90, *part*, and s. 91, and c. 28, s. 1.

Copy or extract certified by proper authority.

4. *Primâ facie* evidence of any proclamation, order, regulation or appointment made or issued by a Lieutenant Governor or Lieutenant Governor in Council of any Province, or by or under the authority of any member of the Executive Council, being the head of any department of the Government of the Province, may be given in all courts of justice established by the Parliament of Canada and in all legal proceedings whatsoever, civil or criminal, over which the Parliament of Canada has legislative authority, in all or any of the modes hereinafter mentioned, that is to say :—

Primâ facie evidence of proclamations, &c., of Lieutenant Governor, &c.

(a.) By the production of a copy of the official Gazette for the Province, purporting to contain a notice of such proclamation, order, regulation or appointment;

Official Gazette.

(b.) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the Government Printer for the Province;

Copy printed by Government Printer.

(c.) By the production of a copy or extract of such proclamation, order, regulation or appointment, certified to be true by the clerk or assistant or acting clerk of the Executive Council, or by the head of any department of a Provincial Government, or by his deputy or acting deputy, as the case may be. 44 V., c. 28, s. 2.

Copy or extract certified by the proper authority.

5. No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, regulation or appointment; and any such copy or extract may be in print or in writing, or partly in print and partly in writing. 44 V., c. 28, s. 3.

Proof of handwriting, &c., not requisite. [31-32 V., c. 37, s. 2.]

6. Any order in writing, signed by the Secretary of State of Canada, and purporting to be written by command of the Governor General, shall be received in evidence as the order of the Governor General. 41 V., c. 7, s. 6, *part*.

Order signed by Secretary of State.

7. All copies of official and other notices, advertisements and documents, printed in the *Canada Gazette* shall be *primâ facie* evidence of the originals, and of the contents thereof. 32-33 V., c. 7, s. 4.

Copies of notices, &c., in *Canada Gazette*.

Copies of entries in books of Government departments to be evidence on proof thereof. [42 V., c. 11, ss. 3, 4, 5.]

8. A copy of any entry in any book of account kept in any department of the Government of Canada shall, in all courts established by the Parliament of Canada, and in all legal proceedings, civil and criminal, over which the Parliament of Canada has legislative authority, be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such department, that the entry was made in the usual and ordinary course of business of such department, and that such copy is a true copy thereof. 48-49 V., c. 48, s. 1.

How this Act shall be construed.

[31-32 V., c. 37, s. 6.]

9. The provisions of this Act shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any existing statute or existing at common law. 44 V., c. 28, s. 5.

Application of provincial laws of evidence.

10. In all proceedings over which the Parliament of Canada has legislative authority, the laws of evidence in force in the Province in which such proceedings are taken shall, subject to the provisions of this and other Acts of the Parliament of Canada, apply to such proceedings.



CHAPTER 140.

An Act respecting the taking of Evidence relating to A. D. 1886.
proceedings in Courts out of Canada.

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

- 1.** In this Act, unless the context otherwise requires,—
- (a.) The expression “court” means and includes the Supreme Court of Canada, and every superior court in any Province of Canada; Interpretation.
“Court.”
 - (b.) The expression “judge” means and includes any judge of the Supreme Court of Canada, and any judge of any superior court in any Province of Canada; “Judge.”
 - (c.) The expression “cause” includes a proceeding against a criminal. 31 V., c. 76, s. 6, *part*;—46 V., c. 35, s. 1, *part*. “Cause.”

2. Whenever, upon an application for that purpose, it is made to appear to any court or judge, that any court or tribunal of competent jurisdiction, in any other of Her Majesty's dominions, or in any foreign country, before which any civil, commercial or criminal matter is pending, is desirous of obtaining the testimony in relation to such matter, of any party or witness within the jurisdiction of such first mentioned court, or of the court to which such judge belongs or of such judge, such court or judge may, in its or his discretion, order the examination upon oath upon interrogatories, or otherwise, before any person or persons named in such order, of such party or witness accordingly, and by the same or any subsequent order may command the attendance of such party or witness for the purpose of being examined, and for the production of any writings or other documents mentioned in such order, and of any other writings or documents relating to the matter in question that are in the possession or power of such party or witness. 31 V., c. 76, s. 1;—46 V., c. 35, s. 1, *part*. Order may be made for examination in Canada of a witness in relation to a matter pending out of Canada. [19-20 V., c. 113, s. 1.]

3. Upon the service upon such party or witness of such order and of an appointment of a time and place for the examination of such party or witness, signed by the person named in such order for taking the same, or if more than one person is named, then by one of the persons named, and upon pay- Enforcement of such order. [19-20 V., c. 113, s. 1.]

ment or tender of the like conduct money as is properly payable upon attendance at a trial, such order may be enforced in like manner as an order made by such court or judge in a cause depending in such court or before such judge. 31 V., c. 76, s. 2.

Conduct money and expenses.
[19-20 V., c. 113, s. 4.]

4. Every person whose attendance is required in manner aforesaid shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial. 31 V., c. 76, s. 3.

Witness to have like right of refusal as at a trial.
[19-20 V., c. 113, s. 5.]

5. Any person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a party or witness, as the case may be, in any cause pending in the court by which, or by a judge whereof, such order is made, would be entitled to, and no person shall be compelled to produce, under any such order, any writing or other document that he could not be compelled to produce at a trial of such a cause. 31 V., c. 76, s. 4.

Examination to be upon oath or affirmation.
[19-20 V., c. 113, s. 3.]

6. Any person authorized to take the examination of parties or witnesses by any order made in pursuance of this Act, may take such examination upon the oath of the parties or witnesses, or upon affirmation, in cases in which by the law of the Province wherein such examination is taken, affirmation is allowed instead of oath; and such oath or affirmation shall be administered by the person so authorized, or, if more than one, then by one of such persons. 31 V., c. 76, s. 5, *part*.

Rules and orders may be made by the court.
[19-20 V., c. 113, s. 6.]

7. The court may frame rules and orders in relation to procedure, to the evidence to be produced in support of the application for an order for examination of parties and witnesses under this Act, and generally for carrying this Act into effect; and in the absence of any order in relation to such evidence, letters rogatory from any court of justice in any other of the dominions of Her Majesty, or from any foreign tribunal, in which such civil, commercial or criminal matter is pending, shall be deemed and taken to be sufficient evidence in support of such application. 31 V., c. 76, s. 6, *part*;—46 V., c. 35, s. 1, *part*.

Powers of local Legislatures not affected.

8. This Act shall not be so construed as to interfere with the right of legislation of the Legislature of any Province requisite or desirable for the carrying out the objects hereof. 31 V., c. 76, s. 7.



CHAPTER 141.

An Act respecting Extra-judicial Oaths.

A. D. 1886.

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

1. Every justice of the peace or other person who administers, or causes or allows to be administered, or receives or causes, or allows to be received any oath, affidavit or solemn affirmation, touching any matter or thing whereof such justice or other person has not jurisdiction or cognizance by some law in force at the time being, or authorized or required by any such law, is guilty of a misdemeanour and liable to a fine not exceeding fifty dollars, or to imprisonment for any term not exceeding three months. 37 V., c. 37, s. 1, *part*, and s. 2.

Penalty for administering oath without lawful warrant. [5-6 W. IV, c. 62, s. 13.]

2. Nothing herein contained shall be construed to extend to any oath, affidavit or solemn affirmation before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial or punishment of any offence, or to any oath, affidavit or affirmation required or authorized by any law of Canada, or by any law of the Province wherein such oath, affidavit or affirmation is received or administered, or is to be used, or to any oath, affidavit or affirmation which is required by the laws of any foreign country to give validity to instruments in writing designed to be used in such foreign countries respectively. 37 V., c. 37, s. 1, *part*.

Act not to extend to certain oaths, affidavits and affirmations. [5-6 W. IV, c. 62, s. 13.]

3. * * * * *

Repealed and new section substituted by 53 V., c. 37, s. 41.

4. Any affidavit, affirmation or declaration required by any fire, life or marine insurance company, authorized by law to do business in Canada, in regard to any loss of property or life insured or assured therein, may be taken before any commissioner authorized to take affidavits, or before any justice of the peace or before any notary public for any Province of Canada; and any such officer is hereby required to take such affidavit, affirmation or declaration. 32-33 V., c. 23, s. 4.

Before whom affidavits to be used in insurance cases may be made.

SCHEDULE.

[5-6 W. IV, c. 62, Sch.] I, A. B., do solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the "*Act respecting extra-judicial Oaths.*"

37 V., c. 37, schedule.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 142.

An Act respecting the Extradition of Fugitive Criminals.

A.D. 1886.

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

SHORT TITLE.

1. This Act may be cited as "*The Extradition Act.*" 40 V., c. 25, s. 24. Short title.
[33-34 V., c.
52, s. 1.]

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a.) The expression "extradition arrangement," or "arrangement," means a treaty, convention or arrangement made by Her Majesty with a foreign state for the surrender of fugitive criminals, and which extends to Canada ; Interpreta-
tion.
"Extradition
"arrange-
"ment."
[33-34 V., c.
52, s. 26.]
- (b.) The expression "extradition crime" may mean any crime which, if committed in Canada, or within Canadian jurisdiction, would be one of the crimes described in the first schedule to this Act,—and, in the application of this Act to the case of any extradition arrangement, means any crime described in such arrangement, whether comprised in the said schedule or not ; "Extradition
"crime."
- (c.) The expressions "conviction" and "convicted" do not include the case of a condemnation under foreign law by reason of contumacy ; but the expression "accused person" includes a person so condemned ; "Conviction."
"Convicted."
"Accused
"person."
- (d.) The expressions "fugitive" and "fugitive criminal" mean a person being or suspected of being in Canada, who is accused or convicted of an extradition crime committed within the jurisdiction of any foreign state ; "Fugitive
"criminal."
- (e.) The expression "foreign state" includes every colony, dependency and constituent part of the foreign state ; and every vessel of any such state shall be deemed to be within the jurisdiction of and to be part of the state ; "Foreign
"state."
- (f.) The expression "warrant," in the case of a foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime ; "Warrant."
- (g.) The expression "judge" includes any person authorized to act judicially in extradition matters. 40 V., c. 25, s. 1. "Judge."

APPLICATION OF ACT.

As to existing arrangements.

3. In the case of any foreign state with which there is, at or after the time when this Act comes into force, an extradition arrangement, this Act shall apply during the continuance of such arrangement; but no provision of this Act, which is inconsistent with any of the terms of the arrangement, shall have effect to contravene the arrangement; and this Act shall be so read and construed as to provide for the execution of the arrangement:

As to limitations, qualifications and exceptions.

Imp. Act
33-34 V.,
c. 52.

2. In the case of any foreign state with respect to which the application to the United Kingdom of the Act of the Parliament of the United Kingdom, passed in the year one thousand eight hundred and seventy, and intituled "*An Act for amending the Law relating to the Extradition of Criminals,*" is made subject to any limitation, condition, qualification or exception, the Governor in Council shall make the application of this Act, by virtue of this section, subject to such limitation, condition, qualification or exception:

Orders under this Act may be revoked.

[33-34 V., c.
52, s. 21.]

3. The Governor in Council may, at any time, revoke or alter, subject to the restrictions of this Act, any order made by him in council under this Act, and all the provisions of this Act with respect to the original order shall, so far as applicable, apply *mutatis mutandis* to the new order. 40 V., c. 25, s. 4.

If the application of this Act depends on an Order in Council.

[33-34 V., c.
52, s. 5.]

4. This Act, so far as its application in the case of any foreign state, depends on or is affected by any Order in Council made under this Act or referred to therein, shall apply, or its application shall be affected from and after the time specified in the order, or, if no time is specified, after the date of the publication of the order in the *Canada Gazette*:

Publication of Orders in Council.

[33-34 V., c.
52, s. 2.]

2. Any order of Her Majesty in Council, referred to in this Act, and any Order of the Governor in Council made under this Act, and any extradition arrangement not already published in the *Canada Gazette*, shall be, as soon as possible, published in the *Canada Gazette* and laid before both Houses of Parliament:

Effect of publication in the *Canada Gazette*.

3. The publication in the *Canada Gazette* of an extradition arrangement, or an Order in Council, shall be evidence of such arrangement or order, and of the terms thereof, and of the application of this Act, pursuant and subject thereto; and the court or judge shall take judicial notice, without proof, of such arrangement or order, and the validity of the order and the application of this Act, pursuant and subject thereto, shall not be questioned. 40 V., c. 25, s. 5.

JUDGES AND COMMISSIONERS.

What judges may act in cases under this Act.

5. All judges of the superior courts and of the county courts of any Province, and all commissioners who are, from time to

time, appointed for the purpose, in any Province by the Governor in Council, under the Great Seal of Canada, by virtue of this Act, are authorized to act judicially in extradition matters under this Act, within the Province; and every such person shall, for the purposes of this Act, have all the powers and jurisdiction of any judge or magistrate of the Province:

2. Nothing in this section shall be construed to confer on any judge any jurisdiction in *habeas corpus* matters. 40 V., c. 25, s. 8. No *habeas corpus* power.

EXTRADITION FROM CANADA.

6. Whenever this Act applies, a judge may issue his warrant for the apprehension of a fugitive on a foreign warrant of arrest, or an information or complaint laid before him, and on such evidence or after such proceedings, as in his opinion would, subject to the provisions of this Act, justify the issue of his warrant if the crime of which the fugitive is accused or alleged to have been convicted had been committed in Canada: On what grounds a warrant may issue. [33-34 V., c. 52, s. 8.]

2. The judge shall forthwith send a report of the fact of the issue of the warrant, together with certified copies of the evidence and foreign warrant, information or complaint, to the Minister of Justice. 40 V., c. 25, s. 11. Report to Minister of Justice. [33-34 V., c. 52, s. 8 (2).]

7. A warrant issued under this Act may be executed in any part of Canada, in the same manner as if it had been originally issued, or subsequently indorsed, by a justice of the peace having jurisdiction in the place where it is executed. 40 V., c. 25, s. 10. Execution of warrant. [33-34 V., c. 52, s. 13.]

8. Every fugitive criminal of a foreign state, in the case of which state this Act applies, shall be liable to be apprehended, committed and surrendered in the manner provided in this Act, whether the crime or conviction, in respect of which the surrender is sought, was committed or took place before or after the date of the arrangement, or of the coming into force of this Act, or of the application of this Act in the case of such state, and whether there is or is not any criminal jurisdiction in any court of Her Majesty's dominions over the fugitive, in respect of the crime. 40 V., c. 25, s. 7. Surrender not to depend on time when the offence was committed, &c. [33-34 V., c. 52, s. 6.]

9. The fugitive shall be brought before a judge, who shall, subject to the provisions of this Act, hear the case, in the same manner, as nearly as may be, as if the fugitive was brought before a justice of the peace, charged with an indictable offence committed in Canada: Fugitive to be brought before the judge. [33-34 V., c. 52, s. 9.]

2. The judge shall receive upon oath, or affirmation if affirmation is allowed by law, the evidence of any witness tendered to show the truth of the charge or the fact of the conviction. Evidence of the charge.

3. The judge shall receive, in like manner, any evidence tendered to show that the crime of which the fugitive is Evidence that the crime is

not an extradition crime.

accused or alleged to have been convicted is an offence of a political character, or is, for any other reason, not an extradition crime; or that the proceedings are being taken with a view to prosecute or punish him for an offence of a political character. 40 V., c. 25, s. 12.

Depositions taken out of Canada. [33-34 V., c. 52, s. 14.]

10. Depositions or statements taken in a foreign state on oath, or on affirmation, where affirmation is allowed by the law of the state, and copies of such depositions or statements, and foreign certificates of, or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act:

When to be deemed authenticated. [33-34 V., c. 52, s. 15.]

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

(a.) If the warrant purports to be signed by, or the certificate purports to be certified by, or the depositions or statements, or the copies thereof, purport to be certified to be the originals or true copies, by a judge, magistrate or officer of the foreign state;

(b.) And if the papers are authenticated by the oath or affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other minister of the foreign state, or of a colony, dependency or constituent part of the foreign state; of which seal the judge shall take judicial notice without proof. 40 V., c. 25, s. 9.

What evidence shall be sufficient to justify committal. [33-34 V., c. 52, s. 10.]

11. If, in the case of a fugitive alleged to have been convicted of an extradition crime, such evidence is produced as would, according to the law of Canada, subject to the provisions of this Act, prove that he was so convicted,—and if, in the case of a fugitive accused of an extradition crime, such evidence is produced as would, according to the law of Canada, subject to the provisions of this Act, justify his committal for trial, if the crime had been committed in Canada, the judge shall issue his warrant for the committal of the fugitive to the nearest convenient prison, there to remain until surrendered to the foreign state, or discharged according to law; but otherwise the judge shall order him to be discharged. 40 V., c. 25, s. 13.

Judge shall,— [33-34 V., c. 52, s. 11.]
Give certain information to fugitive,—

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

(a.) Inform him that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*; and—

Transmit evidence to Minister of Justice.

(b.) Transmit to the Minister of Justice a certificate of the committal, with a copy of all the evidence taken before him, not already so transmitted, and such report upon the case as he thinks fit. 40 V., c. 25, s. 14.

13. A requisition for the surrender of a fugitive criminal of a foreign state who is, or is suspected to be in Canada, may be made to the Minister of Justice by any person recognized by him as a consular officer of that state resident at Ottawa,—or by any Minister of that state communicating with the Minister of Justice through the diplomatic representative of Her Majesty in that state,—or if neither of these modes is convenient, then in such other mode as is settled by arrangement. 40 V., c. 25, s. 15.

By whom requisition for surrender may be made. [33-34 V., c. 52, s. 7.]

14. No fugitive shall be liable to surrender under this Act if it appears,—

When the fugitive shall not be liable to surrender.

(a.) That the offence in respect of which proceedings are taken under this Act is one of a political character; or—

[33-34 V., c. 52, s. 3 (1).]

(b.) That such proceedings are being taken with a view to prosecute or punish him for an offence of a political character. 40 V., c. 25, s. 6.

15. If the Minister of Justice at any time determines,—

(a.) That the offence in respect of which proceedings are being taken under this Act is one of a political character;

In cases specified, Minister may refuse to make order or may cancel order already made.

(b.) That the proceedings are, in fact, being taken with a view to try or punish the fugitive for an offence of a political character; or—

[33-34 V., c. 52, s. 7.]

(c.) That the foreign state does not intend to make a requisition for surrender,—

He may refuse to make an order for surrender, and may, by order under his hand and seal, cancel any order made by him, or any warrant issued by a judge under this Act, and order the fugitive to be discharged out of custody on any committal made under this Act; and the fugitive shall be discharged accordingly. 40 V., c. 25, s. 16;—45 V., c. 20, s. 1.

16. A fugitive shall not be surrendered until after the expiration of fifteen days from the date of his committal for surrender; or if a writ of *habeas corpus* is issued, until after the decision of the court remanding him:

Delay before surrender.

[33-34 V., c. 52, s. 3 (4).]

2. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise. 40 V., c. 25, s. 17.

If fugitive is an offender under Canadian law.

[33-34 V., c. 52, s. 3 (3).]

17. Subject to the provisions of this Act, the Minister of Justice, upon the requisition of the foreign state, may, under his hand and seal, order a fugitive who has been committed for surrender to be surrendered to the person or persons who are, in his opinion, duly authorized to receive him in the name and on behalf of the foreign state, and he shall be so surrendered accordingly:

Minister may order surrender of fugitive to officer of a foreign state.

[33-34 V., c. 52, s. 11.]

Powers of such officer.

2. Any person to whom such order is directed may deliver, and the person so authorized may receive, hold in custody and convey the fugitive within the jurisdiction of the foreign state; and if he escapes out of any custody to which he is delivered, on or in pursuance of such order, he may be retaken in the same manner as any person accused or convicted of any crime against the laws of Canada may be retaken on an escape. 40 V., c. 25, s. 18.

Property found on fugitive.

18. Everything found in the possession of the fugitive at the time of his arrest, which may be material as evidence in making proof of the crime, may be delivered up with the fugitive on his surrender, subject to all rights of third persons with regard thereto. 40 V., c. 25, s. 19.

Fugitive to be conveyed out of Canada within a certain time. [33-34 V., c. 52, s. 12.]

19. If a fugitive is not surrendered and conveyed out of Canada within two months after his committal for surrender, or, if a writ of *habeas corpus* is issued, within two months after the decision of the court on such writ, over and above, in either case, the time required to convey him from the prison to which he has been committed, by the readiest way out of Canada, any one or more of the judges of the superior courts of the Province in which such person is confined, having power to grant a writ of *habeas corpus*, may, upon application made to him or them by or on behalf of the fugitive, and on proof that reasonable notice of the intention to make such application has been given to the Minister of Justice, order the fugitive to be discharged out of custody, unless sufficient cause is shown against such discharge. 40 V., c. 25, s. 20.

Or may be released by *habeas corpus*.

Forms valid. [33-34 V., c. 52, s. 20.]

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit of, may be used in the matters to which such forms refer, and, when used, shall be deemed valid. 40 V., c. 25, s. 21.

EXTRADITION FROM A FOREIGN STATE.

Requisition for a fugitive from Canada, how made.

21. A requisition for the surrender of a fugitive criminal from Canada, who is or is suspected to be in any foreign state with which there is an extradition arrangement, may be made by the Minister of Justice to a consular officer of that state resident at Ottawa, or to the Minister of Justice or any other minister of that state, through the diplomatic representative of Her Majesty in that state; or, if neither of these modes is convenient, then in such other mode as is settled by arrangement. 40 V., c. 25, s. 22.

Conveyance of fugitive surrendered.

22. Any person accused or convicted of an extradition crime, who is surrendered by a foreign state, may, under the warrant for his surrender issued in such foreign state, be brought into Canada and delivered to the proper authorities, to be dealt with according to law.

23. Whenever any person accused or convicted of an extradition crime is surrendered by a foreign state, in pursuance of any extradition arrangement, such person shall not, until after he has been restored or has had an opportunity of returning to the foreign state within the meaning of the arrangement, be subject, in contravention of any of the terms of the arrangement, to any prosecution or punishment in Canada for any other offence committed prior to his surrender, for which he should not, under the arrangement, be prosecuted. 40 V., c. 25, s. 23.

Fugitive surrendered by foreign state not punishable contrary to arrangement.

[33-34 V., c. 52, s. 19.]

LIST OF CRIMES.

24. The list of crimes in the first schedule to this Act shall be construed according to the law existing in Canada at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act, and as including only such crimes, of the descriptions comprised in the list, as are, under that law, indictable offences. 40 V., c. 25, second schedule, *part*.

How list of crimes in schedule shall be construed.

[33-34 V., c. 52, 1st Sch.]

FIRST SCHEDULE.

List of Crimes.

- (1.) Murder, or attempt or conspiracy to murder ;
- (2.) Manslaughter ;
- (3.) Counterfeiting or altering money, and uttering counterfeit or altered money ;
- (4.) Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered ;
- (5.) Larceny ;
- (6.) Embezzlement ;
- (7.) Obtaining money or goods, or valuable securities, by false pretences ;
- (8.) Crimes against bankruptcy or insolvency law ;
- (9.) Fraud by a bailee, banker, agent, factor, trustee, or by a director or member or officer of any company, which fraud is made criminal by any Act for the time being in force ;
- (10.) Rape ;
- (11.) Abduction ;
- (12.) Child stealing ;
- (13.) Kidnapping ;
- (14.) False imprisonment ;
- (15.) Burglary, house-breaking or shop-breaking ;
- (16.) Arson ;
- (17.) Robbery ;
- (18.) Threats, by letter or otherwise, with intent to extort ;
- (19.) Perjury or subornation of perjury ;

[33-34 V., c. 52, 1st Sch.]

(20.) Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state ;

(21.) Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so ;

(22.) Assault on board such vessel at sea, whether on the high seas or on the great lakes of North America, with intent to destroy life or to do grievous bodily harm ;

(23.) Revolt, or conspiracy to revolt, by two or more persons on board such a vessel at sea, whether on the high seas or on the great lakes of North America, against the authority of the master ;

(24.) Any offence under either of the following Acts, and not included in any foregoing portion of this schedule :—

(a.) “ *An Act respecting Offences against the Person ;* ”

(b.) “ *The Larceny Act ;* ”

(c.) “ *An Act respecting Forgery ;* ”

(d.) “ *An Act respecting Offences relating to the Coin ;* ”

(e.) “ *An Act respecting Malicious Injuries to Property ;* ”

(25.) Any offence which is, in the case of the principal offender, included in any foregoing portion of this schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal.
40 V., c. 25, second schedule, *part.*

SECOND SCHEDULE.

FORM ONE.

Form of Warrant of Apprehension.

—;

To wit :—

To all and each of the constables of

Whereas it has been shown to the undersigned, a judge under “ *The Extradition Act,* ” that

late of _____ is accused (or convicted) of the crime of _____ within the jurisdiction of _____

This is therefore to command you, in Her Majesty’s name, forthwith to apprehend the said _____ and to bring him before me, or some other judge under the said Act, to be further dealt with according to law ; for which this shall be your warrant.

Given under my hand and seal at _____
day of _____ A.D.

this

FORM TWO.

Form of Warrant of Committal.

—;

To wit:—

To _____ one of the constables of _____
and to the keeper of the _____
at _____

Be it remembered that on this _____ day of _____
in the year _____ at _____ is
brought before me _____ a judge under "*The*
Extradition Act," _____ who has been
apprehended under the said Act, to be dealt with according
to law; and forasmuch as I have determined that he should
be surrendered in pursuance of the said Act, on the ground of
his being accused (*or convicted*) of the crime of _____
within the jurisdiction of _____

This is therefore to command you, the said constable, in
Her Majesty's name, forthwith to convey and deliver the
said _____ into the custody of _____
the keeper of the _____ at _____ and
you, the said keeper, to receive the said _____
into your custody, and him there safely to keep
until he is thence delivered pursuant to the provisions of the
said Act, for which this shall be your warrant.

Given under my hand and seal at _____ this
day of _____ A.D. _____

FORM THREE.

Form of Order of Minister of Justice for Surrender.

To the keeper of the _____ at _____
and to _____

Whereas _____ late of _____
accused (*or convicted*) of the crime of _____
within the jurisdiction of _____
was delivered into the custody of you, the keeper of the _____
at _____ by warrant
dated _____ pursuant to "*The Extradition*
Act."

Now I do hereby, in pursuance of the said Act, order you,
the said keeper, to deliver the said _____

_____ into the custody of the said _____
; and I command you, the
said _____ to receive the said _____ into

your custody, and to convey him within the jurisdiction of the
 said _____ and there place him in
 the custody of any person or persons (*or of*
 _____) appointed by the said _____ to
 receive him : for which this shall be your warrant.

Given under the hand and seal of the undersigned Minister
 of Justice of Canada, this _____ day of
 A.D.

40 V., c. 25, third schedule.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
 Excellent Majesty.



CHAPTER 143.

An Act respecting fugitive offenders in Canada from A. D. 1886.
other parts of Her Majesty's Dominions.

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

SHORT TITLE.

1. This Act may be cited as "*The Fugitive Offenders Act.*" Short title.
45 V., c. 21, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "magistrate" means any justice of the peace or any person having authority to issue a warrant for the apprehension of persons accused of offences, and to commit such persons for trial ; Interpreta-
tion.
"Magistrate."

(b.) The expression "deposition" includes every affidavit, affirmation, or statement made upon oath ; "Deposi-
tion."

(c.) The expression "court" means,—in the Province of Ontario, the High Court of Justice for Ontario ; in the Province of Quebec, the Superior Court ; in the Province of Nova Scotia, the Supreme Court ; in the Province of New Brunswick, the Supreme Court ; in the Province of Prince Edward Island, the Supreme Court of Judicature ; in the Province of British Columbia, the Supreme Court ; in the Province of Manitoba, Her Majesty's Court of Queen's Bench for Manitoba ; in the North-West Territories, a judge of the Supreme Court of the North-West Territories ; in the District of Keewatin, a stipendiary magistrate ; and also in the said Territories and District such court or magistrate or other judicial authority as is designated, from time to time, by proclamation of the Governor in Council, published in the *Canada Gazette*. 45 V., c. 21, s. 16, *part* ;—49 V., c. 25, s. 30. "Court."

APPLICATION OF ACT.

3. This Act shall apply to the following offences, that is to say : to treason and to piracy, and to every offence, whether called felony, misdemeanour, crime or by any other name, which is for the time being punishable in the part of Her Majesty's dominions in which it was committed, either on indictment or

To what
offences this
Act applies.

information, by imprisonment with hard labour for a term of twelve months or more, or by any greater punishment, and, for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labour, by whatever name it is called, shall be deemed to be imprisonment with hard labour :

Application to acts not offences by Canadian law.

2. This Act shall apply to an offence, notwithstanding that, by the law of Canada, it is not an offence or not an offence to which this Act applies ; and all the provisions of this Act, including those relating to a provisional warrant and to a committal to prison, shall be construed as if the offence were in Canada an offence to which this Act applies :

Application to persons unlawfully at large.

3. This Act shall apply, so far as is consistent with the tenor thereof, to every person convicted by a court in any part of Her Majesty's dominions, of an offence committed either in Her Majesty's dominions or elsewhere, who is unlawfully at large before the expiration of his sentence, in like manner as it applies to a person accused of the like offence committed in the part of Her Majesty's dominions in which such person was convicted :

As to offences committed before commencement of Act.

4. This Act shall apply in respect to offences committed before the commencement of this Act, in like manner as if such offences were committed after such commencement. 45 V., c. 21, ss. 8, 14 and 15.

RETURN OF FUGITIVES.

Apprehension and return of fugitive offenders.

4. Whenever a person accused of having committed an offence to which this Act applies in any part of Her Majesty's dominions, except Canada, has left that part, such person, in this Act referred to as a fugitive from that part, if found in Canada, shall be liable to be apprehended and returned, in the manner provided by this Act, to the part from which he is a fugitive.

Warrant.

2. A fugitive may be so apprehended under an indorsed warrant or a provisional warrant. 45 V., c. 21, s. 2.

Proceedings in Canada on warrant issued elsewhere.

5. Whenever a warrant has been issued in a part of Her Majesty's dominions for the apprehension of a fugitive from that part who is or is suspected to be in or on the way to Canada, the Governor General or a judge of a court, if satisfied that the warrant was issued by some person having lawful authority to issue the same, may indorse such warrant in manner provided by this Act, and the warrant so indorsed shall be a sufficient authority to apprehend the fugitive in Canada and bring him before a magistrate. 45 V., c. 21, s. 3.

Issue of provisional warrant.

6. A magistrate in Canada may issue a provisional warrant for the apprehension of a fugitive who is or is suspected of being in or on his way to Canada, on such information and under such circumstances as would, in his opinion, justify

the issue of a warrant, if the offence of which the fugitive is accused had been committed within his jurisdiction; and such warrant may be backed and executed accordingly:

2. A magistrate issuing a provisional warrant shall forthwith send a report of the issue, together with the information or a certified copy thereof, to the Governor General; and the Governor General may, if he thinks fit, discharge the person apprehended under such warrant. 45 V., c. 21, s. 4.

Report to Governor.

Governor may discharge.

7. A fugitive, when apprehended, shall be brought before a magistrate, who, subject to the provisions of this Act, shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, including the power to remand and admit to bail, as if the fugitive was charged with an offence committed within his jurisdiction:

Fugitive to be brought before a magistrate.

2. If the endorsed warrant for the apprehension of the fugitive is duly authenticated, and such evidence is produced as, subject to the provisions of this Act, according to the law ordinarily administered by the magistrate, raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that the offence is one to which this Act applies, the magistrate shall commit the fugitive to prison to await his return, and shall forthwith send a certificate of the committal and such report of the case, as he thinks fit, to the Governor General:

Committal of fugitive.

Report to Governor General.

3. Whenever the magistrate commits the fugitive to prison, he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus* or other like process:

Magistrate to inform fugitive that he has certain rights.

4. A fugitive apprehended on a provisional warrant may, from time to time, be remanded for such reasonable time, not exceeding seven days at any one time, as, under the circumstances, seems requisite for the production of an indorsed warrant. 45 V., c. 21, s. 5.

Remand of fugitive.

8. Upon the expiration of fifteen days, after a fugitive has been committed to prison to await his return,—or if a writ of *habeas corpus* or other like process is issued by a court, with reference to such fugitive, after the final decision of the court in the case,—the Governor General, by warrant under his hand, if he thinks it just, may order the fugitive to be returned to the part of Her Majesty's dominions from which he is a fugitive, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or some one or more of them, and to be held in custody, and conveyed to the said part of Her Majesty's dominions, to be dealt with there, in due course of law, as if he had been there apprehended; and such warrant shall be forthwith executed according to the tenor thereof. 45 V., c. 21, s. 6.

Order for the return of the fugitive.

Warrant.

Court may discharge fugitive if not returned within a certain time.

9. If a fugitive who, in pursuance of this Act, has been committed to prison in Canada to await his return, is not conveyed out of Canada within two months after such committal, the court, upon application, by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make such application has been given to the Governor General, may, unless sufficient cause is shown to the contrary, order the fugitive to be discharged out of custody. 45 V., c. 21, s. 7.

Court may discharge fugitive in trivial cases.

10. Whenever it is made to appear to the court that by reason of the trivial nature of the case, or by reason of the application for the return of a fugitive not being made in good faith, in the interests of justice or otherwise, it would, having regard to the distance, to the facilities for communication, and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive either at all or until the expiration of a certain period, such court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises, as to the court seems just. 45 V., c. 21, s. 9.

Fugitive who is undergoing sentence, &c.

11. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise.

Search warrant may be granted.

12. Whenever a warrant, for the apprehension of a person accused of an offence, has been indorsed in pursuance of this Act, in Canada, any magistrate in Canada shall have the same power of issuing a warrant to search for any property alleged to have been stolen or to be otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such magistrate. 45 V., c. 21, s. 10.

Exercise of judicial powers.

13. Any judge of the court may, either in term time or vacation, exercise in chambers, all the powers conferred by this Act upon the court. 45 V., c. 21, s. 16, *part*.

Effect of indorsement of a warrant.

14. An indorsement of a warrant in pursuance of this Act shall be signed by the authority indorsing the same, and shall authorize all or any of the persons named in the indorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within Canada by apprehending the person named in it, and bringing him before a magistrate in Canada, whether he is the magistrate named in the indorsement or some other:

2. Every warrant, summons, subpoena and process, and every indorsement made in pursuance of this Act thereon, shall, for the purposes of this Act, remain in force, notwithstanding that the person signing the warrant or such indorsement dies or ceases to hold office. 45 V., c. 21, s. 11.

As to death of signer or indorser.

15. Whenever a fugitive or prisoner is authorized to be returned to any part of Her Majesty's dominions in pursuance of this Act, such fugitive or prisoner may be sent thither in any ship registered in Canada or belonging to the Government of Canada:

How the fugitive may be returned.

2. The Governor General, for the purpose aforesaid, may, by the warrant for the return of the fugitive, order the master of any ship registered in Canada, bound to the said part of Her Majesty's dominions, to receive such fugitive or prisoner, and afford a passage and subsistence during the voyage to him, and to the person having him in custody, and to the witnesses; but such master shall not be required to receive more than one fugitive or prisoner for every hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage:

Order to master of Canadian ships to convey fugitive. Proviso.

3. The Governor General shall cause to be indorsed upon the agreement of the ship such particulars with respect to any fugitive prisoner or witness sent in her, as the Minister of Marine and Fisheries, from time to time, requires:

Indorsement upon agreement of the ship.

4. Every such master shall, on his ship's arrival in the said part of Her Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable there, to be dealt with according to law:

Duty of master on arrival at destination.

5. Every master who fails, on payment or tender of a reasonable amount for expenses, to comply with an order made in pursuance of this section, or to cause a fugitive or prisoner committed to his charge to be given into custody as required by this section, shall be liable, on summary conviction, to a penalty not exceeding two hundred dollars. 45 V., c. 21, s. 12.

Penalty for non-compliance.

EVIDENCE.

16. A magistrate may take depositions for the purposes of this Act, in the absence of a person accused of an offence, in like manner as he might take the same if such person was present and accused of the offence before him. 45 V., c. 21, s. 13, *part*.

Depositions.

17. Depositions whether taken in the absence of the fugitive or otherwise and copies thereof, and official certificates of, or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act. 45 V., c. 21, s. 13, *part*.

Their use in evidence.

Authentica-
tion of war-
rants and
other docu-
ments.

18. Warrants and depositions, and copies thereof, and official certificates of, or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or if they purport to be signed by or authenticated by the signature of a judge, magistrate or officer of the part of Her Majesty's dominions in which the same are issued, taken or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a Secretary of State, or with the public seal of a British possession, or with the official seal of a Governor of a British possession, or of a Colonial Secretary, or of some secretary or minister administering a department of the government of a British possession; and all courts and magistrates shall take judicial notice of every such seal as is in this section mentioned, and shall admit in evidence without further proof the documents authenticated by it. 45 V., c. 21, s. 13, *part.*

Judicial
notice of
authentica-
tion.

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CHAPTER 60.

An Act respecting Criminal Statistics.

A. D. 1886.

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

1. In this Act, unless the context otherwise requires, the expression "Judge" includes any Recorder, District, Stipendiary or other Magistrate or other functionary presiding over any court or tribunal administering criminal justice. 39 V., c. 13, s. 9. Interpretation.

2. The clerk, and if there is no clerk, the officer performing like duties, and if there is no such officer, the judge of every court administering criminal justice, and the warden of every penitentiary or reformatory, and the sheriff of every district, shall, before the end of October in each year, fill up and transmit to the Minister of Agriculture,—or in case the branch of the subject of statistics and the registration thereof to which this Act relates is, by the Governor in Council, assigned to any other Minister, then to such other Minister,—such schedules for the year ending the thirtieth day of September preceding, relative, in the case of the clerk, officer or judge, to the criminal business transacted in the court, and in the cases of the warden or sheriff, to the prisoners committed to the penitentiary, reformatory or gaol, as he receives, from time to time, from the said Minister. 39 V., c. 13, s. 1. Schedule of criminal statistics to be furnished by certain functionaries.

3. Every person required to transmit any such schedules, shall, from day to day, make and keep entries and records of the particulars to be comprised in such schedules. 39 V., c. 13, s. 3. Records to be kept.

4. The Minister of Agriculture, or such other Minister as aforesaid, shall cause to be paid out of any moneys which are provided by Parliament for that purpose, to any clerk, officer, warden of a reformatory, or sheriff, filling up and transmitting such schedules, the sum of one dollar,—and the further sum of five cents for each case comprised in such schedules. 39 V., c. 13, s. 4, *part.* Remuneration to persons furnishing statistics.

5. Every officer required by the "*Act respecting summary proceedings before Justices of the Peace*," to transmit to the Certain returns to be transmitted.

Minister of Finance and Receiver General true copies of returns made by justices of the peace under the said Act, shall, before the end of October in each year, transmit to the Minister of Agriculture, or such other Minister as aforesaid, true copies of all such returns for the year ending the thirtieth day of September next preceding. 39 V., c. 13, s. 2.

Payment for such returns.

6. The Minister of Agriculture, or such other Minister as aforesaid, shall cause to be paid out of any moneys which are provided by Parliament for that purpose, to any officer transmitting the returns required under the next preceding section of this Act, the sum of one dollar. 39 V., c. 13, s. 4, *part.*

As to Provincial gaols and reformatories.

7. Whenever in any Province a system of collecting statistics relative to the prisoners committed to the provincial gaols or reformatories is established, the Governor in Council may arrange with the Lieutenant Governor in Council of such Province for the collection and transmission through such Lieutenant Governor of any part of the information to be embraced in the schedules authorized under this Act; and in case of such arrangements, the Minister of Agriculture, or such other Minister as aforesaid, may cause to be paid out of any moneys which are provided by Parliament for that purpose, to the treasurer of such Province instead of to the sheriffs, wardens or other officers as aforesaid, such sum as is agreed on, not exceeding the amounts which would otherwise be payable, for like services, to the sheriffs, wardens or other officers as aforesaid. 39 V., c. 13, s. 4, *part.*

Payment in such case.

8. Every one who neglects or refuses to fill up and transmit any schedule, or to transmit any return required under this Act, or wilfully makes a false, partial or incorrect schedule or return, shall incur a penalty of eighty dollars, recoverable, with costs, by any person who sues for the same in any court of record in the Province in which such return should have been made or is made, or in the Exchequer Court of Canada—a moiety whereof shall be paid to the person suing, and the other moiety to the Minister of Finance and Receiver General, to and for the public uses of Canada. 39 V., c. 13, s. 5.

Penalty for neglect to comply with this Act.

Statistics of exercise of prerogative of mercy.

9. The Secretary of State shall, before the end of October in each year, cause to be filled up and transmitted to the Minister of Agriculture, or such other Minister as aforesaid, such schedules for the year ending the thirtieth day of September next preceding, relative to the cases in which the prerogative of mercy has been exercised, as he, from time to time, receives from the Minister of Agriculture, or such other Minister as aforesaid. 39 V., c. 13, s. 6.

Forms of schedules.

10. All schedules transmitted under this Act shall be according to forms, from time to time, approved by the Gover-

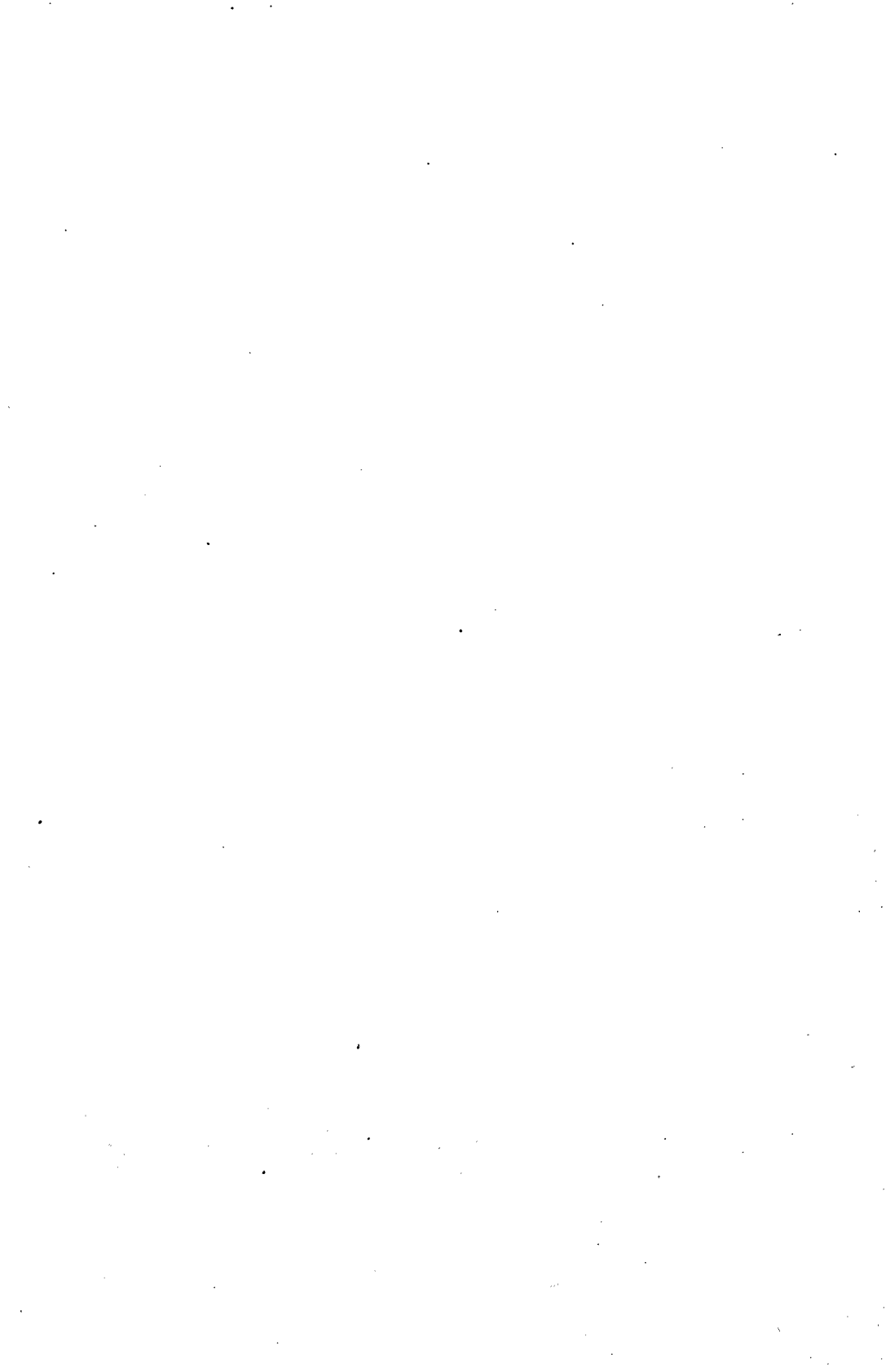
nor in Council, and published in the *Canada Gazette*. 39 V., c. 13, s. 7.

11. The statistics collected by the Minister of Agriculture, or such other Minister as aforesaid, under this Act, shall be abstracted and registered, and the results thereof shall be printed and published in an annual report. 39 V., c. 13, s. 8. Statistics to be abstracted and printed.

12. This Act shall remain in force and effect until the same is declared to be no longer in force by a proclamation of the Governor in Council, stating that provision has been made for the collection of criminal statistics in accordance with the requirements of the "*Act respecting Statistics*," and from and after the issue of such proclamation, this Act shall cease to have force and effect. 42 V., c. 21, s. 39, *part*. Duration of Act.

PART II.

ACTS PASSED SINCE THE CONSOLIDATION OF THE STATUTES.





50-51 VICTORIA.

CHAPTER 45.

An Act respecting Public Stores.

[Assented to 23rd June, 1887.]

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

1. This Act may be cited as “ *The Public Stores Act.*”

Short title.
[38-39 V., c.
25, s. 1.]
Interpreta-
tion.

2. In this Act, unless the context otherwise requires :—

(a.) The expression “two justices of the peace” or “such justices” includes any recorder, stipendiary magistrate, police magistrate, or other person having the jurisdiction of two justices of the peace ;

“Justices of
“the peace.”

(b.) The expression “public department” includes the Admiralty and the War Department, and also any public department or office of the Government of Canada, or of the public or civil service thereof, or any branch of such department or office ;

“Public de-
“partment.”

(c.) The expression “public stores” includes all stores under the care, superintendence or control of any public department as herein defined, or of any person in the service of such department ;

“Public
“stores.”

(d.) The expression “stores” includes all goods and chattels, and any single store or article ;

“Stores.”
[38-39 V., c.
25, s. 2.]

(e.) Stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field or place, open or inclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another.

Stores in pos-
session or
keeping of
any person.
[38-39 V., c.
25, s. 10.]

3. The marks described in the schedule to this Act may be applied in or on any public stores to denote Her Majesty’s property in such stores, and it shall be lawful for any public department, and the contractors, officers and workmen of such department, to apply such marks, or any of them, in or on any such stores.

Marks to be
used on H. M.
stores.
[38-39 V., c.
25, s. 4.]

Unlawfully using such marks.
[38-39 V., c. 25, s. 4.]

4. Every one who, without lawful authority, the proof of which shall lie on him, applies any of the said marks in or on any such public stores is guilty of a misdemeanour, and liable to imprisonment for any term less than two years.

Unlawfully obliterating such marks.
[38-39 V., c. 25, s. 5.]

5. Every one who, with intent to conceal Her Majesty's property in any public stores, takes out, destroys or obliterates, wholly or in part, any such mark as aforesaid, is guilty of felony, and liable to imprisonment for any term less than two years.

Unlawfully keeping or selling such stores.
[30-31 V., c. 119, s. 7.]

6. Every one who, without lawful authority, the proof of which shall lie on him, receives, possesses, keeps, sells or delivers any public stores bearing any such mark as aforesaid, knowing them to bear such mark, is guilty of a misdemeanour and liable to imprisonment for any term not exceeding one year.

What shall be presumed to be knowledge as to marks.
[30-31 V., c. 119, s. 8.]

7. If the person charged with such a misdemeanour as last aforesaid was, at the time at which the offence is charged to have been committed, in Her Majesty's service or employment, or a dealer in marine stores, or a dealer in old metals, knowledge on his part that the stores to which the charge relates bore such mark as aforesaid, shall be presumed until the contrary is shown.

Penalty if value does not exceed \$25.
[30-31 V., c. 119, s. 9.]

8. Every one charged with such misdemeanour as last aforesaid in relation to public stores, the value of which does not exceed twenty-five dollars, is liable, on summary conviction before two justices of the peace, to a penalty not exceeding one hundred dollars, or to imprisonment for any term not exceeding six months, with or without hard labour.

As to proof that stores were lawfully obtained.
[30-31 V., c. 128, s. 12.]

9. If any public stores, bearing any such mark, are found in the possession of any person who is not a dealer in marine stores or a dealer in old metals, and who is not in Her Majesty's service, and such person, when taken or summoned before two justices of the peace, does not satisfy such justices that he came lawfully by such stores so found, he shall, on summary conviction, be liable to a penalty not exceeding twenty-five dollars; and if any such person satisfies such justices that he came lawfully by the stores so found, the justices, in their discretion, as the evidence given or the circumstances of the case require, may summon before them every person through whose hands such stores appear to have passed; and if any such person who has had possession thereof, does not satisfy such justices that he came lawfully by the same, he shall, on summary conviction of having had possession thereof, be liable to a penalty not exceeding twenty-five dollars, and in default of payment, to imprisonment for any term not exceeding three months, with or without hard labour.

Former possessor may be summoned.

10. Any constable or other peace officer, if deputed by any public department, may, within the limits for which he is such constable or peace officer, stop, detain and search any person reasonably suspected of having or conveying in any manner any such stores stolen or unlawfully obtained, or any vessel, boat or vehicle in or on which there is reason to suspect that any public stores stolen or unlawfully obtained may be found :

Officer may search persons, vehicles, &c. [38-39 V., c. 25, s. 6.]

2. A constable or other peace officer shall be deemed to be deputed within the meaning of this section if he is deputed by any writing signed by the person who is the head of such department, or who is authorized to sign documents on behalf of such department.

When officer shall be deemed authorized.

11. No person shall, without permission in writing from the Admiralty or from some person authorized by the Admiralty in that behalf, creep, sweep, dredge or otherwise search for stores in the sea or any tidal or inland water, within one hundred yards from any vessel belonging to Her Majesty or in Her Majesty's service, or from any mooring place or anchoring place, appropriated to such vessels, or from any mooring belonging to Her Majesty, or from any of Her Majesty's wharves or docks, victualling or steam factory yards.

Searching for stores near H. M. vessels, &c. [38-39 V., c. 25, s. 8.]

12. Every one who violates the provisions of the next preceding section shall, on summary conviction before two justices of the peace, be liable to a penalty not exceeding twenty-five dollars, or to imprisonment for any term not exceeding three months, with or without hard labour.

Penalty in such case. [38-39 V., c. 25, s. 8.]

13. In all prosecutions under this Act, proof that any soldier, seaman or marine was actually doing duty in Her Majesty's service shall be *prima facie* evidence that his enlistment, entry or enrolment has been regular.

Proof under this Act.

14. Nothing in this Act shall prevent any person from being indicted, under this Act or otherwise, for any indictable offence, made punishable on summary conviction by this Act, or prevent any person from being liable, under any other Act or otherwise, to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person is twice punished for the same offence.

Other remedy not affected. [38-39 V., c. 25, s. 16.]

15. Any person convicted or sentenced to imprisonment under this Act in Halifax, may be imprisoned in the city prison with hard labour, instead of the county gaol.

Imprisonment in case specified.

16. This Act shall be substituted for the Revised Statutes, Chapter one hundred and seventy, intituled "*An Act respecting Military and Naval Stores,*" which is hereby repealed.

Repeal, R.S. C., c. 170.

SCHEDULE.

Marks appropriated for Her Majesty's use in or on Naval, Military, Ordnance, Barrack, Hospital and Victualling Stores.

STORES.	MARKS.
Hempen cordage and wire rope.	White, black or coloured * * * (<i>word "worsted" struck out by 53 V., c. 38, s. 1</i>) threads laid up with the yarns and the wire, respectively.
Canvas, fearnought hammocks and seamen's bags.	A blue line in a serpentine form.
Bunting.	A double tape in the warp.
Candles.	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal and other stores not before enumerated.	The broad arrow, with or without the letters W.D.

Marks appropriated for use on Stores, the property of Her Majesty, in the right of Her Government of Canada.

STORES.	MARKS.
Public stores.	The name of any public department, or the word "Canada," either alone or in combination with a Crown or the Royal Arms.



CHAPTER 46.

An Act respecting the conveyance of Liquors on board Her Majesty's Ships in Canadian Waters.

[Assented to 23rd June, 1887.]

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

- 1.** Every person who, without the previous consent of the officer commanding the ship or vessel,—

(a.) Conveys any spirituous or fermented liquor on board any of Her Majesty's ships or vessels;

(b.) Approaches or hovers about any of Her Majesty's ships or vessels for the purpose of conveying any such liquor on board the same;

(c.) Gives or sells to any man in Her Majesty's service, on board any such ship or vessel, any spirituous or fermented liquor;

Is guilty of a misdemeanour and liable, on summary conviction before two justices of the peace, to a fine not exceeding fifty dollars for each offence, and in default of payment to imprisonment for a term not exceeding one month.

Conveying or attempting to convey liquor on board Her Majesty's ships. [16-17 V., c. 69, s. 12.]
- 2.** Any officer in Her Majesty's service, any warrant or petty officer in the navy, and any non-commissioned officer of marines may, in like manner as any peace officer, apprehend, without warrant, any person found committing any offence against the provisions of this Act.

Apprehension of offenders. [16-17 V., c. 69, s. 12.]
- 3.** Any officer in Her Majesty's service, any warrant or petty officer of the navy, or any non-commissioned officer of marines, with or without seamen or persons under his command, may search any boat or vessel which hovers about or approaches, or which has hovered about or approached, any of Her Majesty's ships or vessels, and may seize any spirituous or fermented liquor found on board such boat or vessel; and the liquor so found shall be forfeited to the Crown.

Vessels may be searched. [16-17 V., c. 69, s. 12.]

And liquor seized.



CHAPTER 47.

An Act respecting the Defacing of Counterfeit Notes
and the use of Imitations of Notes.

Repealed from 1st July, 1891, by 53 V., c. 31, s. 104.

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Excellent Majesty.



CHAPTER 48.

An Act to amend the Act respecting Offences against Public Morals and Public Convenience.

[Assented to 23rd June, 1887.]

HER 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 three of chapter one hundred and fifty-seven of the Revised Statutes of Canada, intituled : R.S.C., c. 157, s. 3, amended. “*An Act respecting Offences against Public Morals and Public Convenience,*” is hereby amended by inserting the words “or insane” after the word “imbecile,” where the same occurs in the second line and at the end of the said paragraph respectively.

2. Section four of the said chapter is hereby repealed and the following substituted therefor :— S. 4, repealed; new section.

“**4.** Every one above the age of twenty-one years who, Seducing under promise of marriage. Punishment. seduces and has illicit connection with any unmarried female of previously chaste character and under twenty-one years of age, is guilty of a misdemeanour and liable to imprisonment for a term not exceeding two years.”



CHAPTER 49.

An Act to amend the Revised Statutes, Chapter one hundred and seventy-three, respecting Threats, Intimidation and other offences.

[Assented to 23rd June, 1887.]

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

R.S.C., c. 173,
s. 11 repealed;
new section.

I. Section eleven of the Revised Statutes, chapter one hundred and seventy-three intituled, "*An Act respecting Threats, Intimidation and other offences,*" is hereby repealed and the following section substituted therefor :

Attempts to
prevent per-
sons from
working on
board ship.

II. Every person who unlawfully and by force or threats of violence, hinders or prevents or attempts to hinder or prevent any seaman, stevedore, ship carpenter, ship labourer or other person employed to work at or on board any ship or vessel, or to do any work connected with the loading or unloading thereof, from working at or exercising any lawful trade, business, calling or occupation in or for which he is so employed ; or beats or uses any violence to, or makes any threat of violence against any such person, with intent to hinder or prevent him from working at or exercising the same, or on account of his having worked at or exercised the same, shall, on summary conviction before two justices of the peace, be liable to imprisonment, with hard labour, for any term not exceeding three months."



CHAPTER 50.

An Act to amend the law respecting Procedure in Criminal Cases.

[Assented to 23rd June, 1887.]

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

1. Section two hundred and sixty-eight of "*The Criminal Procedure Act*" is hereby repealed, and the following substituted therefor:—

R.S.C., c. 174, s. 268, repealed; new section.

"APPEALS AND NEW TRIALS.

"**268.** Any person convicted of any indictable offence or whose conviction has been affirmed before any court of Oyer and Terminer or Gaol Delivery or before the Court of Queen's Bench in the Province of Quebec, on its Crown side, or before any other superior court having criminal jurisdiction, whose conviction has been affirmed by any court of last resort, or, in the Province of Quebec, by the Court of Queen's Bench on its appeal side, may appeal to the Supreme Court against the affirmance of such conviction; and the Supreme Court shall make such rule or order therein, either in affirmance of the conviction or for granting a new trial, or otherwise, or for granting or refusing such application, as the justice of the case requires, and shall make all other necessary rules and orders for carrying such rule or order into effect: Provided that no such appeal shall be allowed if the court affirming the conviction is unanimous, nor unless notice of appeal in writing has been served on the Attorney General for the proper Province, within fifteen days after such affirmance:

Appeal in case of conviction of an indictable offence.

Proceedings thereupon.

When appeal shall not be allowed.

"2. Unless such appeal is brought on for hearing by the appellant at the session of the Supreme Court during which such affirmance takes place, or the session next thereafter, if the said court is not then in session, the appeal shall be held to have been abandoned, unless otherwise ordered by the Supreme Court:

When appeal must be brought to hearing.

"3. The judgment of the Supreme Court shall, in all cases, be final and conclusive:

Judgment to be final.

When a new trial may and may not be granted.

"4. Except as hereinbefore provided, a new trial shall not be granted in any criminal case unless the conviction is declared bad for a cause which makes the former trial a nullity, so that there was no lawful trial in the case; but a new trial may be granted in cases of misdemeanour in which, by law, new trials may now be granted."

"5. * * * * *

Repealed and new sub-section substituted by 51 V., c. 43, s. 1.

Repeal; R.S. C., c. 135, ss. 68 and 69.

2. Sections sixty eight and sixty-nine of "*The Supreme and Exchequer Courts Act*" are hereby repealed.

When foregoing provisions shall take effect.

3. The foregoing provisions of this Act shall not come into force until a day to be named by the Governor General by his proclamation to that effect.

R.S.C., c. 174, s. 265, amended.

4. Section two hundred and sixty-five of "*The Criminal Procedure Act*" is hereby amended by striking out the words "in the Province of Quebec."



CHAPTER 51.

An Act to amend "The Speedy Trials Act," chapter one hundred and seventy-five of the Revised Statutes.

Repealed by 52 V., c. 47, s. 20.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 52.

An Act to amend the Penitentiary Act.

[Assented to 23rd June, 1887.]

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

Interpretation.

1. In this Act, unless the context otherwise requires—

“Officer.”

(a.) The expression “officer” means and includes any officer or employee of any of the classes mentioned in the schedule to this Act;

“Trade instructors.”

(b.) The expression “trade instructors” includes bakers, blacksmiths, carpenters, masons, millers, shoemakers, stonecutters, tailors and persons employed to direct and instruct convicts in any branch of labour.

R.S.C., c. 182,
s. 27 amended.

2. The twenty-seventh section of “*The Penitentiary Act*” is hereby amended—

(a.) By substituting for the words “shall reside in the penitentiary,” the words “and he shall reside at the penitentiary;” and—

(b.) By striking out the words “and shall receive such allowance of fuel and light as the Governor in Council sees fit to make.”

SALARIES.

Section 33
amended.

3. The thirty-third section of “*The Penitentiary Act*” is hereby repealed, and the following section substituted therefor:—

Salaries:

“**33.** The Governor in Council may, within the limits prescribed by the schedule to this Act, fix the salaries to be paid to the officers of any penitentiary:

Increases.

“**2.** No officer shall be entitled as of right to any yearly increase of salary, but the same may be given to him if the Minister of Justice is satisfied that he is competent and faithful in the performance of his duties:

When payable.

“**3.** No such yearly increase of salary shall be paid until the expiry of a year at least from the date of the officer’s appointment, or of the last increase given to him:

"4. Such yearly increase shall take effect and be reckoned from the first day of July only : When to take effect.

"5. Nothing herein shall affect the salary of any officer whose salary, as provided in the estimates of the session held in the fiftieth year of Her Majesty's reign, exceeds the maximum salary prescribed for his class by the schedule to this Act, but the salary of such officer shall not be further increased : Certain rights saved.

"6. No officer whose salary, as provided in the estimates of the session held in the fiftieth year of Her Majesty's reign, is equal to or less than the maximum salary prescribed for his class in such schedule, and no officer hereafter appointed shall be paid a salary in excess of that so prescribed by such schedule." No increase if maximum has been reached.

GRATUITIES.

4. To any officer—

(a.) Whose conduct has been good, and who has been faithful in the discharge of his duties ; Gratuities may be granted in certain cases.

(b.) Who is compelled to retire from the service on account of some mental or physical infirmity which unfits him for the performance of his duty ; and— [28-29 V., c. 126, s. 14.]

(c.) Who is not entitled to a superannuation allowance, under the rules in that behalf in force,—

A gratuity, or retiring allowance may be given, calculated at the rate of a half month's salary for each year of his service, up to five years, and a month's salary for each year of service in excess of five years, based on the salary that such officer was in receipt of at the time of his retirement. Amount.

5. Such retiring allowance may be increased by one-half the amount thereof if the infirmity which compels such officer to retire from the service is occasioned by any injury received by him in the performance of his duty, without fault or negligence on his part, at the hands of any convict, or in preventing an escape or rescue, or in suppressing a revolt. Increase if infirmity results from injury.

6. If any officer dies in the service leaving a widow or any person who in his lifetime was dependent on him, a gratuity may be paid to such widow, if any, and if not, to any person or persons in the lifetime of such officer dependent on him, or to any person or corporation in trust for any such person or persons so dependent on him : Allowance to widow, &c.

2. No such gratuity shall exceed the amount of the salary of such officer— Amount of gratuity.

(a.) For the two months next preceding his death, if he was appointed by the Governor in Council ;

(b.) For the three months next preceding his death, if he was appointed by the Minister or the warden.

7. Such gratuity may be increased by one-half the amount thereof, if the death of such officer is occasioned by any injury Increase in case specified.

received by him, in the performance of his duty, without fault or negligence on his part, at the hands of any convict, or in preventing an escape or rescue, or in suppressing a revolt.

PERQUISITES.

Perquisites.

8. No officer shall be allowed any perquisite except as follows :—

House and grounds.

(a.) Any officer may, during the will of the Minister of Justice, occupy free of rent any house or quarters, with any grounds attached, which forms part of the penitentiary property ;

Convict labour.

(b.) The grounds or gardens attached to the residence or quarters of a warden or deputy warden may be kept in order and cultivated by convict labour, but otherwise no convict labour shall be employed in keeping in order or cultivating any grounds occupied by any officer ;

Uniform.

(c.) Any officer who wears uniform may be allowed such uniform as the Governor in Council prescribes.

REGULATIONS.

Regulations may be made as to :—

9. The Governor in Council may, subject to the provisions of "*The Penitentiary Act*" and of this Act, from time to time, make regulations respecting—

Salaries ;

(a.) Officers' salaries ;

Gratuities ;

(b.) Gratuities and retiring allowances ;

Houses and grounds ;

(c.) The occupation by officers of houses, quarters or grounds which form part of the penitentiary property ;

Uniforms ;

(d.) Officers' uniforms ;

Sale of articles to officers ;

(e.) The sale to officers of articles manufactured in the penitentiary shops or grown upon the penitentiary property ;

And generally.

(f.) Any matter relating to the establishment, maintenance and management of penitentiaries.

Schedule repealed, and new provision.

10. The schedule to "*The Penitentiary Act*" is hereby repealed and the following schedule substituted therefor :—

" SCHEDULE.
KINGSTON PENITENTIARY.

	From date of appoint- ment.	By yearly increases of Fifty Dollars, to	From date of appoint- ment,	By yearly increases of Thirty Dollars, to
	\$	\$	\$	\$
Warden.....	2,600	3,000		
Deputy Warden.....	1,200	1,500		
Chaplains.....	1,000	1,200		
Surgeon.....	1,400	1,800		
Accountant.....	800	1,200		
Warden's Clerk.....			500	800
Storekeeper.....			600	900
Steward.....			600	900
Chief keeper.....			700	900
Hospital Overseer.....			500	800
Schoolmaster.....			500	700
Engineer.....			800	1,000
Trade Instructors.....			600	700
Keepers.....			500	600
Guards.....			400	500
Messenger.....			400	500
Stoker.....			400	500
Teamsters.....			300	400
Matron.....			400	600
Deputy Matron.....			200	400

ST. VINCENT DE PAUL PENITENTIARY.

Warden.....	2,400	2,800		
Deputy Warden.....	1,200	1,500		
Chaplains.....	1,000	1,200		
Surgeon.....	1,000	1,400		
Accountant.....	800	1,100		
Warden's Clerk.....			500	750
Storekeeper.....			600	900
Steward.....			600	800
Chief keeper.....			700	900
Hospital Overseer.....			500	750
Schoolmaster.....			500	700
Engineer.....			750	900
Trade Instructors.....			600	700
Keepers.....			500	600
Guards.....			400	500
Messenger.....			400	500
Teamsters.....			300	400

DORCHESTER PENITENTIARY.

Warden.....	2,000	2,400		
Deputy Warden.....	1,100	1,400		
Deputy Warden and Chief keeper, when offices held by one person.....	1,200	1,500		
Chaplains.....	500	600		
Surgeon.....	1,000	1,200		
Accountant.....	800	1,000		
Storekeeper.....			600	800
Steward.....			600	800
Storekeeper and Steward, when offices held by one person.....			800	1,000
Chief keeper.....			700	800
Hospital Overseer.....			500	700
Schoolmaster.....			500	600
Engineer.....			750	900
Assistant Engineer.....			600	750
Trade Instructors.....			600	700

DORCHESTER PENITENTIARY—*Concluded.*

	From date of appointment.	By yearly increases of Fifty Dollars, to	From date of appointment.	By yearly increases of Thirty Dollars, to
	\$	\$	\$	\$
Keepers.....	500	600
Guards.....	400	500
Messenger.....	400	500
Teamster.....	300	400

MANITOBA PENITENTIARY.

Warden.....	2,000	2,400	.....	.....
Deputy Warden and Chief keeper.....	900	1,200	.....	.....
Chaplains.....	500	600	.....	.....
Surgeon.....	1,000	1,200	.....	.....
Accountant and Storekeeper.....	800	1,100	.....	.....
Steward.....	.....	.....	600	800
Hospital Overseer and Schoolmaster.....	.....	.....	700	900
Engineer.....	.....	.....	750	1,000
Trade Instructors.....	.....	.....	600	700
Guards.....	.....	.....	500	600
Messenger.....	.....	.....	500	600

BRITISH COLUMBIA PENITENTIARY.

Warden.....	2,000	2,400	.....	.....
Deputy Warden and Chief keeper.....	900	1,200	.....	.....
Chaplains.....	500	600	.....	.....
Surgeon.....	600	.....	.....	.....
Accountant, Storekeeper and Schoolmaster.....	800	1,000	.....	.....
Steward.....	.....	.....	600	800
Trade Instructors.....	.....	.....	600	700
Keepers and Guards.....	.....	.....	500	600
Messenger.....	.....	.....	500	600
Teamster.....	.....	.....	500	600

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



51 VICTORIA.

CHAPTER 34.

An Act to amend "The Canada Temperance Act."

[Assented to 22nd May, 1888.]

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

1. In any city, county or district where there is more than one office of registrar of deeds, it shall be sufficient to deposit the notice referred to in section six of "*The Canada Temperance Act*," in any one of such offices; and whenever, in any city, county or district, a poll has been held under the said Act, which has resulted in the adoption of the petition, and the Governor General in Council has, by Order in Council, declared the second part of the said Act, to be in force and to take effect in such city, county or district, the said Act shall be held and is hereby declared to be in full force and effect therein, from and after the passing of this Act, notwithstanding that such notice has not been deposited in each registrar's office.

Notice to be deposited in any one of the registrars' offices in the county, &c.

2. Wherever in the said Act the word "county" is used, such word shall, when applied to the Province of British Columbia, be regarded as meaning an electoral district therein, in accordance with the divisions of the said Province for elections of members of the House of Commons of Canada; and, for the purposes of the said "*Canada Temperance Act*," each electoral district within the said Province of British Columbia shall include every town, township, parish and other division or municipality within the territorial limits of such electoral district, and also within a union of electoral districts, where united for municipal purposes: Provided always, that whenever the said Province shall have been divided into counties, and a regular municipal organization established in each of such counties, the said Act, as amended, shall apply to the said counties.

Interpretation of word "county" in B.C.

What electoral district includes in B.C.

Proviso.

Deposit of
notice in B.C.

3. The notice referred to in section six of the said Act shall, so far as it relates to British Columbia, be deposited in the respective electoral districts as follows :—

In Cariboo.

(a.) Cariboo electoral district, in the office of the registrar of voters, village of Barkerville ;

In Yale.

(b.) Yale electoral district, in the office of the registrar of voters, village of Kamloops ;

In New Westminster.

(c.) New Westminster electoral district, in the office of the registrar of voters, city of New Westminster ;

In Victoria.

(d.) Victoria electoral district, in the office of the registrar of voters, city of Victoria ;

In Vancouver

(e.) Vancouver electoral district, in the office of the registrar of voters, city of Nanaimo.

In provisional
or temporary
judicial dis-
tricts, inter-
pretation of
"county."

4. Whenever in the said Act the word "county" is used, it shall, when applied to the Province of Ontario, or to any other province in which provisional or temporary judicial districts exist, be held to include such provisional or temporary judicial districts ; and the notice referred to in section six of the said Act, shall, so far as relates to such provisional or temporary judicial districts, be deposited in the registry office, or one of the registry offices if more than one, for the respective provisional or temporary judicial district.

Deposit of
notice.

Sect. 99, subs.
4, amended.

5. Sub-section four of section ninety-nine of the said Act is hereby repealed and the following substituted therefor :—

Sale for medi-
cinal or man-
ufacturing
purposes.

"4. Provided also, that the sale of intoxicating liquor for exclusively medicinal purposes or for *bonâ fide* use in some art, trade or manufacture, may be made by any person duly authorized to sell the same ; but such intoxicating liquor when sold for medicinal purposes, shall be removed from the premises, and such sale shall be made only on the certificate of a medical man having no interest in the sale, affirming that such liquor has been prescribed for the person named therein ; and when such sale is for its use in some art, trade or manufacture, the same shall be made only on a certificate, signed by two justices of the peace, of the good faith of the application, accompanied by the affirmation of the applicant, that the liquor is to be used only for the particular purposes set forth in the affirmation ; and such vendor shall file the certificates and keep a register of all such sales, indicating the name of the purchaser and the quantity sold, and shall make an annual return of all such sales, on the thirty-first day of December in every year, to the collector of inland revenue within whose revenue division the county or city is situated ; and any medical man who gives such a certificate for any other than strictly medicinal purposes, shall, for the first offence, be liable, on summary conviction, to a penalty of twenty dollars, and for a second or any subsequent offence shall be liable, on summary conviction, to a penalty of forty dollars : Provided, that section one hundred and nineteen of this Act, taking away an appeal, shall not apply to any such conviction of any medical man."

Certificate.

Annual re-
turn to col-
lector.

Penalty for
giving false
certificate.

Proviso : as to
appeal.

6. Section one hundred and three of the said Act is hereby repealed and the following substituted therefor :—

“ **103.** Such prosecution may be brought before any judge of the sessions of the peace, recorder, police magistrate, stipendiary magistrate, sitting magistrate, commissioner of a parish court, two justices of the peace, or any magistrate having the power or authority of two or more justices of the peace, having jurisdiction where the offence was committed.”

Section 103 repealed ; new section.

Before whom prosecution may be brought.

7. Section one hundred and four of the said Act is hereby repealed and the following substituted therefor :—

“ **104.** If any prosecution is brought before any such judge of the sessions of the peace, recorder, police, stipendiary or sitting magistrate, commissioner of a parish court, or magistrate having the power or authority of two or more justices of the peace, no other justice shall sit or take part therein.”

Section 104 repealed ; new section.

If before certain magistrates no other justices to sit.

8. Section one hundred and five of the said Act is hereby repealed and the following substituted therefor :—

“ **105.** If such prosecution is brought before any two other justices of the peace, all acts and proceedings prior to the hearing and trial may be done and taken by one of them ; and no justices other than such two justices shall sit or take part therein except in the case of their absence or the absence of one of them ; and not in the former case except with the assent of the prosecutor, nor in the latter except with the assent of such justice who is present.”

Section 105 repealed ; new section.

When prosecution is brought before two justices.

9. Section one hundred and seven of the said Act is hereby amended by inserting after the word “ prosecuted ” in the second line thereof, the following words : “ and the penalties and punishments therefor enforced.”

Section 107 amended.

10. Section one hundred and eight of the said Act is hereby repealed and the following substituted therefor :—

“ **108.** If a credible witness proves upon oath before any one of the officers named in section one hundred and three of this Act that there is reasonable cause to suspect that any intoxicating liquor is kept for sale in violation of the second part of this Act, or of “ *The Temperance Act of 1864*,” in any dwelling-house, store, shop, warehouse, outhouse, garden, yard, croft, vessel or other place or places, such officer may grant a warrant to search in the day time such dwelling house, store, shop, warehouse, outhouse, garden, yard, croft, vessel or other place or places for such intoxicating liquor, and if the same or any part thereof is there found, to bring the same before him ; and any information to obtain a warrant under this section may be in the form M in the schedule to this Act, and any search warrant under this section may be in the form N in the said schedule.”

Section 108 repealed ; new section.

Warrant may be granted to search for liquor on receipt of certain information on oath.

Form of information and warrant.

Section 109
repealed ;
new section.
Liquor seized
under war-
rant may be
ordered to be
destroyed.

11. Section one hundred and nine of said Act is hereby repealed and the following substituted therefor :—

“ **109.** When any person is convicted of any offence against any of the provisions of the second part of this Act, or “ *The Temperance Act of 1864,*” the officer or officers so convicting may adjudge and order in addition to any other penalty or punishment that the intoxicating liquor in respect to which the offence was committed, and which has been seized under a search warrant as aforesaid, and all kegs, barrels, cases, boxes, bottles, packages and other receptacles of any kind whatsoever found containing the same be forfeited and destroyed, and such order shall thereupon be carried out by the constable or peace officer who executed the said search warrant or by such other person as may be thereto authorized by the officer or officers who have made such conviction. ”

Sub-section 2
of section 119
amended.

12. Sub-section two of section one hundred and nineteen of the said Act is hereby amended by striking out the words “sheriff” and “or” in the fifth line thereof, and by adding at the end thereof “or any magistrate or officer having the power and authority of two or more justices of the peace. ”

Section 114
amended.

13. Section one hundred and fourteen of the said Act is hereby amended by striking out the words “and compellable” in the sixth line thereof.

Forms to be
used.

14. The forms given in the schedule to this Act, or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for, and where no forms are prescribed by the said schedule, new ones may be framed in accordance with “ *The Canada Temperance Act,*” or with “ *The Summary Convictions Act.* ”

Forms M and
N repealed ;
new forms.

15. Forms M and N in the schedule to this Act are hereby substituted for forms M and N in the schedule to “ *The Canada Temperance Act.* ”

SCHEDULE.

FORM M.

Information to obtain a Search Warrant.

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

The information of K. L. of the of in the
said district (or, County, &c., yeoman), taken this day of
in the year of Our Lord before me
W. S., Esq., one of Her Majesty's Justices of the Peace, in

and for the District (or, County, or, United Counties, or as the case may be) of _____, who saith that he hath just and reasonable cause to suspect and doth suspect, that intoxicating liquor is kept for sale in violation of the second part of "The Canada Temperance Act," in the (dwelling-house, &c.) of P.Q., of _____ in the said District (or County, &c.) (here add the causes of suspicion and the particulars of the offence whatever they may be).

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

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

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

FORM N.

Form of Search Warrant.

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

To all or any of the Constables, or other Peace Officers, in the District (or County, or as the case may be) of _____

Whereas, K.L., of the _____ of _____ in the said District (or County, &c.) hath this day made oath before me the undersigned, one of Her Majesty's Justices of the Peace in and for the said District (or County, &c.) of _____ that he hath just and reasonable cause to suspect, and doth suspect, that intoxicating liquor is kept for sale in violation of the second part of "The Canada Temperance Act," in the (dwelling-house, &c.) of one P.Q., of _____ in the said District (or County, &c.) of _____: These are therefore, in the name of Our Sovereign Lady the Queen, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day-time into the said (dwelling-house, &c.) of the said P.Q., and there diligently search for the said intoxicating liquor; and if the same, or any part thereof, shall be found upon such search, that you bring the intoxicating liquor so found, and also all barrels, kegs, cases, boxes, packages and other receptacles of any kind whatever containing the same before me to be disposed of and dealt with according to law.

Given under my hand and seal at _____ in the said District (or County, &c.) this _____ day of _____ in the year of Our Lord _____

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

FORM R.

1. GENERAL FORM OF INFORMATION.

CANADA, } The information of A.B., of the
of } of in the
To wit: } of , collector of Inland Revenue
(or as the case may be), laid before me, C.D., police magistrate
(or as the case may be) in and for the city of
(or one of Her Majesty's justices of the peace in and for the
of), this day of
in the year of Our Lord one thousand eight hundred and .
The said informant says he is informed and believes that
X.Y., on or about the day of , in the
year of Our Lord one thousand eight hundred and ,
at the of , in the of
unlawfully did sell intoxicating liquor, contrary to the provi-
sions of the second part of "*The Canada Temperance Act,*"
then in force in the said county (or city, as the case may be).
N.B.—For an information for a second or third offence add the
appropriate clauses from forms U and V.

A.B.

Laid and signed before me, the day }
and year, and at the place first }
above mentioned. }

C.D.

P.M. or J.P.

FORMS FOR DESCRIBING OFFENCES.

2. *Unlawfully keeping intoxicating liquor for sale:*

"That X.Y., on at unlawfully did
keep intoxicating liquor for sale, contrary to, &c." (as above).

3. *Unlawful sale by a distiller or brewer in small quantities:*

"That X.Y., being a licensed distiller (or brewer) having
his distillery (or brewery) within the county (or city, or as
the case may be), of , on , at
unlawfully did sell whiskey (or other liquor manufactured in
his distillery) in a quantity of less than ten gallons (or ale or
beer in a quantity of less than eight gallons) at one time (or
unlawfully did sell whiskey to be removed and taken away in
quantities of less than ten gallons, or unlawfully did sell beer
to be removed and taken away in quantities of less than eight
gallons), contrary to, &c." (as above).

4. *Unlawful sale by a vine-growing company in small quantities:*

"That the company, being an incorporated com-
pany authorized by law to carry on the business of cultivating
and growing vines, and of making and selling wine and other
liquors produced from grapes, having their manufactory within
the county (or city) of , on , at
unlawfully did sell intoxicating liquor in a quantity

of less than ten gallons at one time (or unlawfully did sell intoxicating liquor to be removed and taken away in quantities of less than ten gallons at one time) contrary to, &c." (as above).

5. *Unlawful sale by a manufacturer of native wines :*

"That X. Y., being a manufacturer of pure native wines made from grapes grown and produced by him in the Dominion of Canada, and being duly licensed to sell the same, on _____, at _____, unlawfully did sell such wines in a quantity of less than ten gallons (or unlawfully did sell such wine for sacramental or medicinal purposes in a quantity of less than one gallon) contrary to, &c." (as above).

6. *Unlawful sale by a wholesale merchant in small quantities :*

"That X. Y., having a license to sell intoxicating liquor by wholesale, on _____, at _____, unlawfully did sell intoxicating liquor in a quantity of less than ten gallons (or unlawfully did sell intoxicating liquor to be removed and taken away in quantities of less than ten gallons at one time) contrary to, &c." (as above).

7. *Medical man unlawfully giving certificate :*

"That X. Y., being a medical man, on _____, at _____, unlawfully did give a certificate to obtain intoxicating liquor for other than strictly medicinal purposes, contrary to, &c." (as above).

8. *Tampering with a witness :*

"That X. Y., on a certain prosecution under 'The Canada Temperance Act,' on _____, at _____ unlawfully did tamper with O. P., a witness in such prosecution, before (or after) he was summoned (or appeared) as a witness in such case (or by an offer of money, or by threat or otherwise) unlawfully did induce (or attempt to induce) such witness to absent himself (or herself) (or to swear falsely) contrary to, &c." (as above).

9. *Compromising or compounding a prosecution :*

"That X. Y., having violated a provision of 'The Canada Temperance Act,' on _____, at _____, unlawfully did compromise (or compound, or settle, or offer, or attempt to compromise, compound or settle) the offence with E. F., with the view of preventing any complaint being made in respect thereof (or with the view of getting rid of, or of stopping, or of having the complaint made in respect thereof dismissed (as the case may be) contrary to the provisions of 'The Canada Temperance Act.'"

10. *Being a party to compromise a prosecution :*

"That X. Y., on _____, at _____, unlawfully was concerned in (or party to) a compromise (or a composition or a settlement) of an offence committed by O. P., against a provision of 'The Canada Temperance Act.'"

FORM S.

Summons to Witness.

CANADA, } To J.K., of the of , in the
of }
To Wit: } of .

Whereas information has been laid before me, C.D., one of Her Majesty's justices of the peace, in and for the of , (or police magistrate for the city of ,) that X.Y., being a druggist, on the of , A.D. 18 , at the of , in the of , unlawfully did sell intoxicating liquor contrary to the provisions of the second part of "*The Canada Temperance Act,*" (or as the case may be) and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecution in this matter:

These are to require you, under pain of imprisonment in the common gaol, personally to be and appear on the day of , A.D. 18 , at o'clock in the (fore)noon, at the , in the of , before me or such justice or justices of the peace as may then be there, to testify what you shall know in the premises, and also to bring with you, and there and then to produce all and every invoices, day-books, cash-books, or ledgers and receipts, promissory notes or other security relating to the purchase or sale of liquor by the said X.Y., and all other books and papers, accounts, deeds and other documents in your possession, custody or control, relating to any matter connected with the said prosecution.

Given under my hand and seal, this day of , A.D. 18 , at the of , in the of .
C.D.,

J.P. [L.S]

FORM T.

Form of conviction for first offence.

CANADA, } BE IT remembered that on the day of ,
of , }
To Wit: } in the year of Our Lord one thousand eight hun-
of , X.Y., is convicted before, C.D., police magistrate } dred and , at the of in the
in and for the city of (or before us, E.F. and G.H., two }
of Her Majesty's justices of the peace, in and for the) }
of having unlawfully sold intoxicating liquor on the day }
of , in the year of Our Lord one thousand eight hundred }
and , at the of , in the , in his pre- }
mises (or of having unlawfully kept intoxicating liquor for }
sale, or as the case may be) contrary to the provisions of the second

part of "The Canada Temperance Act," then in force in the said _____, A. B. being the informant, and I (or we) adjudge the said X. Y., for his said offence, to forfeit and pay the sum of fifty dollars, to be paid and applied according to law, and also to pay to the said A. B. the sum of _____ dollars for his costs in this behalf, and if the said several sums be not paid forthwith, then* I (or we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf* [or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks** say—"inasmuch as it has now been made to appear to me (or us) that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family," or "that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress,"] I (or we) adjudge the said X. Y. to be imprisoned in the common gaol for the _____ of _____, at _____ in the said _____, and there to be kept for the space of _____, unless the said sums and the costs and charges of conveying the said X. Y. to the said common gaol, shall be sooner paid.

Given under my hand and seal (or our hands and seals) the day and year first above mentioned, at the _____ of _____ in the _____ aforesaid.

C. D.,	[L.S.]
Police Magistrate,	
or E. F.,	[L.S.]
J. P.,	
G. H.,	[L.S.]
J. P.	

FORM U.

Form of Conviction for a second offence.

CANADA, } BE it remembered that on the
of _____, } day of _____, in the year of Our Lord
To Wit: _____, } one thousand eight hundred and
at the _____ of _____, in the _____ of _____, X. Y. is
convicted before me, C.D., police magistrate in and for the
city of _____ (or before us, E. F. and G. H., two of Her
Majesty's justices of the peace, in and for the _____),
of having unlawfully sold intoxicating liquor on the _____
day of _____, in the year of Our Lord one thousand
eight hundred and _____, at the _____
of _____, in the _____, in his premises,
(or of having unlawfully kept intoxicating liquor for sale,
or as the case may be) contrary to the provisions of the second

part of "The Canada Temperance Act," then in force in the said _____, A. B., being the informant, and it appearing to me (or us) that the said X. Y. was previously, to wit, on the _____ day of _____, A.D. 18____, at the _____ of _____, before, &c., duly convicted of having unlawfully sold intoxicating liquor, contrary to the provisions of the second part of "The Canada Temperance Act," then in force in the said _____, on the _____ day of _____, A.D. 18____, at the _____ of _____ : I (or we) adjudge the offence of the said X. Y., hereinbefore first mentioned, to be his second offence against "The Canada Temperance Act," then in force in the said _____, and I (or we) adjudge the said X. Y., for his second offence, to forfeit and pay the sum of one hundred dollars, to be paid and applied according to law, and also to pay to the said A. B. the sum of _____ dollars for his costs in this behalf; and if the said several sums be not paid forthwith, then* I (or we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf,* [or, where the issuing a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks** say—"inasmuch as it has now been made to appear to me (or us) that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family," or "that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress,]" I (or we) adjudge the said X. Y. to be imprisoned in the common gaol for the _____ of _____, at _____ in the said _____, and there to be kept for the space of _____, unless the said sums and the costs and charges of conveying the said X. Y. to the said common gaol, shall be sooner paid.

Given under my hand and seal (or our hands and seals) the day and year first above mentioned, at the _____ of _____ in the _____ aforesaid.

C.D., [L.S.]
Police Magistrate,
 or E.F., [L.S.]
J.P.,
 G.H., [L.S.]
J.P.,

FORM V.

Form of Conviction for a third offence.

CANADA, } BE it remembered that on the
 of } day of _____, in the year of
 To Wit: } Our Lord one thousand eight hundred
 and } in the _____ of _____, in the _____,

X. Y. is convicted before the undersigned, C. D., police magistrate in and for the city of _____, in the said _____ (or E. F. and G. H., two of Her Majesty's justices of the peace in and for the said _____), for that he, the said X. Y. on the _____ day of _____, in the year of Our Lord one thousand eight hundred and _____, at the city of _____ (or _____ of _____) in the said _____ (as the case may be) of having unlawfully sold intoxicating liquor (or of having unlawfully kept intoxicating liquor for sale, or as the case may be) contrary to the provisions of the second part of "The Canada Temperance Act," then in force in the said _____. And it also appearing to me (or us) that the said X. Y. was previously, to wit, on the _____ day of _____, A. D. 18 _____, at the _____ of _____, before, &c., duly convicted of having unlawfully sold intoxicating liquor contrary to the provisions of the second part of "The Canada Temperance Act," then in force in the said _____, on the _____ day of _____, A. D. 18 _____, at the _____ of _____. And it also appearing to me (or us) that the said X. Y. was previously, to wit, on the _____ day of _____, A. D. 18 _____, at the _____ of _____, before, &c. (see above) again duly convicted of having unlawfully sold intoxicating liquor contrary to the provisions of the second part of "The Canada Temperance Act," then in force in the said _____, on _____ day of _____, A. D. 18 _____, at the _____ (or as the case may be).

I (or we) adjudge the offence of the said X. Y. hereinbefore firstly mentioned, to be his third offence against "The Canada Temperance Act," then in force in the said _____ (A. B. being the informant), and I (or we) adjudge the said X. Y. for his said third offence to be imprisoned in the common gaol of the said _____ of _____ at _____, in the said _____ of _____, there to be kept at hard labour for the space of _____ calendar months (or as the case may be).

Given under my hand and seal (or our hands and seals) the day and year first above mentioned, at the _____ of _____, in the _____ aforesaid.

C. D., [L. S.]
Police Magistrate,
 or E. F., [L. S.]
J. P.,
 G. H., [L. S.]
J. P.,

FORM W.

Warrant of Commitment for first offence where a penalty is imposed.

CANADA, }
of }
To Wit : } To ALL or any of the constables and other
} peace officers in the
} and to the keeper of the common gaol
of the said at , in the of .
Whereas X. Y., late of the of , in the said
, was this day convicted before the
undersigned, C. D., police magistrate in and for the city of
(or E. F. and G. H., two of Her Majesty's
justices of the peace in and for the of , (or
of , or as the case may be), for that he, the said
X. Y., on at unlawfully did sell intoxicating
liquor (state offence as in the conviction), contrary to
the provisions of the second part of "The Canada Temperance
Act," then in force in the said (A. B.
being the informant), and it was thereby adjudged that the
said X. Y., for his said offence, should forfeit and pay the
sum of (as in the conviction), and should pay to
the said A. B. the sum of for his costs in that
behalf :

And it was thereby further adjudged that if the said several
sums should not be paid forthwith the said X. Y. should be
imprisoned in the common gaol of the said
at , in the said of , there to
be kept at hard labour for the space of unless the
said several sums and the costs and charges of conveying the
said X. Y. to the said common gaol should be sooner paid :

And whereas the said X. Y. has not paid the said several
sums, or any part thereof, although the time for payment
thereof has elapsed :

[If a distress warrant issued and was returned "no goods," or
"not sufficient goods," say] "And whereas afterwards on the
day of , A. D. 18 , I, the said police magistrate (or
we, the said justices) issued a warrant to the said constables
or peace officers, or any of them, to levy the said several
sums of and by distress and sale of the
goods and chattels of the said X. Y. :

"And whereas it appears to me (or us), as well by the return
of the said warrant of distress by the constable who had the
execution of the same as otherwise, that the said constable has
made diligent search for the goods and chattels of the said X.
Y., but that no sufficient distress whereon to levy the said
sums could be found ;"]

[Or where the issuing of a distress warrant would be ruinous
to the defendant and his family, or if it appears that he has no
goods whereon to levy a distress, then instead of the foregoing reci-
tals of the issue and return of the distress warrant, &c., say—

“And whereas it has been made to appear to me (or us) that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y., and his family,” or “that the said X. Y. has no goods or chattels whereon to levy the said sums by distress” *as the case may be* :]

These are therefore to command you, the said constables or peace officers, or any of you, to take the said X. Y., and him safely convey to the common gaol aforesaid at _____, in the _____ of _____ and there deliver him to the said keeper thereof, together with this precept.

And I (or we) do hereby command you the said keeper of the said common gaol to receive the said X. Y. into your custody in the said common gaol, there to imprison him and keep him for the space of _____ unless the said several sums and all the costs and charges of the said distress, amounting to the sum of _____, and of the commitment and conveying of the said X. Y. to the said common gaol, amounting to the further sum of _____, shall be sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal (or our hands and seals), this _____ day of _____, A.D. 18 _____, at _____ in the said _____ of _____

C.D.,	[L.S.]
<i>Police Magistrate,</i>	
or E.F.,	[L.S.]
<i>J.P.,</i>	
G.H.,	[L.S.]
<i>J.P.,</i>	

FORM X.

Warrant of commitment for third offence, where punishment is by imprisonment only.

CANADA, }
of _____, } To ALL or any of the constables and other
To Wit: _____, } peace officers in the _____ of _____, and to
at _____ } the keeper of the common gaol of the said
in the _____ of _____

Whereas X. Y., late of the _____ of _____, in the said _____ was on this day convicted before the undersigned C. D., (or E. F. and G. H., &c., as in preceding form) for that he, the said X. Y., on _____, at _____ (state offence, with previous convictions, as set forth in the conviction for the third offence, or as the case may be, and then proceed thus): “and it was thereby adjudged that the offence of the said X. Y., hereinbefore firstly mentioned, was his third offence against the second part of “*The Canada Temperance Act,*” then in force in the said _____, (A. B. being the informant); And it was thereby further adjudged that the said X. Y., for his said third offence, should

be imprisoned in the common gaol of the said of
 , at in the said of , and there be
 kept at hard labour for the space of calendar months :

These are therefore to command you, the said constables, or
 any one of you, to take the said X.Y., and him safely convey
 to the said common gaol at , aforesaid, and there deliver
 him to the keeper thereof, with this precept. And I (or we)
 do hereby command you, the said keeper of the said common
 gaol, to receive the said X.Y. into your custody in the said
 common gaol, there to imprison him and to keep him at hard
 labour for the space of calendar months.

Given under my hand and seal (or our hands and seals), this
 day of , A.D. 18 , at , in the said
 of

C.D.,		[L.S.]
or E.F.,	<i>Police Magistrate,</i>	[L.S.]
	<i>J.P.;</i>	[L.S.]
G.H.,	<i>J.P.,</i>	[L.S.]

FORM Y.

*Form of declaration of forfeiture and of order to destroy liquor
 seized.*

*If in the conviction, after adjudging penalty or imprisonment,
 proceed thus :*

And I (or we) declare the said intoxicating liquor and vessels
 in which the same is kept, to wit : (two barrels containing beer,
 three jars containing whiskey, two bottles containing gin, four
 kegs containing lager beer, and five bottles containing native
 wine (or as the case may be), to be forfeited to Her Majesty, and
 I (or we) do hereby order and direct that the said liquor and
 vessels be destroyed by , the constable or peace officer
 who executed the search warrant under which the same was
 found or in whose custody the same was placed.

Given under my hand and seal the day and year first above
 mentioned, at, &c.

If by separate subsequent order.

CANADA,	}	We, E.F. and G.H., two of Her Majesty's	justices of the peace for the	of
of				
To wit :	}	(or C.D., Police Magistrate of		
the city of	)	) having on the	day of	,
one thousand eight hundred and		and	,	at the
in the said		duly convicted X.Y. of having		of
unlawfully kept intoxicating liquor for sale, contrary to the				

provisions of the second part of "*The Canada Temperance Act*," then in force in the said (as the case may be), do hereby declare the said liquor and the vessels in which the same is kept, to wit:—(*describe the same as above*), to be forfeited to Her Majesty, and we (or I) do hereby order and direct that J.P.W., license inspector of the of the said

, do forthwith destroy the said liquor and vessels.

Given under our hands and seals (or my hand and seal) this day of , at the of in the said

E.F., [L.S.]
J.P.

G.H., [L.S.]
J.P.

or

C.D., [L.S.]
Police Magistrate.



CHAPTER 35.

An Act in amendment of "The Canada Temperance Act."

[Assented to 22nd May, 1888.]

Preamble.

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

Short title.

1. This Act may be cited as "*The Canada Temperance Amendment Act, 1888.*"

Declaratory.

2. This Act shall be read and taken as if embodied in and forming part of "*The Canada Temperance Act.*"

Section 96 of Act repealed; new section. As to revocation of Order in Council.

3. Section ninety-six of "*The Canada Temperance Act*" is hereby repealed and the following substituted in lieu thereof :—

"**96.** No Order in Council issued under this Act shall be revoked until after the expiration of three years from the date of the coming into force under it of the second part of this Act."

When petition for revocation may be submitted to vote.

"**2.** No petition for the revocation of the Order in Council which declares "*The Canada Temperance Act*" in force shall be submitted to the vote of the electors more than thirty days before the expiration of three years from the coming into force of the second part of the said Act in any county or city."

Application of certain sections.

4. Sections five, six, seven and eight following and the forms in the schedule to this Act shall be read as if embodied in the first part of the said Act, but shall relate to proceedings for revoking the Order in Council which has brought the second part of the said Act into force.

Form of petition for revocation.

5. A petition to the Governor in Council praying for the revocation of any Order in Council, passed for bringing the second part of the said Act into force, may be in the form O of the schedule hereto or to the like effect.

6. Such petition may be embodied, as in form O in the schedule to this Act, in the notice in writing addressed to the Secretary of State of Canada and signed by electors qualified to vote at the election of a member of the House of Commons in a county or city, to the effect that the signers desire that the votes of such electors as, under the provisions of the said Act, are entitled to vote for the bringing into force of the second part of the said Act, be taken for and against the revocation of the Order in Council bringing the second part of the said Act into force.

Petition may form part of notice to Secretary of State.

7. The provisions of sections six to seventeen, both inclusive and from twenty to ninety-three, both inclusive, shall apply *mutatis mutandis* to every case of a petition and notice for revocation of an Order in Council under this Act, and all the proceedings to be had and taken thereon, and in respect of the powers to be exercised, and the offences which may be committed, and the penalties that may be incurred in the course of, and in connection with such proceedings.

Application of certain provisions as respects revocation.

8. For the voting for the revocation of any such Order in Council the ballot of each voter shall be a printed paper, in this Act called a ballot paper, with a counterfoil, and the ballot paper and counterfoil shall be according to form P in the schedule to this Act, and in such ballot paper the words "against the Act" shall be printed in red ink and the words "for the Act" in black ink; and the printed directions to be furnished to the deputy returning officers shall be according to form Q in the schedule to this Act.

Form of ballot paper.

9. When any petition for the revocation of an Order in Council for the bringing into operation the second part of "The Canada Temperance Act" has been heretofore or is hereafter adopted by the electors of the county or city named therein, and to which the same relates, the Governor in Council may, at any time after the expiration of thirty days from the day on which the same was so adopted, by Order in Council published in the *Canada Gazette* declare, that the second part of the said Act shall no longer be in force; and section ninety-five of the said Act so far as inconsistent with the provisions of this section is hereby repealed.

When second part of Act may be declared to be no longer in force.

10. The provisions of sections ninety-seven of "The Canada Temperance Act" shall be applicable to counties which have been divided for municipal purposes after the adoption of "The Temperance Act of 1864."

Application of section 97 in cases specified.

11. Nothing in "The Canada Temperance Act" shall be held to interfere with the purchase or sale, by legally qualified physicians, chemists or druggists, of the following articles, that is to say:—

Sale of certain articles not prohibited.

- Official preparations. (a.) The officinal preparations of the authorized Pharmacopœas when made of full medicinal strength, and sold only for medicinal purposes ;
- Prescriptions. (b.) Physicians' prescriptions containing spirituous liquors if sold in quantities of not more than ten ounces at any one time ;
- Patent medicines. (c.) Any patent medicine, unless such patent medicine is known to the vendor to be capable of being used as a beverage, the sale of which is a violation of "*The Canada Temperance Act* ;"
- Perfumery, &c. (d.) Eau de Cologne, bay rum, or other articles of perfumery, lotions, extracts, varnishes, tinctures, or other pharmaceutical preparations containing alcohol, but not intended for use as beverages ;
- Methylated spirits, &c. (e.) Alcohol or methylated spirits, for pharmaceutical, chemical or mechanical uses ;
- Record of sales to be kept. 2. Each such sale shall be recorded in a book kept for the purpose giving the name and address of the purchaser, quantity and name of liquor, medical man prescribing the same, and the purpose for which it is required ; and the said book shall be kept open for inspection by the proper county Inspector at all times.

SCHEDULE.

FORM O.

Form of notice and petition for revocation of an Order in Council passed for bringing the second part of "The Canada Temperance Act" into force.

To the Hon. the Secretary of State of Canada.

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

The petition of the electors of the county (or city) of _____ qualified and competent to vote at the election of a member of the House of Commons in the said county (or city) respectfully shows that your petitioners are desirous that the Order in Council passed for bringing into force within the said county (or city), the second part of "*The Canada Temperance Act*," should be revoked ; wherefore your petitioners humbly pray that your Excellency will be pleased by an Order in Council under section nine of "*The Canada Temperance Amendment Act*, 1888," to declare that the said Order in Council which brought into force and effect the said second part of the said "*The Canada Temperance Act*," in the said county (or city) shall no longer be in force.

And your petitioners will ever pray, &c.

And that we desire that the votes of the electors of the said county (or city) be taken for and against the revocation of the said Order in Council.

FORM P.

Form of Ballot Paper.

18 .

Voting on the petition to the Governor General for the revocation of the Order in Council which brought into force the second part of "*The Canada Temperance Act*" in the county (or city) of

N.B.—The crosses are for illustration.

Against the Act. + (*)	+ For the Act. (**)
---------------------------	------------------------

(* These words are to be printed in red ink.)
 (** These words are to be printed in black ink.)

(The dotted line will be a line of perforations for easily detaching the counterfoil.)

Counterfoil.

FORM Q.

Directions for guidance of Electors in voting.

The voter will go into one of the compartments, and with the pencil there provided place a cross thus + in the upper space if he votes against the Act and in the lower space if he votes for the Act.

The voter will then fold the ballot so as to show a portion of the back only with the number and initials of the deputy returning officer and deliver it to the deputy returning officer who will place it in the ballot box. The voter will then forthwith, quit the polling station.

If a voter inadvertently spoils a ballot paper he can return it to the proper officer who, on being satisfied of the fact, will give him another.

If the voter places on the ballot paper more than one mark, or places any marks on it by which he can afterwards be identified, his vote will be void and will not be counted.

If the voter takes a ballot paper out of the polling-station, or fraudulently puts any other paper into the ballot box than the ballot paper given him by the deputy returning officer he will be subject to be punished by fine or by imprisonment for a term not exceeding six months, with or without hard labour.



CHAPTER 40.

An Act respecting the advertising of Counterfeit Money.

[Assented to 22nd May, 1888.]

WHEREAS attempts have been made in Canada to obtain Preamble.
money by offering to give in exchange spurious or counterfeit money or tokens or evidences of value under various names, and it is expedient to provide a remedy: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In this Act the expression “counterfeit token of value” Interpretation.
means any spurious or counterfeit coin, paper money, inland revenue stamp, postage stamp, or other evidence of value, by “Counterfeit token of value.”
whatever technical, trivial or deceptive designation the same may be described.

2. Every one who prints, writes, utters, publishes, sells, Advertising counterfeit token of value.
lends, gives away, circulates or distributes any letter, writing, circular, paper, pamphlet, handbill or any written or printed matter advertising or offering or purporting to advertise or offer for sale, loan, exchange, gift or distribution, or to furnish, procure or distribute any counterfeit token of value, or what purports to be a counterfeit token of value, or giving or purporting to give, either directly or indirectly, information, where, how, of whom, or by what means any counterfeit token of value, or what purports to be a counterfeit token of value, may be procured or had—and every one who aids or assists in Accessories.
any manner in any scheme or device whatsoever, offering or purporting to offer for sale, loan, gift, exchange or distribution, any counterfeit token of value—and every one who purchases, Purchasers.
exchanges, accepts, takes possession of, or in any way uses, or offers to purchase, exchange, accept, take possession of, or in any way use any such counterfeit token of value, or what purports so to be, is guilty of felony, and liable to five years’ Punishment.
imprisonment.

3. Every one who, in executing, operating, promoting, carrying on, or in the aiding, assisting or abetting in the promoting, operating, carrying on or executing of any scheme or device whatsoever to defraud, by the use or by means of any papers, Assuming false name in connection with any such offence.

writings, letters, circulars or written or printed matters concerning the offering for sale, loan, gift, distribution or exchange of counterfeit tokens of value, uses any fictitious, false or assumed name or address, or name or address other than his own right, proper and lawful name,—and every one who, in the executing, operating, promoting, carrying on, aiding, assisting or abetting in the execution, promoting or carrying on of any scheme or device, offering for sale, loan, gift or distribution, or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, knowingly receives or takes from the mails, or from the post office, any letter or package addressed to any such fictitious, false or assumed name or address, or name other than his own right, proper or lawful name, is guilty of felony and liable to five years' imprisonment.

Receiving letters addressed to false name.

Punishment.

What shall be evidence.

4. Any letter, circular, writing or paper offering or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, or concerning any similar scheme or device to defraud the public, shall be *prima facie* evidence of the fraudulent character of such scheme or device.



CHAPTER 41.

An Act to amend the law relating to fraudulent marks on Merchandise.

[Assented to 22nd May, 1888.]

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

1. This Act may be cited as “ *The Merchandise Marks Offences Act, 1888.* ” Short title.

2. In this Act, unless the context otherwise requires,— Interpretation.
(a.) The expression “ trade mark ” means a trade mark or industrial design registered in accordance with “ *The Trade Mark and Design Act* ” and the registration whereof is in force under the provisions of the said Act, and includes any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of section one hundred and three of the Act of the United Kingdom, known as “ *The Patents, Designs, and Trade Marks Act, 1883,* ” are, in accordance with the provisions of the said Act, for the time being applicable ; “ Trade mark.”

(b.) The expression “ trade description ” means any description, statement, or other indication, direct or indirect,— “ Trade description.”

(1.) As to the number, quantity, measure, gauge, or weight of any goods ; or—

(2.) As to the place or country in which any goods were made or produced ; or—

(3.) As to the mode of manufacturing or producing any goods ; or—

(4.) As to the material of which any goods are composed, or—

(5.) As to any goods being the subject of an existing patent, privilege, or copyright ;

And the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, shall be deemed to be a trade description within the meaning of this Act ;

“ False trade description.” (c.) The expression “ false trade description ” means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect ; and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being deemed to be a false trade description within the meaning of this Act ;

“ Goods.” (d.) The expression “ goods ” means anything which is merchandise or the subject of trade or manufacture ;

“ Covering.” (e.) The expression “ covering ” includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper ; and the expression “ label ” includes any band or ticket ;

“ Person, &c.” (f.) The expressions “ person, manufacturer, dealer or trader, ” and “ proprietor ” include any body of persons corporate or unincorporate ;

“ Name.” (g.) The expression “ name ” includes any abbreviation of a name :

Use of false trade description. 2. The provisions of this Act respecting the application of a false trade description to goods extend to the application to goods of any such figures, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are :

And as to name, &c. 3. The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description ; and for the purpose of this enactment the expression “ false name or initials ” means as applied to any goods, any name or initials of a person which—

“ False name or initials.” (a.) Are not a trade mark, or part of a trade mark, and—
(b.) Are identical with, or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials, or—

(c.) Are either those of a fictitious person or of some person not *bonâ fide* carrying on business in connection with such goods.

Forgery of a trade mark. 3. A person shall be deemed to forge a trade mark who either—

(a.) Without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling that trade mark as to be calculated to deceive ; or—

(b.) Falsifies any genuine trade mark, whether by alteration, addition, effacement, or otherwise ;

And any trade mark or mark so made or falsified is, in this Act, referred to as a forged trade mark :

Provided, that in any prosecution for forging a trade mark the burden of proving the assent of the proprietor shall lie on the defendant. Proviso.

4. A person shall be deemed to apply a trade mark, or mark, or trade description to goods, who— Application of trade mark or trade description.

(a.) Applies it to the goods themselves ; or—

(b.) Applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade, or manufacture ; or—

(c.) Places, encloses, or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade, or manufacture, in, with or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied ; or—

(d.) Uses a trade mark or mark or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark or trade description :

2. A trade mark or mark or trade description, shall be deemed to be applied whether it is woven, impressed or otherwise worked into, or annexed or affixed to the goods, or to any covering, label, reel or other thing : Manner of application.

3. A person shall be deemed to falsely apply to goods a trade mark or mark, who, without the assent of the proprietor of a trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive ; but in any prosecution for falsely applying a trade mark or mark to goods, the burden of proving the assent of the proprietor shall lie on the defendant. What shall be false application.

5. Whenever a defendant is charged with making any die, block, machine or other instrument for the purpose of forging, or being used for forging a trade mark, or with falsely applying to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves— What defence may be pleaded in case specified.

(a.) That in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines or other instruments for making, or being used in making, trade marks, or, as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in Canada, and was not interested in the goods by way of profit or commission dependent on the sale of such goods ; and— Ordinary business.

- Precautions. (b.) That he took reasonable precautions against committing the offence charged; and—
- Supposed genuineness. (c.) That he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and—
- Information communicated. (d.) That he gave to the prosecutor all the information in his power with respect to the person by or on whose behalf the trade mark, mark or description was applied,—
- Discharge in such case. He shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

What shall be deemed offences against this Act.

- 6.** Every person who—
- (a.) Forges any trade mark; or—
- (b.) Falsely applies to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive; or—
- (c.) Makes any die, block, machine or other instrument, for the purpose of forging, or of being used for forging, a trade mark; or—
- (d.) Applies any false trade description to goods; or—
- (e.) Disposes of, or has in his possession, any die, block, machine or other instrument, for the purpose of forging a trade mark; or—
- (f.) Causes any of the things in this section above mentioned to be done,—

Is, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, guilty of an offence against this Act.

The same as to sale, &c., of goods falsely marked.

2. Every person who sells, or exposes for, or has in his possession for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, as the case may be, unless he proves—

Defence.

Precautions.

(a.) That having taken all reasonable precautions against committing an offence against this Act, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and—

Information communicated.

(b.) That on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or—

Good faith.

(c.) That otherwise he had acted innocently,—
Is guilty of an offence against this Act.

Offence in relation to bottles marked with trade mark.

7. Every person, other than the lawful owner of the bottles and proprietor of the trade mark hereinafter referred to, who sells, or exposes or offers for sale, or traffics in bottles

marked with the trade mark of the owner thereof, and without the assent of such owner, is guilty of an offence against this Act.

8. Every person guilty of an offence against this Act is Punishment. liable—

(a.) On conviction on indictment, to imprisonment, with or without hard labour, for a term not exceeding two years, or to fine, or to both imprisonment and fine; and— On indictment.

(b.) On summary conviction, to imprisonment, with or without hard labour, for a term not exceeding four months, or to a fine not exceeding one hundred dollars; and in case of a second or subsequent conviction to imprisonment, with or without hard labour, for a term not exceeding six months, or to a fine not exceeding two hundred and fifty dollars: On summary conviction.

2. In any case every chattel, article, instrument, or thing, by means of, or in relation to which the offence has been committed shall be forfeited. Forfeiture.

9. If any person feels aggrieved by any conviction made by a court of summary jurisdiction, he may appeal therefrom in accordance with the provisions of "*The Summary Convictions Act.*" Appeal.

10. Any offence for which a person is, under this Act, liable to punishment on summary conviction, may be prosecuted, and any articles forfeited under this Act may be declared forfeited under the provisions of "*The Summary Convictions Act.*" R.S.C., c. 178 to apply.

11. Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall *prima facie* be deemed to be a description of that country within the meaning of this Act, and the provisions of this Act with respect to goods to which a false description has been applied, and with respect to selling or exposing for, or having in possession for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly; and for the purposes of this section the expression "watch" means all that portion of a watch which is not the watch case. As to words or marks on watch cases.

12. In any indictment, pleading, proceeding, or document, in which any trade mark, or forged trade mark, is intended to be mentioned, it shall be sufficient, without further description and without any copy or fac-simile, to state that trade mark, or forged trade mark, to be a trade mark, or forged trade mark. What only need be alleged in proceedings.

Evidence.
Of wife or
husband.

13. In any prosecution for an offence against this Act,—
(a.) A defendant, and his wife or her husband, as the case may be, may, if the defendant thinks fit, be called as a witness, and, if called, shall be sworn and examined, and may be cross-examined and re-examined in like manner as any other witness;

Of port of
shipment.

(b.) In the case of imported goods, evidence of the port of shipment shall be *prima facie* evidence of the place or country in which the goods were made or produced.

Search war-
rant may be
issued.

14. Whenever upon information of an offence against this Act, a justice has issued either a summons requiring the defendant charged by such information to appear to answer to the same, or a warrant for the arrest of such defendant, and either the said justice, on or after issuing the summons or warrant, or any other justice, is satisfied, by information on oath, that there is reasonable cause to suspect that any goods or things, by means of or in relation to which such offence has been committed are in any house or premises of the defendant, or otherwise in his possession or under his control in any place, such justice may issue a warrant under his hand by virtue of which it shall be lawful for any constable named or referred to in the warrant to enter such house, premises or place at any reasonable time by day, and to search there for and seize and take away those goods or things; and any goods or things seized under any such warrant shall be brought before a court of summary jurisdiction for the purpose of its being determined whether the same are or are not forfeited under this Act:

Proceedings
thereunder.

Service of
notice by ad-
vertisement.

2. If the owner of any goods or things which, if the owner thereof had been convicted, would be forfeited under this Act, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and a court of summary jurisdiction may cause notice to be advertised stating that, unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be declared forfeited; and at such time and place the court, unless the owner, or any person on his behalf, or other person interested in the goods or things, shows cause to the contrary, may declare such goods or things, or any of them, forfeited.

Disposal of
forfeited arti-
cles.

15. Any goods or things forfeited under any provision of this Act, may be destroyed or otherwise disposed of in such a manner as the court, by which the same are declared forfeited, directs; and the court may, out of any proceeds realized by the disposition of such goods (all trade marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

Costs.

16. On any prosecution under this Act the court may order costs to be paid to the defendant by the prosecutor, or to the

prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

17. No prosecution for an offence against this Act shall be commenced after the expiration of three years next after the commission of the offence, or of one year next after the first discovery thereof by the prosecutor, whichever expiration first happens. Limitation.

18. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the vendor shall be deemed to warrant that the mark is a genuine trade mark and not forged or falsely applied, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the vendor and delivered at the time of the sale or contract to and accepted by the vendee. Warranty of trade marks, &c.

19. Where, at the passing of this Act, a trade description is lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this Act with respect to false trade descriptions shall not apply to such trade descriptions when so applied: Provided, that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, this section shall not apply, unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner, with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there. Existing rights saved. When name of country is calculated to deceive.

20. This Act shall not exempt any person from any civil action, suit or other proceeding which might, but for the provisions of this Act, be brought against him: Rights of action saved.

2. Nothing in this Act shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Act: Discovery to be made and questions answered.

3. Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master, resident in Canada, who *bonâ fide* acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master. Liability of servants.

As to use of royal title, &c.

21. Every person who falsely represents that any goods are made by a person holding a Royal Warrant, or for the service of Her Majesty, or any of the Royal Family, or any Government Department of the United Kingdom or of Canada, is liable, on summary conviction, to a penalty not exceeding one hundred dollars.

Importation of goods specified prohibited.

22. The importation of any goods which, if sold, would be forfeited under the foregoing provisions of this Act, and of goods manufactured in any foreign state or country which bear any name or trade mark which is or purports to be the name or trade mark of any manufacturer, dealer or trader in the United Kingdom or in Canada is hereby prohibited, unless such name or trade mark is accompanied by a definite indication of the foreign state or country in which the goods were made or produced; and any person who imports or attempts to import any such goods shall be liable to a penalty of not more than five hundred dollars, nor less than two hundred dollars, recoverable on summary conviction, and the goods so imported or attempted to be imported shall be forfeited and may be seized by any officer of the Customs and dealt with in like manner as any goods or things forfeited under this Act.

Penalty and forfeiture.

Name of country to be given in certain cases.

2. Whenever there is on any goods a name which is identical with or a colourable imitation of the name of a place in the United Kingdom or in Canada, such name, unless it is accompanied by the name of the state or country in which it is situate, shall, unless the Minister of Customs decides that the attaching of such name is not calculated to deceive (of which matter the said Minister shall be the sole judge) be treated, for the purposes of this section, as if it was the name of a place in the United Kingdom or in Canada:

Application of section to other places than those specified.

3. The Governor in Council may, whenever he deems it expedient in the public interest, declare that the provisions of the two sub-sections next preceding shall apply to any city or place in any foreign state or country; and after the publication in the *Canada Gazette* of the Order in Council made in that behalf, such provisions shall apply to such city or place in like manner as they apply to any place in the United Kingdom or in Canada, and may be enforced accordingly:

Regulations may be made.

4. The Governor in Council may, from time to time, make regulations, either general or special, respecting the detention and seizure of goods, the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and seizure, and may, by such regulations, determine the information, notices and security to be given, and the evidence necessary for any of the purposes of this section, and the mode of verification of such evidence:

Reimbursement of expenses.

5. The regulations may provide for the reimbursing by the informant to the Minister of Customs of all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent upon such detention:

6. Such regulations may apply to all goods the importation of which is prohibited by this section, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods : Application of regulations.

7. All such regulations shall be published in the *Canada Gazette* and shall have force and effect from the date of such publication. Publication and taking effect.

23. This Act shall be substituted for chapter one hundred and sixty-six of the Revised Statutes, respecting the fraudulent marking of merchandise, which is hereby repealed. R.S.C., c. 166 repealed.



CHAPTER 42.

An Act respecting Gaming in Stocks and Merchandise.

[Assented to 22nd May, 1888.]

Preamble.

WHEREAS gaming and wagering on the rise and fall in value of stocks and merchandise are detrimental to commercial and public morality, and places affording facilities for such gaming and wagering, commonly called *bucket shops*, are being established; and it is expedient to prevent such gaming and wagering, to punish the persons engaged in them, and to prohibit and punish the opening and maintaining of places therefor, and the frequenting thereof: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Making pretended contracts of sale or purchase of stocks, goods, &c., or abetting the same.

1. Every one who,—

(a.) With the intent to make gain or profit by the rise or fall in price of any stock of any incorporated or unincorporated company or undertaking, either in Canada or elsewhere, or of any goods, wares or merchandise, and without the *bonâ fide* intention of acquiring any such shares, goods, wares or merchandise, or of selling the same, as the case may be, makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any such shares of stock, goods, wares or merchandise; and every one who acts, aids or abets in the making or signing of any such contract or agreement; or—

Making such contracts without intent to execute, or abetting the same.

(b.) With the intent to make gain or profit by the rise or fall in price of any stock of any incorporated or unincorporated company or undertaking, either in Canada or elsewhere, or of any goods, wares or merchandise, makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any such shares of stock, goods, wares or merchandise, in respect of which no delivery of the thing sold or purchased is made or received, and without the *bonâ fide* intention to make or receive such delivery; and every one who acts, aids or abets in the making or signing of any such contract or agreement—

Penalty.

Is guilty of a misdemeanour and liable to imprisonment for any term not exceeding five years, and to a fine not exceeding five hundred dollars; but the foregoing provisions shall not apply to cases where the broker of the purchaser receives

Exception.

delivery, on his behalf, of the article sold, notwithstanding that such broker retains or pledges the same as security for the advance of the purchase money or any part thereof;

2. Every one who habitually frequents any office or place wherein the making or signing, or procuring to be made or signed, or the negotiating or bargaining for the making or signing of such contracts of sale or purchase, as aforesaid, is carried on, is guilty of a misdemeanour and liable to one year's imprisonment.

Punishment of frequenters of places where such pretended contracts are used to be made.

2. Whenever it is established that any person has made or signed any such contract or agreement of sale or purchase as aforesaid, or has acted, aided or abetted in the making or signing of the same, the burden of proof of the *bonâ fide* intention to acquire or to sell such shares, goods, wares or merchandise, or to deliver or to receive delivery of the same, as the case may be, shall rest upon the person charged with an offence under this Act.

Burden of proof of intention.

3. Every one who, either as principal or agent, occupies, uses, manages or maintains any office or place of business wherein he carries on, or aids in carrying on the business of making or signing, or procuring to be made or signed, or negotiating or bargaining for the making or signing such contracts of sale or purchase, as aforesaid, shall be held to be the keeper of a common gaming house, and such office or place of business shall be held to be a common gaming house, and the instruments used in such office or place of business for the conveyance of messages in respect of the purchase or sale, or pretended purchase or sale, of any such shares, goods, wares or merchandise, and the tablets, blackboards, slates or other implements used in registering or recording the prices of such shares of stock, goods, wares or merchandise, or the fluctuations therein, shall be held to be implements of gaming, the whole within the meaning of chapter one hundred and fifty-eight of the Revised Statutes of Canada, intituled "*An Act respecting Gaming Houses*," and shall be subject to all the provisions of the said Act.

Keepers of places where such business is carried on, deemed keepers of gaming houses.

Instruments, &c., deemed implements of gaming.

R.S.C., c. 158.

4. In any prosecution under this Act the person accused shall be a competent witness on his own behalf.

Accused may be witness in his own behalf.



CHAPTER 43.

An Act further to amend the law respecting Procedure in Criminal Cases.

[Assented to 4th May, 1888.]

Preamble.

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

Sub-section 5 of s. 268 of R. S.C., c. 174 repealed; new-sub-section.

1. The fifth sub-section of the section substituted by the Act passed in the session held in the fiftieth and fifty-first years of Her Majesty's reign, chapter fifty, for section two hundred and sixty-eight of "*The Criminal Procedure Act*" is hereby repealed and the following sub-section enacted in lieu thereof:—

No appeal to any court in the United Kingdom.

"5. Notwithstanding any royal prerogative, or anything contained in "*The Interpretation Act*" or in "*The Supreme and Exchequer Courts Act*," no appeal shall be brought in any criminal case from any judgment or order of any court in Canada to any court of appeal or authority, by which in the United Kingdom appeals or petitions to Her Majesty in Council may be heard."

Section 267 amended.

2. Section two hundred and sixty-seven of "*The Criminal Procedure Act*" is hereby amended by striking out in the second and third lines thereof the words "or any indictment, information, presentment or inquisition."



CHAPTER 44.

An Act further to amend "The Criminal Procedure Act."

[Assented to 22nd May, 1888.]

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

1. Section two of chapter one hundred and seventy-four of the Revised Statutes of Canada, "*The Criminal Procedure Act*," is hereby amended by adding the following paragraph there-
Section 2 of R.S.C., c. 174 amended.

"(i.) The expression "newspaper" means any paper containing public news, intelligence or occurrences, or any remarks or observations thereon, printed for sale and published periodically or in any parts or numbers at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers, and also any paper printed in order to be distributed and made public weekly or oftener, or at intervals not exceeding twenty-six days, and containing only or principally advertisements."
Interpretation. "Newspaper."

2. Every proprietor, publisher, editor or other person charged with the publication in a newspaper of any defamatory libel shall be dealt with, indicted, tried and punished in the Province in which he resides, or in which such newspaper is printed.
Venue in case of libel in a newspaper.

3. Section one hundred and forty of the said Act is hereby amended by adding to the list of offences therein mentioned the offence of libel.
Section 140 amended.



CHAPTER 45.

An Act to amend chapter one hundred and seventy-eight of the Revised Statutes of Canada, "The Summary Convictions Act."

[Assented to 22nd May, 1888.]

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

R.S.C., c. 178
ss. 29 and 30
repealed;
new sections.

1. Sections twenty-nine and thirty of "*The Summary Convictions Act*" are hereby repealed and the following substituted in lieu thereof:—

" WITNESSES.

Summons to
person likely
to give ma-
terial evi-
dence.

"**29.** If it is made to appear to any justice, by the oath or affirmation of any credible person, that any person is likely to give material evidence on behalf of the prosecutor or complainant or defendant, and will not voluntarily appear as a witness at the time and place appointed for the hearing of the information or complaint, the justice shall issue his summons (E1) to such person, requiring him to be and appear at a time and place mentioned in the summons, before such justice, or any other justice in and for the territorial division, who shall then be there, to testify what he knows concerning the information or complaint; and such summons may be served by the constable, police officer or other person to whom the same is delivered as well beyond as within the territorial division of the justice who issued the same."

Service of
summons.

Warrant if
such person
fails to ap-
pear.

"**30.** If any person so summoned neglects or refuses to appear at the time and place appointed by the summons, and no just excuse is offered for such neglect or refusal, then, after proof upon oath or affirmation of the summons having been served upon him, either personally or by leaving the same for him with some person at his last or most usual place of abode, the justice before whom such person should have appeared may, by his warrant, cause such person to be apprehended and forthwith brought before him to give evidence as required by such summons, and to answer for his disregard of the same;

and such person may be detained on such warrant before the justice who issued the summons, or before any other justice in and for the same territorial division who shall then be there, or in the common gaol, or in any other place of confinement, or in the custody of the person having him in charge, with a view to secure his presence as a witness on the day fixed for the trial; or in the discretion of the justice such person may be released on recognizances, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his default in not attending upon the said summons as for contempt; and the justice may, in a summary manner, examine into and dispose of the charge of contempt against such person, who, if found guilty thereof, may be ordered to pay the costs incident to the service of the said summons and warrant and of his detention in custody:

Detention.

Release on bail.

Charge of contempt may be inquired into.

“2. The said warrant may be executed by the constable, police officer or other person to whom the same is delivered, or by any other person, as well beyond as within the territorial division of the justice who issued the same.”

Execution of warrant.

2. The form (E 2) in the said Act is hereby repealed, and the form of such warrant under the provisions of section thirty of the said Act as hereby amended, and any conviction made thereunder, shall be in the forms A and B, respectively, in the schedule to this Act, and the same shall be authority to the persons and officers therein required to act, to do as therein they are respectively directed.

Form E 2 repealed; new forms.

3. Section thirty-one of the said Act is amended by striking out the words in the last two lines thereof as follows: “and the warrant may, if necessary, be backed as aforesaid,” and inserting in lieu thereof the words: “and such warrant may be executed by the person to whom the same is delivered as well beyond as within the territorial division of the justice issuing the same.”

Section 31 amended; execution of warrant.

4. Section thirty-two of the said Act is amended by striking out the word “ten” in the thirteenth line thereof and inserting in lieu thereof the word “thirty.”

Section 32 amended.

5. Section thirty-seven of the said Act is hereby repealed, and the following substituted therefor:—
 “37. Every prosecutor of any information and every complainant in any complaint shall be a competent witness to support such information or complaint, notwithstanding that such prosecutor or complainant may have a pecuniary interest in the result, and unless otherwise provided by statute a conviction may be had upon the evidence of such person alone.”

Section 37 repealed; new section.

Prosecutor and complainant competent witnesses.

6. * * * * *
 Repealed and new section substituted by 52 V., c. 45., s. 1.

Section 76 repealed ; new section.
Appeal by persons aggrieved.

7. Section seventy-six of the said Act is hereby repealed and the following substituted therefor :—

To what court in each province.

“**76.** Unless it is otherwise provided in any special Act under which a conviction takes place or an order is made by a justice for the payment of money or dismissing an information or complaint, any person who thinks himself aggrieved by any such conviction or order, the prosecutor or complainant, as well as the defendant, may appeal, in the Province of Ontario, to the Court of General Sessions of the Peace ; in the Province of Quebec, to the Court of Queen’s Bench, Crown side ; in the Provinces of Nova Scotia, New Brunswick and Manitoba, to the county court of the district or county where the cause of the information or complaint arose ; in the Province of Prince Edward Island, to the Supreme Court ; in the Province of British Columbia, to the county or district court, at the sitting thereof which shall be held nearest to the place where the cause of the information or complaint arose ; and in the North-West Territories, to a judge of the Supreme Court of the said Territories, sitting without a jury, at the place where the cause of the information or complaint arose, or the nearest place thereto where a court is appointed to be held :

In certain districts and provisional counties in Ontario.

“**2.** In the Districts of Muskoka and Parry Sound, in the Province of Ontario, such person may appeal to the Court of General Sessions of the Peace for Muskoka and Parry Sound ; in the Provisional County of Haliburton, to the Court of General Sessions of the Peace for the County of Victoria in the said Province ; * * * * * (*words struck out by 52 V., c. 45, s. 6*) ; and in the District of Nipissing, to the Court of General Sessions of the Peace for the County of Renfrew.” *And see 53 V., c. 37, s. 28, subs. 13.*

Section 77 repealed ; new section.
Conditions of appeal.

8. Section seventy-seven of the said Act is hereby repealed and the following substituted therefor :—

To what sittings appeal shall be made.

“**77.** Every right of appeal shall, unless it is otherwise provided in any special Act, be subject to the conditions following, that is to say :—

“(a.) If the conviction or order is made more than fourteen days before the sittings of the court to which the appeal is given, such appeal shall be made to the then next sittings of such court ; but if the conviction or order is made within fourteen days of the sittings of such court, then to the second sittings next after such conviction or order ;

Notice.

“(b.) The appellant shall give to the respondent, or to the convicting justice, for him, a notice in writing (R) of such appeal, within ten days after such conviction or order ;

Appellant to remain in custody or give security.

“(c.) The appellant shall either remain in custody until the holding of the court to which the appeal is given, or shall enter into a recognizance (S) with two sufficient sureties, before a justice, conditioned personally to appear at the said court, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as are awarded by the court ;

or, if the appeal is against any conviction or order, whereby only a penalty or sum of money is adjudged to be paid, the appellant (although the order directs imprisonment in default of payment), instead of remaining in custody as aforesaid, or giving such recognizance as aforesaid, may deposit with the justice convicting or making the order such sum of money as such justice deems sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal; and upon such recognizance being given, or such deposit being made, the justice before whom such recognizance is entered into, or deposit made, shall liberate such person, if in custody;

Or make deposit in certain cases.

“(d.) * * * * *

Repealed and new paragraph substituted by 53 V., c. 37, s. 24.

“(e.) The said court shall have power, if necessary, from time to time, by order indorsed on the conviction or order, to adjourn the hearing of the appeal from one sittings to another, or others, of the said court;

Proceedings may be adjourned.

“(f.) Whenever any conviction or order is quashed on appeal, as aforesaid, the clerk of the peace or other proper officer shall forthwith indorse on the conviction or order a memorandum that the same has been quashed; and whenever any copy or certificate of such conviction, or order is made, a copy of such memorandum shall be added thereto, and shall, when certified under the hand of the clerk of the peace, or of the proper officer having the custody of the same, be sufficient evidence, in all courts and for all purposes, that the conviction or order has been quashed.”

Memorandum of quashing.

Its effect.

9. Section eighty-five of the said Act is hereby repealed and the following substituted therefor:—

Section 85 repealed; new section.

“**85.** Every justice before whom any person is summarily tried, shall transmit the conviction or order to the court to which the appeal is herein given, in and for the district, county or place wherein the offence is alleged to have been committed, before the time when an appeal from such conviction or order may be heard, there to be kept by the proper officer among the records of the court; and if such conviction or order has been appealed against, and a deposit of money made, such justice shall return the deposit into the said court; and the conviction or order shall be presumed not to have been appealed against, until the contrary is shown.”

Justice convicting to transmit the conviction or order.

And the deposit money, if any.

10. Section ninety-two of the said Act is hereby repealed and the following substituted therefor:—

Section 92 repealed; new section.

“**92.** No order, conviction or other proceeding shall be quashed or set aside, and no defendant shall be discharged by reason of any objection that evidence has not been given of a proclamation or order of the Governor General in Council, or of the publication of such proclamation or order in the *Canada Gazette*; but such proclamation or order and the publication thereof shall be judicially noticed.”

Court to take judicial notice of proclamations and publication thereof.

SCHEDULE.

FORM A.

FORM OF WARRANT TO APPREHEND A WITNESS WHERE HE HAS NOT OBEYED A SUMMONS.

CANADA.

Province of
 district (or county,
 united counties, or
 as the case may be),
 of

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

Whereas information was laid (or complaint was made) before , a justice of the peace in and for the said district (or county, united counties, or as the case may be), of , for that (&c., as in the summons), and having been made to appear to (me) upon oath that E. F., of , in the district (or county, united counties, or as the case may be), (labourer) was likely to give material evidence on behalf of the (prosecutor, or as the case may be), (I) did duly issue (my) summons to the said E. F., requiring him to be and appear on , at o'clock in the (fore) noon of the same day, at , before me or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as should then be there, to testify to what he knew concerning the said A. B., or the matter of the said information (or complaint); and whereas proof has this day been made before (me), upon oath, of such summons having been duly served upon the said E. F.; and whereas the said E. F. has neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: these are, therefore, to command you to take the said E. F., and to bring and have him on , at o'clock in the (fore) noon, at , before (me) or such justice or justices of the peace for the said district (or county, united counties, or as the case may be), as shall then be there, to testify what he knows concerning the said information (or complaint), and also to answer his contempt for such neglect.

Given under (my) hand and seal this day of in the year , at in the district (or county, united counties, or as the case may be), aforesaid.

J. S. [L. S.]

FORM B.

FORM OF CONVICTION FOR CONTEMPT.

CANADA,
 Province of
 district (or county,
 united counties, or
 (as the case may be,
 of

Be it remembered, that on the _____ day of _____ in the year _____, at _____, in the said district (or county, united counties, or as the case may be), E. F. is convicted before the undersigned, _____ a justice of the peace in and for the said district (or county, united counties, or as the case may be), for that on the _____ day of _____ A. D. 18____, complaint (or information) having been laid before (me) that A. B. (stating the offence and time when and place where it was alleged to have been committed) and the said E. F. having been duly summoned to attend before (me) to testify what he knew concerning the said A. B. in the matter of the said information (or complaint) the said E. F. did not attend before (me) on the trial, but made default therein and has not shown any sufficient excuse for such default; and I adjudge the said E. F. for his said offence to pay to (either the prosecutor or the defendant) the sum of _____ for his costs in this behalf sustained, and I do also adjudge that the said E. F. be imprisoned in the common gaol of the said district (or county, united counties, or as the case may be) for the space of _____ there to be kept at hard labour; (and in case of fine) and I do also further adjudge that the said E. F. do forthwith pay to _____ and for the use of Her Majesty a fine of _____, and in default of payment of the said fine and costs that the same with the cost of collection be levied by distress and sale of the goods and chattels of the said E. F. (or in case a fine alone is imposed, then the clause for imprisonment is to be omitted).

Given under (my) hand and seal, the day and year first above mentioned at _____, in the district (or county, united counties, or as case may be), aforesaid.

J. S. [L.S.]



CHAPTER 46.

An Act further to amend "The Speedy Trials Act,"
chapter one hundred and seventy-five of the Revised
Statutes.

Repealed by 52 V., c. 47, s. 20.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



CHAPTER 47.

An Act to amend the Revised Statutes of Canada, Chapter one hundred and eighty-one, respecting Punishments, Pardons and the Commutation of Sentences.

[Assented to 4th May, 1888.]

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

1. Sub-section five of section twenty-eight of the "Act respecting Punishments, Pardons and the Commutation of Sentences," is hereby repealed and the following substituted therefor :—

Section 28 of R.S.C., c. 181 amended.

"5. Imprisonment in a common gaol or a public prison other than those last mentioned,—

Imprisonment.

(a.) May be with or without hard labour in the discretion of the court or person passing sentence if the offender is convicted on indictment or under "The Speedy Trials Act," or before a judge of the Supreme Court of the North-West Territories;

Hard labour in certain cases.

(b.) May in other cases be with hard labour if hard labour is part of the punishment for the offence of which such offender is convicted;

And in other cases.

And if such imprisonment is to be with hard labour the sentence shall so direct.

Sentence to direct.

2. Section thirty-two of the said Act is hereby repealed and the following substituted therefor :—

Section 32 repealed; new section.

"32. Whenever any person who has been required to enter into a recognizance with sureties to keep the peace and be of good behaviour has, on account of his default therein, remained imprisoned for two weeks, the sheriff, gaoler or warden shall give notice, in writing, to a judge of a superior court, or to a judge of the county court of the county or district in which such gaol or prison is situate, and in the cities of Montreal and Quebec to a judge of the sessions of the peace for the district, and such judge may order the discharge of such person thereupon, or at a subsequent time, upon notice to the complainant or otherwise, or may make such other order as he sees fit,

Notice to be given to a judge.

Discharge may be ordered.

respecting the number of sureties, the sum in which they are bound and the length of time for which such person may be bound.”

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



52 VICTORIA.

CHAPTER 36.

An Act to extend the provisions of the Extradition Act.

[Assented to 2nd May, 1889.]

WHEREAS it is expedient to make further provision for the extradition from Canada of fugitive offenders from foreign states: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. In case no extradition arrangement, within the meaning of "*The Extradition Act*," exists between Her Majesty and a foreign state, or in case such an extradition arrangement, extending to Canada, exists between Her Majesty and a foreign state, but does not include the crimes mentioned in the schedule to this Act, it shall, nevertheless, be lawful for the Minister of Justice to issue his warrant for the surrender to such foreign state of any fugitive offender from such foreign state charged with or convicted of any of the crimes mentioned in the schedule to this Act: Provided always, that the arrest, committal, detention, surrender and conveyance out of Canada of such fugitive offender shall be governed by the provisions of "*The Extradition Act*," and that all the provisions of the said Act shall apply to all steps and proceedings in relation to such arrest, committal, detention, surrender and conveyance out of Canada in the same manner and to the same extent as they would apply if the said crimes were included and specified in an extradition arrangement between Her Majesty and the foreign state, extending to Canada.

Fugitive offenders may be surrendered though there is no convention.

Provisions of R.S.C., c. 142, to govern.

2. All expenses connected with the arrest, committal, detention, surrender and conveyance out of Canada of any fugitive offender under this Act shall be borne by the foreign state applying for the surrender of such fugitive offender.

As to costs.

3. The list of crimes in the schedule to this Act shall be construed according to the law existing in Canada at the date of the commission of the alleged crime, whether by common

Law of Canada to govern as to crimes.

law or by statute made before or after the coming into force of this Act, and as including only such crimes, of the description comprised in the list, as are, under that law, indictable offences :

Application of Act.

2. The provisions of this Act shall apply to any crime mentioned in the said schedule, committed after the coming into force of this Act, as regards any foreign state as hereinafter provided.

Coming into force of Act.

4. The foregoing provisions of this Act shall not come into force, with respect to fugitive offenders from any foreign state, until this Act shall have been declared by proclamation of the Governor General to be in force and effect as regards such foreign state, from and after a day to be named in such proclamation ; and the provisions of this Act shall cease to have any force or effect with respect to fugitive offenders from any foreign state, if by proclamation the Governor General declares this Act to be no longer in operation as regards such foreign state :

Abrogation by proclamation.

Day to be named.

2. The day from and after which, in such case, the provisions of this Act shall cease to have force and effect shall be a day to be named in such proclamation.

When warrant may not be issued.

5. This Act shall not authorize the issue of a warrant for the extradition of any person under the provisions of this statute, to any state or country in which by the law in force in such state or country, such person may be tried after such extradition for any other offence than that for which he has been extradited, unless an assurance shall first have been given by the executive authority of such state or country, that the person whose extradition has been claimed shall not be tried for any other offence than that on account of which such extradition has been claimed.

SCHEDULE.

- (1.) Murder, or attempt or conspiracy to murder ;
- (2.) Manslaughter ;
- (3.) Counterfeiting or altering money and uttering counterfeit or altered money ;
- (4.) Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered ;
- (5.) Larceny ;
- (6.) Embezzlement ;
- (7.) Obtaining money or goods or valuable securities by false pretences ;
- (8.) Rape ;
- (9.) Abduction ; indecent assault ;
- (10.) Child stealing ;

- (11.) Kidnapping ;
- (12.) Burglary, house-breaking or shop-breaking ;
- (13.) Arson ;
- (14.) Robbery ;
- (15.) Fraud committed by a bailee, banker, agent, factor, trustee or member or public officer of any company or municipal corporation, made criminal by any law for the time being in force ;
- (16.) Any malicious act done with intent to endanger persons in a railway train ;
- (17.) Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state ;
- (18.) Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so ;
- (19.) Assault on board such a vessel at sea, whether on the high seas or on the great lakes of North America, with intent to destroy life or to do grievous bodily harm ;
- (20.) Revolt, or conspiracy to revolt, by two or more persons on board such a vessel at sea, whether on the high seas or on the great lakes of North America, against the authority of the master ;
- (21.) Administering drugs or using instruments with intent to procure the miscarriage of a woman ;
- (22.) Any offence which is, in the case of the principal offender, included in any foregoing portion of this schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal.

NOTE.—Up to the date of publication, no proclamation has been made under sec. 4 of the above Act.



CHAPTER 40.

An Act respecting Rules of Court in relation to Criminal Matters.

[Assented to 16th April, 1889.]

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

Rules of court may be made as to criminal matters.

1. Every superior court in Canada having jurisdiction in criminal matters may, at any time, with the concurrence of a majority of the judges thereof, present at any meeting held for the purpose, make rules of court, not inconsistent with any statute of Canada, which shall apply to all proceedings relating to any prosecution, proceeding or action instituted in relation to any matter of a criminal nature, or resulting from or incidental to any such matter, and in particular for all or any of the purposes following:—

For what purposes.

(a.) For regulating the sittings of the court or of any division thereof, or of any judge of the court sitting in chambers, except in so far as the same are already regulated by law:

(b.) For regulating in criminal matters the pleading, practice and procedure in the court, including the subjects of *mandamus*, *certiorari*, *habeas corpus*, prohibition, *quo warranto*, bail and costs;

(c.) Generally for regulating the duties of the officers of the court and every other matter deemed expedient for better attaining the ends of justice and carrying the provisions of the law into effect.

Copies for Parliament.

2. Copies of all rules made under the authority of this Act shall be laid before both Houses of Parliament at the session next after the making thereof.



CHAPTER 41.

An Act for the Prevention and Suppression of Combinations formed in restraint of Trade.

[Assented to 2nd May, 1889.]

WHEREAS it is expedient to declare the law relating to conspiracies and combinations formed in restraint of trade and to provide penalties for the violation of the same : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows :—

- 1.** Every person who conspires, combines, agrees or arranges with any other person, or with any railway, steamship, steamboat or transportation company, unlawfully,—
- (a.) To unduly limit the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce ; or—
- (b.) To restrain or injure trade or commerce in relation to any such article or commodity ; or—
- (c.) To unduly prevent, limit, or lessen the manufacture or production of any such article or commodity, or to unreasonably enhance the price thereof ; or—
- (d.) To unduly prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity, or in the price of insurance upon person or property,—

Combining for the purpose of unlawfully—

Limiting facilities for transportation, &c.

Restraining commerce.

Limiting production, &c.

Hindering competition.

Is guilty of a misdemeanour and liable, on conviction, to a penalty not exceeding four thousand dollars and not less than two hundred dollars, or to imprisonment for any term not exceeding two years ; and if a corporation, is liable on conviction to a penalty not exceeding ten thousand dollars and not less than one thousand dollars.

Punishment.

2. In any prosecution under this Act the person accused shall be a competent witness on his own behalf.

Evidence.

3. Section one hundred and forty of "*The Criminal Procedure Act,*" is hereby amended by adding to the list of offences therein mentioned the offences provided against in this Act.

S. 140 of R.S. C., c. 174 amended.

Option as to mode of trial.

4. Where an indictment is found against any person for offences provided against in this Act, the defendant or person accused shall have the option to be tried before the judge presiding at the court at which such indictment is found, or the judge presiding at any subsequent sitting of such court, or at any court where the indictment comes on for trial, without the intervention of a jury; and in the event of such option being exercised the proceedings subsequent thereto shall be regulated in so far as may be applicable by "*The Speedy Trials Act.*"

Appeal if case is tried without a jury.

5. An appeal shall lie from any conviction under this Act by the judge without the intervention of a jury to the highest court of appeal in criminal matters in the province where such conviction shall have been made, upon all issues of law and fact; and the evidence taken in the trial shall form part of the record in appeal, and for that purpose the court before which the case is tried shall take note of the evidence and of all legal objections thereto.

How Act shall be construed. R.S.C., c. 131.

6. The foregoing provisions of this Act shall be construed as if section twenty-two of "*The Trade Unions Act*" had not been enacted.



CHAPTER 42.

An Act respecting corrupt practices in Municipal affairs.

[Assented to 20th March, 1889.]

WHEREAS it is expedient to make provision for the Preamble.
prevention of bribery and other offences in connection
with municipal affairs: Therefore Her Majesty, by and with
the advice and consent of the Senate and House of Commons
of Canada, enacts as follows:—

1. In this Act the expression “municipal council” includes Interpreta-
tion.
the municipal governing body of every county, union of “Municipal
“council.”
counties, township, city, town, village, parish and munic-
ipality, having corporate powers in any Province of Canada.

2. Every person who, directly or indirectly,—

(a.) Makes any gift, loan, offer, proposal, promise or agree-
ment to pay or give any money or other material compensation
or consideration to any member of a municipal council, whether
the same is to inure to his own advantage or to the advantage
of any other person, for the purpose of inducing such member
either to vote or to abstain from voting at any meeting of the
council of which he is a member or at any meeting of a com-
mittee of such council, in favour of or against any measure,
motion, resolution, or question submitted to such council or
committee, or—

Unduly in-
fluencing
member to
vote.

(b.) Makes any gift, loan, offer, proposal, promise or agree-
ment to pay or give any money or other material compensation
or consideration to any member or to any officer of a municipal
council for the purpose of inducing him to aid in procuring or
preventing the passing of any vote or the granting of any con-
tract or advantage in favour of any person whomsoever, or—

Or making
offer to pro-
cure or pre-
vent any
vote &c.

(c.) Makes any gift, loan, offer, proposal, promise or agree-
ment to pay or give any money or other material compensation
or consideration to any officer of a municipal council for the
purpose of inducing him to perform or abstain from perform-
ing, or to aid in procuring or preventing the performance of
any official act whatsoever, or—

Or making
offer in order
to unduly in-
fluence officer
of municipali-
ty.

(d.) Being a member or officer of a municipal council, accepts or consents to accept any such offer, proposal, gift, loan,
promise, agreement, compensation or consideration as is in this
section before mentioned; or in consideration thereof, votes or

Accepting
any offer, &c.

abstains from voting in favour of or against any measure, motion, resolution or question or performs or abstains from performing any official act, or—

Attempting to influence votes by threats, &c.

(e.) Attempts by any threat, deceit, suppression of the truth or other unlawful means to influence any member of a municipal council in giving or withholding his vote in favour of or against any measure, motion, resolution or question, or in not attending any meeting of the municipal council of which he is a member, or of any committee thereof, or—

Or to procure or prevent passing of vote, &c., by such means.

(f.) Attempts by any such means as in the next preceding paragraph mentioned, to influence any member or any officer of a municipal council to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person whomsoever, or to perform or abstain from performing or to aid in procuring or preventing the performance of any official act whatsoever,—

Penalty.

Is guilty of a misdemeanour and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding two years and not less than one month, and in default of payment of such fine, to imprisonment for a further term not exceeding six months.

Time for prosecution limited.

3. No prosecution under the provisions of this Act shall be commenced except within two years from the commission of the offence.



CHAPTER 43.

An Act to provide against frauds in the supplying of Milk to Cheese, Butter and condensed Milk Manufactories.

[Assented to 2nd May, 1889.]

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

1. No person shall sell, supply or send to any cheese or butter or condensed milk manufactory, or to the owner or manager thereof, or to any maker of butter, cheese or condensed milk, to be manufactured, milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as skimmed milk.

Milk supplied to factories to be unadulterated.

2. No person who supplies, sends, sells or brings to any cheese or butter or condensed milk manufactory, or to the owner or manager thereof, or to the maker of cheese or butter or condensed milk, any milk to be manufactured into butter or cheese or condensed milk, shall keep back any portion of that part of the milk known as strippings.

A certain part of the milk not to be kept back.

3. No person shall knowingly sell, supply, bring or send to a cheese or butter or condensed milk manufactory, or to the owner or manager thereof, any milk that is tainted or partly sour.

As to tainted or sour milk.

4. No person shall sell, send or bring to a cheese or butter or condensed milk manufactory, or to the owner or manager thereof, or to the maker of such butter or cheese or condensed milk, any milk taken or drawn from a cow that he knows to be diseased at the time the milk is so taken or drawn from her.

As to diseased animal.

5. Every person who, by himself or by any other person to his knowledge, violates any of the provisions of the preceding sections of this Act, shall, for each offence upon conviction thereof before any justice or justices of the peace, forfeit and pay a fine not exceeding fifty dollars and not less than five dollars, together with the costs of prosecution, and in default of payment of such penalty and costs shall be liable to imprisonment.

Penalty for contravention.

sonment with or without hard labour for a term not exceeding six months, unless the said penalty and the costs of enforcing the same be sooner paid.

Who shall be liable.

6. The person on whose behalf any milk is sold, sent, supplied or brought to a cheese or butter or condensed milk manufactory for any of the purposes aforesaid, shall be *primâ facie* liable for the violation of any of the provisions of this Act.

What shall be evidence.

7. For the purpose of establishing the guilt of any person charged with the violation of any of the provisions of sections one or two of this Act, it shall be sufficient *primâ facie* evidence on which to found a conviction to show that such milk so sent, sold, supplied or brought to a manufactory as aforesaid to be manufactured into butter or cheese or condensed milk, is substantially inferior in quality to pure milk, provided the test is made by means of a lactometer or cream gauge or some other proper and adequate test and is made by a competent person: Provided always, that a conviction may be made or had on any other sufficient legal evidence.

Proviso.

Specific nature of deterioration need not be described.

8. In any complaint or information made or laid under the first or second sections of this Act, and in any conviction thereon, the milk complained of may be described as deteriorated milk, without specification of the cause of deterioration, and, thereupon, proof of any of the causes or modes of deterioration mentioned in either of the said two sections, shall be sufficient to sustain conviction. And in any complaint, information or conviction under this Act, the matter complained of may be declared, and shall be held to have arisen, within the meaning of "*The Summary Convictions Act*," at the place where the milk complained of was to be manufactured, notwithstanding that the deterioration thereof was effected elsewhere.

When offence shall be deemed to have been committed.

Appeal.

9. No appeal shall lie from any conviction under this Act, except to a judge of a Superior, County, Circuit or District Court, or to the chairman or judge of the Court of the Sessions of the peace, having jurisdiction where the conviction was had; and such appeal shall be brought, notice of appeal in writing given, recognizance entered into or deposit made within ten days after the date of conviction, and shall be heard, tried, adjudicated upon and decided, without the intervention of a jury, at such time and place as the court or judge hearing the same appoints, within thirty days from the date of conviction, unless the said court or judge extends the time for hearing and decision beyond such thirty days; and in all other respects not provided for in this Act the procedure under "*The Summary Convictions Act*," so far as applicable, shall apply.

R.S.C., c. 178.

10. Any person accused of an offence under this Act and the husband or wife of such person shall be competent and compellable to testify. ^{Who to give evidence.}

11. Any pecuniary penalty imposed under this Act shall, when recovered, be payable one-half to the informant or complainant, and the other half to the owner, treasurer or president of the manufactory to which milk was sent, sold or supplied for any of the purposes aforesaid, in violation of any of the provisions of this Act, to be distributed among the patrons thereof in proportion to their respective interests in the product thereof. ^{Application of fines}

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 44.

An Act to permit the Conditional Release of First offenders in certain cases.

[Assented to 20th March, 1889.]

Preamble.

WHEREAS it is expedient to make provision for cases where the reformation of persons convicted of first offences may, by reason of the offender's youth or the trivial nature of the offence, be brought about without imprisonment: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation.

“Court.”

1. In this Act the expression “court” means and includes any superior court of criminal jurisdiction, any “judge” or court within the meaning of “*The Speedy Trials Act*” as amended, and any “Magistrate” within the meaning of “*The Summary Trials Act*.”

In cases specified release of prisoner may be directed.

2. In any case in which a person is convicted before any court of any offence punishable with not more than two year's imprisonment, and no previous conviction is proved against him, if it appears to the court before whom he is so convicted, that, regard being had to the youth, character, and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a recognizance, with or without sureties, and during such period as the court directs, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour:

Recognizance.

Payment of costs.

2. The court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as the court directs.

If conditions of recognizance are not observed.

3. If a court having power to deal with the offender respect of his original offence or any justice of the peace satisfied by information on oath that the offender has failed

observe any of the conditions of his recognizance, such court or justice of the peace may issue a warrant for his apprehension :

2. An offender, when apprehended on any such warrant, shall, if not brought forthwith before the court having power to sentence him, be brought before the justice issuing such warrant or before some other justice in and for the same territorial division, and such justice shall either remand him by warrant until the time at which he was required by his recognizance to appear for judgment, or until the sitting of a court having power to deal with his original offence, or admit him to bail with a sufficient surety conditioned on his appearing for judgment :

3. The offender when so remanded may be committed to a prison, either for the county or place in or for which the justice remanding him acts, or for the county or place where he is bound to appear for judgment ; and the warrant of remand shall order that he be brought before the court before which he was bound to appear for judgment, or to answer as to his conduct since his release.

4. The court, before directing the release of an offender under this Act, shall be satisfied that the offender or his surety has a fixed place of abode or regular occupation in the county or place for which the court acts, or in which the offender is likely to live during the period named for the observance of the conditions.



CHAPTER 45.

An Act to amend "The Summary Convictions Act," Chapter one hundred and seventy-eight of the Revised Statutes, and the Act amending the same.

[Assented to 2nd May, 1889.]

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

51 V., c. 45,
s. 6, repealed.

1. Section six of the Act passed in the fifty-first year of Her Majesty's reign, chaptered forty-five and intituled "*An Act to amend chapter one hundred and seventy-eight of the Revised Statutes of Canada, "The Summary Convictions Act,"*" is hereby repealed.

R.S.C., c. 178,
amended.

2. "*The Summary Convictions Act*" is hereby amended by adding the following section thereto immediately after section sixty-one :—

Fees.

"**61 A.** The fees mentioned in the tariff (W) in the schedule to this Act and no others shall be and constitute the fees to be taken on proceedings before justices under this Act."

Form (N. 3),
amended

3. The form (N. 3) in the schedule to "*The Summary Convictions Act,*" is hereby amended by adding at the end of the title thereof the words "OR OF COMMITMENT."

Section 22
amended as to
warrants.

4. Section twenty-two of "*The Summary Convictions Act,*" is hereby amended by inserting after the word "issued" in the second line thereof the following words : "whether under the preceding sections or under any other section of this Act, and whether before or after conviction, and whether for levying any fine or costs by distress, or for the imprisonment of any such person."

Section 11 re-
pealed ; new
section.

5. Section eleven of "*The Summary Convictions Act,*" is hereby repealed, and the following substituted therefor :—

When no time
is limited for
information
or complaint.

"**11.** If no time is specially limited for making any complaint, or laying any information in the Act or law relating to the particular case, the complaint shall be made, or the information shall be laid within six months from the time when the matter of complaint or information arose, except in

the North-West Territories, and in that part of the county of Saguenay which extends from Portneuf, in the said county, to the eastward as far as the limits of Canada, including all the islands adjoining thereto, where the time within which such complaint may be made, or such information may be laid, shall be extended to twelve months from the time when the matter of the complaint or information arose.”

Exception as to certain districts.

6. The second subsection of the seventh section of the said Act passed in the fifty-first year of Her Majesty's reign, chaptered forty-five is hereby amended by striking out the words “in the district of Thunder Bay to the Court of General Sessions of the Peace for the district of Algoma.”

Section 7 of 51 V., c. 45, amended.

7. The schedule to “The Summary Convictions Act” is hereby amended by adding the following tariff of fees at the end thereof:—

Schedule amended.

“W.

TARIFF OF FEES.

Fees to be taken by Justices of the Peace or their Clerks.

	\$	cts.
1. Information or complain and warrant or summons	0	50
2. Warrant where summons issued in first instance	0	10
3. Each necessary copy of summons or warrant	0	10
4. Each summons or warrant to or for a witness or witnesses (only one summons on each side to be charged for in each case, which may contain any number of names. If the justice of the case requires it, additional summonses shall be issued without charge)	0	10
5. For every recognizance (only one to be charged in each case)	0	25
6. For hearing and determining case	0	50
7. Where one justice alone cannot lawfully hear and determine the case, an additional fee for hearing and determining to be allowed to the associate justice.		
8. For each warrant of distress or commitment.....	0	25
9. For making up record of convictions or order where the same is ordered to be returned to sessions or on <i>certiorari</i>	1	00
But in all cases which admit of a summary proceeding before a single justice and wherein no higher penalty than \$20 can be imposed, there shall be charged for the conviction not more than	0	50
10. For copy of any other paper connected with any case, and the minutes of the same if demanded, per folio of 100 words	0	10

	\$	cts.
11. For every bill of costs when demanded to be made out in detail	0	10
(Items 10 and 11 to be chargeable only when there has been a conviction.)		

Constables' Fees.

1. Arrest of each individual upon a warrant	1	50
2. Serving summons	0	25
3. Mileage to serve summons or warrant, per mile, (one way) necessarily travelled	0	10
4. Same mileage when service cannot be effected, but only upon proof of due diligence.		
5. Mileage taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance	0	10
6. Attending justices on trial for each day necessarily employed in one or more cases, when not engaged more than four hours.....	1	00
7. Attending justices on trial for each day necessarily employed in one or more cases, when engaged more than four hours.....	1	50
8. Mileage travelled to attend trial (when public conveyance can be taken, only reasonable disbursements to be allowed)	0	10
9. Serving warrant of distress and returning same	1	50
10. Advertising under warrant of distress.....	-1	00
11. Travelling to make distress or to search for goods to make distress, when no goods are found, per mile	0	10
12. Appraisements, whether by one appraiser or more, 2 cents in the dollar on the value of the goods.		
13. Commission on sale and delivery of goods, 5 cents in the dollar on the net produce of the goods."		



CHAPTER 46.

An Act to amend "The Summary Trials Act."

[Assented to 2nd May, 1889.]

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

1. Section six of the said Act is hereby repealed and the following is substituted in lieu thereof :—

"**6.** The jurisdiction of a stipendiary magistrate in the Province of Prince Edward Island, and of a magistrate in the Province of British Columbia and the District of Keewatin, under this Act shall be absolute without the consent of the person charged."

R.S.C., c. 176, s. 6, repealed; new section. Jurisdiction of magistrates absolute in certain parts of Canada.

2. Section thirteen of the said Act is hereby repealed and the following is substituted in lieu thereof :—

"**13.** If the person so charged consents to be tried by the magistrate, the magistrate shall then ask him whether he is guilty or not guilty of the charge, and if such person says that he is guilty, the magistrate shall then cause a plea of guilty to be entered upon the proceedings, and sentence him to the same punishment as he would have been liable to if he had been convicted upon indictment in the ordinary way."

S. 13 repealed; new section.

If offender consents and pleads guilty.



CHAPTER 47.

An Act to make further provision respecting the Speedy Trial of certain indictable offences.

[Assented to 16th April, 1889.]

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

- Short title. **1.** This Act may be cited as “ *The Speedy Trials Act.* ”
- Interpretation.
“ Judge.” **2.** In this Act, unless the context otherwise requires,—
In Ontario. (a.) The expression “ judge ” means and includes,—
 (1.) In the Province of Ontario, any judge of a county court, junior judge or deputy judge authorized to act as chairman of the General Sessions of the Peace, and also the judges of the provisional districts of Algoma and Thunder Bay, and the judge of the district court of Muskoka and Parry Sound, authorized respectively to act as chairman of the General Sessions of the Peace ;
In Quebec. (2.) In the Province of Quebec, in any district wherein there is a judge of the sessions, such judge of sessions, and in any district wherein there is no judge of sessions but wherein there is a district magistrate, such district magistrate, and in any district wherein there is neither a judge of sessions nor a district magistrate, the sheriff of such district ;
In N.S., N.B. and P.E.I. (3.) In each of the Provinces of Nova Scotia, New Brunswick and Prince Edward Island, any judge of a county court ;
In Manitoba. (4.) In the Province of Manitoba, the chief justice, or a puisné judge of the Court of Queen’s Bench, or any judge of a county court ;
In British Columbia. (5.) In the Province of British Columbia, the chief justice or a puisné judge of the Supreme Court, or any judge of a county court ;
“ County Attorney.” (b.) The expression “ county attorney ” or “ clerk of the peace ” includes in the Provinces of Nova Scotia, New Brunswick and Prince Edward Island, any clerk of a county court, and in the Province of Manitoba, any crown attorney, the prothonotary of the Court of Queen’s Bench, and any deputy prothonotary thereof, any deputy clerk of the peace, and the
“ Clerk of the Peace.”

deputy clerk of the Crown and Pleas for any district in the said Province.

3. This Act shall not apply to the North-West Territories or the District of Keewatin. Application of Act.

4. The judge sitting on any trial under this Act, for all the purposes thereof and proceedings connected therewith or relating thereto, shall be a court of record, and in every Province of Canada, except the Province of Quebec, such court shall be called "The County Court Judge's Criminal Court" of the county or union of counties or judicial district in which the same is held : Court to be a Court of record. How styled.

2. The record in any such case shall be filed among the records of the Court over which the judge presides, and as part of such records. Records, where filed.

5. Every person committed to a gaol for trial on a charge of being guilty of any offence for which he may be tried,— Speedy trial of certain offenders with their own consent.

(a.) In the Province of Ontario by a Court of General Sessions of the Peace ;

(b.) In the Province of Quebec by any court discharging for the time being the functions of a Court of General Sessions of the Peace ;

(c.) In the Provinces of Nova Scotia and Prince Edward Island by the Supreme Court of the Province ;

(d.) In the Province of New Brunswick by a County Court of the Province ;

(e.) In the Province of Manitoba by the Court of Queen's Bench or the County Court Judge's Criminal Court ;

(f.) In the Province of British Columbia by the Supreme Court or the County Court Judge's Criminal Court ;

May, with his own consent (of which consent an entry shall then be made of record), and subject to the provisions herein, be tried under the provisions of this Act out of sessions and out of the regular term or sittings of the court, whether the court before which, but for such consent, the said person would be triable for the offence charged, or the grand jury thereof is or is not then in session; and if such person is convicted, he may be sentenced by the judge : Provided always, that no person accused of an offence the power to try which is by sections four, five and six of "*The Criminal Procedure Act*," conferred solely upon a superior court having criminal jurisdiction, shall be tried under this Act. Certain offenders not to be so tried.

6. Every sheriff shall within twenty-four hours after any prisoner charged as aforesaid is committed to gaol for trial, notify the judge in writing that such prisoner is so confined, stating his name and the nature of the charge preferred against him,—whereupon with as little delay as possible, such judge shall cause the prisoner to be brought before him. Duty of sheriff having a prisoner so triable.

Statement to be made to the prisoner by the judge.

7. The judge, upon having obtained the depositions on which the prisoner was so committed, shall state to him,—

(a.) That he is charged with the offence, describing it;

(b.) That he has the option to be forthwith tried before such judge without the intervention of a jury, or to remain in custody or under bail, as the court decides, to be tried in the ordinary way by the court having criminal jurisdiction:

If the prisoner objects—or consents.

2. If the prisoner demands a trial by jury the judge shall remand him to gaol; but if he consents to be tried by the judge without a jury, the county attorney or clerk of the peace shall draw up a record of the proceedings as nearly as may be in one of the forms A or B in the schedule to this Act; and if, upon being arraigned upon the charge the prisoner pleads guilty, such plea shall be entered on the record, and the judge shall pass the sentence of the law on such prisoner, which shall have the same force and effect as if passed by any court having jurisdiction to try the offence in the ordinary way.

If he pleads guilty.

As to several prisoners charged with the same offence.

8. If one of two or more prisoners charged with the same offence demands a trial by jury, and the other or others consent to be tried by the judge without a jury, the judge, in his discretion, may remand the said prisoners to gaol to await trial, in all respects as if this Act had not been passed.

Effect of election, under certain Acts, of trial by a jury.

9. If under "*The Summary Trials Act*," or "*The Juvenile Offenders' Act*," any person has been asked to elect whether he would be tried by the magistrate or justices of the peace, as the case may be, or before a jury, and he has elected to be tried before a jury, and if such election is stated in the warrant of committal for trial, the sheriff and judge shall not be required to take the proceedings directed by this Act.

(Sub-sections added by 53 V., c. 37, s. 30.)

If the magistrate decides not to proceed under the said Acts.

10. If, on the trial under "*The Summary Trials Act*" or "*The Juvenile Offenders' Act*," of any person charged with any offence triable under this Act, the magistrates or justices of the peace decide not to try the same summarily, but commit such person for trial, such person may afterwards, with his own consent, be tried under this Act.

If the prisoner pleads not guilty.

11. If the prisoner upon being so arraigned and consenting as aforesaid pleads not guilty, the judge shall appoint an early day, or the same day, for his trial, and the county attorney or clerk of the peace shall subpoena the witnesses named in the depositions, or such of them and such other witnesses as he thinks requisite to prove the charge, to attend at the time appointed for such trial, and the judge may proceed to try him, and if he be found guilty, sentence shall be passed as hereinbefore mentioned; but if he be

found not guilty the judge shall immediately discharge him from custody, so far as respects the charge in question. Trial and conviction or discharge.

12. The county attorney or clerk of the peace or other prosecuting officer may, with the consent of the judge, prefer against the prisoner a charge or charges for any offence or offences for which he may be tried under the provisions of this Act, other than the charge or charges for which he has been committed to gaol for trial, although such charge or charges do not appear or are not mentioned in the depositions upon which the prisoner was so committed. Offender may be charged with other offences than that for which he was committed.

13. The judge shall, in any case tried before him, have the same power as to acquitting or convicting, or convicting of any other offence than that charged, as a jury would have in case the prisoner were tried at a sitting of any court mentioned in this Act, and may render any verdict which may be rendered by a jury, upon a trial at a sitting of any such court. Powers of the judge in any case tried before him.

14. If a prisoner elects to be tried by the judge without the intervention of a jury, the judge may, in his discretion, admit him to bail to appear for his trial, and extend the bail, from time to time, in case the court be adjourned or there is any other reason therefor; and such bail may be entered into and perfected before the clerk. Judge may admit to bail prisoner electing to be tried without a jury.

15. If a prisoner elects to be tried by a jury, the judge may, instead of remanding him to gaol, admit him to bail, to appear for trial at such time and place and before such court as is determined upon, and such bail may be entered into and perfected before the clerk. Or if he elects to be tried by a jury.

16. The judge may adjourn any trial from time to time until finally terminated. Adjourning trial.

17. The judge shall have all powers of amendment which any court mentioned in this Act would have if the trial was before such court. Powers of amendment.

18. Every witness, whether on behalf of the prisoner or against him, duly summoned or subpoenaed to attend and give evidence before such judge, sitting on any such trial, on the day appointed for the same, shall be bound to attend and remain in attendance throughout the trial; and if he fails so to attend, he shall be held guilty of contempt of court, and may be proceeded against therefor accordingly. Attendance of witnesses.

19. Upon proof to the satisfaction of the judge of the service of subpoena upon any witness who fails to attend before him, as required by such subpoena, and such judge Proceedings against witnesses failing to attend

when summoned.

being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence as required by such subpoena, and to answer for his disregard of the same; and such witness may be detained on such warrant before the said judge or in the common gaol, with a view to secure his presence as a witness; or in the discretion of the judge, such witness may be released on recognizance with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his default in not attending upon the said subpoena, as for a contempt; and the judge may, in a summary manner, examine into and dispose of the charge of contempt against the said witness who, if found guilty thereof, may be fined or imprisoned, or both,—such fine not to exceed one hundred dollars, and such imprisonment to be in the common gaol, with or without hard labour, and not to exceed the term of ninety days :

Witness may be admitted to bail.

Punishment for contempt.

Form and effect of warrant and conviction.

2. Such warrant may be in the form C and the conviction for contempt in the form D in the schedule to this Act, and the same shall be authority to the persons and officers therein required to act, to do as therein they are respectively directed.

R.S.C., c. 175, 50-51 V., c. 51 and 51 V., c. 46 repealed, and this Act substituted.

20. This Act shall be substituted for the Revised Statutes, chapter one hundred and seventy-five, which, with the Act passed in the session held in the fiftieth and fifty-first years of Her Majesty's reign, chapter fifty-one, and the Act passed in the fifty-first year of Her Majesty's reign, chapter forty-six, amending the said chapter, is hereby repealed.

When to be in force in N.B., N.S. and P.E.I.

21. The foregoing provisions of this Act shall not, as respects the Provinces of New Brunswick, Nova Scotia and Prince Edward Island have force or effect until a day to be named by the Governor General by his proclamation: Provided always, that the Governor General may, by proclamation, declare this Act to be in force from a day therein mentioned as respects any one or more of the said provinces only, and may, from time to time, by a subsequent proclamation, declare it to be in force from another day as respects any other or others of such provinces; and the said provisions shall have force and effect according to the terms of such proclamation or proclamations.

May be put in force as to one or more such provinces.

SCHEDULE.

FORM A.

Form of Record when the Prisoner pleads Not Guilty.

Province of _____,)
 County (or district) _____,) Be it remembered that A.B. being
 of _____, to wit:) a prisoner in the gaol of the said county
 of _____, (or district), committed for trial on a
 charge of having, on _____ day of _____, 18 _____, (feloniously
 stolen, &c. one cow, the property of C.D., or as the case may be,
stating briefly the offence) and brought before me,
 (*describe the judge*) on the _____ day of _____, 18 _____, and
 asked by me if he consented to be tried before me without the
 intervention of a jury, consented to be so tried; and that upon
 the _____ day of _____, 18 _____, the said A.B., being again
 brought before me for trial, and declaring himself ready, was
 arraigned upon the said charge and pleaded not guilty; and
 after hearing the evidence adduced, as well in support of the
 said charge as for the prisoner's defence (*or as the case may be*),
 I find him to be guilty of the offence with which he is charged
 as aforesaid, and I accordingly sentence him to (*here insert such
 sentence as the law allows and the judge thinks right*).
 (*Or I find him not guilty of the offence with which he is
 charged, and discharge him accordingly*).

Witness my hand at _____, in the county (or district)
 of _____, this _____ day of _____, 18 _____.

O.K.,

Signature of Judge.

FORM B.

Form of Record when the Prisoner pleads Guilty.

Province of _____,)
 County (or district) _____,) Be it remembered that A.B. being
 of _____, to wit:) a prisoner in the gaol of the said county,
 of _____, (or district), on a charge of having on
 the _____ day of _____, 18 _____, (feloniously stolen, &c. one
 cow, the property of C.D., or as the case may be, *stating briefly
 the offence*), and being brought before me (*describe the judge*)
 on the _____ day of _____, 18 _____, and asked by me if he
 consented to be tried before me without the intervention of a
 jury, consented to be so tried; and that the said A.B., being
 then arraigned upon the said charge, he pleaded guilty thereof,
 whereupon I sentenced the said A.B. to (*here insert such sen-
 tence as the law allows and the judge thinks right*).

Witness my hand this _____ day of _____, 18 _____.

O.K.,

Signature of Judge.

imprisoned in the common gaol of the county (or district) of _____ at _____ for the space of _____, there to be kept at hard labour (*and in case a fine is also intended to be imposed, then proceed*) and I also adjudge that the said E.F. do forthwith pay to and for the use of Her Majesty a fine of _____ dollars, and in default of payment, that the said fine, with the cost of collection, be levied by distress and sale of the goods and chattels of the said E.F. (*or in case a fine alone is imposed, then the clause for imprisonment is to be omitted*).

Given under my hand at _____ in the said county (or district) of _____, the day and year first above mentioned.

O.K., [L.S.]
Judge.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAPTER 37.

An Act further to amend the Criminal Law.

[Assented to 16th May, 1890.]

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

ESCAPES AND RESCUES.

R.S.C., c. 155, s. 9 repealed; new section. **1.** Section nine of chapter one hundred and fifty-five of the Revised Statutes of Canada, "*An Act respecting Escapes and Rescues*," is hereby repealed and the following section is substituted therefor:—

Escape of prisoner. **"9.** Every one who, being sentenced to imprisonment or detention in, or being ordered to be detained in, any reformatory prison, reformatory school, industrial refuge, industrial home or industrial school, escapes or attempts to escape therefrom, is guilty of a misdemeanour, and may be dealt with as follows:—

"The offender may, at any time, be apprehended without warrant and brought before any magistrate, who, upon proof of his identity,—

From reformatory. **"(a.)** In the case of an escape or attempt to escape from a reformatory prison or a reformatory school, shall remand him thereto for the remainder of his original term of imprisonment or detention; or,—

From industrial school. **"(b.)** In the case of an escape or attempt to escape from an industrial refuge, industrial home or industrial school,—

"(1.) May remand him thereto for the remainder of his original term of imprisonment or detention; or,—

"(2.) If the officer in charge of such refuge, home or school certifies in writing that the removal of such offender to a place of safer or stricter imprisonment is desirable, and if the governing body of such refuge, home or school applies for such removal, and if sufficient cause therefor is shown to the satisfaction of such magistrate, may order the offender to be removed to and to be kept imprisoned, for the remainder of his original term of

imprisonment or detention, in any reformatory prison or reformatory school, in which by law such offender may be imprisoned for a misdemeanour,—and when there is no such reformatory prison or reformatory school, may order the offender to be removed to and to be so kept imprisoned in any other place of imprisonment to which the offender may be lawfully committed :

“(c.) And in any case mentioned in the preceding paragraphs (a) and (b) of this sub-section, or if the term of his imprisonment or detention has expired, the magistrate may, after conviction, sentence the offender to such additional term of imprisonment or detention, as the case may be, not exceeding one year, as to such magistrate seems a proper punishment for the escape or attempt to escape.”

Additional term of imprisonment as punishment.

2. Every one who, being sentenced to imprisonment or detention in, or being ordered to be detained in any industrial refuge, industrial home or industrial school, by reason of incorrigible or vicious conduct, or with reference to the general discipline of the institution, is beyond the control of the officer in charge of such institution, is guilty of a misdemeanour, and may be dealt with as follows :—

Vicious conduct in industrial school.

(a.) The offender may, at any time before the expiration of his term of imprisonment or detention, be brought without warrant before any magistrate, and if the officer in charge of such refuge, home or school certifies in writing that the removal of such offender to a place of stricter imprisonment is desirable, and if the governing body of such refuge, home or school applies for such removal, and if sufficient cause therefor is shown to the satisfaction of such magistrate, he may order the offender to be removed to and to be kept imprisoned, for the remainder of his original term of imprisonment or detention, in any reformatory prison or reformatory school in which by law such offender may be imprisoned for a misdemeanour ; and when there is no such reformatory prison or school the magistrate may order the offender to be removed to and to be so kept imprisoned in any other place of imprisonment to which the offender may be lawfully committed ;

Offender may be removed to reformatory.

(b.) The magistrate may, after conviction, sentence the offender to such additional term of imprisonment, not exceeding one year, as to such magistrate seems a proper punishment for the incorrigible conduct of the offender.

Additional term of imprisonment.

OFFENCES AGAINST PUBLIC MORALS AND CONVENIENCE.

3. Sections three and five of chapter one hundred and fifty-seven of the Revised Statutes, respecting Offences against Public Morals and Public Convenience, are hereby amended by substituting the word “fourteen” for the word “twelve” wherever the latter word occurs in either of the said sections.

Section 3 and 5 of R.S.C., c. 157 amended.

Seduction of a ward, servant, &c.

4. Every one who, being a guardian, seduces or has illicit connection with his ward, and every one who seduces or has illicit connection with any woman or girl of previously chaste character and under the age of twenty-one years who is in his employment in a factory, mill or workshop, or who, being in a common employment with him, in such factory, mill or workshop, is, in respect of her employment or work in such factory, mill or workshop, under, or in any way subject to, his control or direction, is guilty of a misdemeanour and liable to two years' imprisonment :

Certain provisions to apply.

2. The provisions of section six of the said Act shall apply to offences under this section in the same manner as they do to the offences mentioned in the said section.

Acts of gross indecency.

5. Every male person who, in public or private, commits, or is a party to a commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, is guilty of a misdemeanour and liable to five years' imprisonment, and to be whipped.

The same.

6. Every one who wilfully commits any indecent exposure of the person or act of gross indecency in any public place, in the presence of one or more persons, is guilty of a misdemeanour, and liable, on summary conviction before two justices of the peace, to a fine of fifty dollars or to six months' imprisonment with or without hard labour, or to both fine and imprisonment.

Consent of child under fourteen no defence.

7. It is no defence to a charge or indictment for any indecent assault on a young person under the age of fourteen years to prove that he or she consented to the act of indecency.

Incest.

8. Every parent and child, every brother and sister, and every grand parent and grand child, who cohabit or have sexual intercourse with each other, shall, each of them, if aware of their consanguinity, be deemed to have committed incest, and be guilty of a misdemeanour and liable to fourteen years' imprisonment, and the male person shall also be liable to be whipped : Provided that, if the court or judge is of opinion that the female accused was a party to such intercourse only by reason of the restraint, fear or duress of the other party, the court or judge shall not be bound to impose any punishment on such person under this section.

Parent or guardian procuring defilement of girl.

9. Every one who, being the parent or guardian of any girl or woman, (1) procures such girl or woman to have carnal connection with any man other than the procurer, or (2) orders, is party to, permits or knowingly receives the avails of the defilement, seduction or prostitution of such girl or woman, if such girl or woman is under the age of fourteen years, is guilty of felony and liable to fourteen years' imprisonment, and, if such girl or woman is of or above the age of fourteen years, is guilty of a misdemeanour and liable to five years' imprisonment :

2. Every one who procures, or attempts to procure, any girl or woman under twenty-one years of age, not being a common prostitute or of known immoral character, to have unlawful carnal connection, either within or without Canada, with any other person or persons; or (2) Procures, or attempts to procure, any woman or girl to become, either within or without Canada, a common prostitute; or (3) Procures, or attempts to procure, any woman or girl to leave Canada with intent that she may become an inmate of a brothel elsewhere; or (4) Procures any woman or girl to come to Canada from abroad with intent that she may become an inmate of a brothel in Canada; or (5) Procures, or attempts to procure, any woman or girl to leave her usual place of abode in Canada, such place not being a brothel, with intent that she may become an inmate of a brothel within or without Canada, is guilty of a misdemeanour, and liable to two years' imprisonment with hard labour.

Procuring defilement of girl under age.

Promoting prostitution.

3. Every person who, by threats or intimidation, procures or attempts to procure, any woman or girl to have any unlawful carnal connection, either within or without Canada, or by false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either within or without Canada, is guilty of a misdemeanour, and liable to two years' imprisonment with hard labour.

Procuring by threats or false pretences, defilement of any woman.

4. The provisions of section six of the said Act shall apply to offences under this section in the same manner as is above provided with respect to offences under section four.

Certain provisions to apply.

OFFENCES IN RELATION TO MARRIAGE.

10. Sub-section one of section four of chapter one hundred and sixty-one of the Revised Statutes, intituled "*An Act respecting Offences relating to the Law of Marriage*," is hereby repealed and the following substituted therefor:—

Section 4 of R.S.C., c. 161 amended.

"**4.** Every one who, being married, marries any other person during the life of the former husband or wife, whether the second marriage takes place in Canada or elsewhere, and every male person who, in Canada, simultaneously, or on the same day, marries more than one woman, is guilty of felony, and liable to seven years' imprisonment."

Bigamy

11. The following sections are hereby added to the last cited Act:—

R.S.C., c. 161 amended.

"**5.** Every one who practices, or, by the rites, ceremonies, forms, rules or customs of any denomination, sect or society, religious or secular, or by any form of contract, or by mere mutual consent, or by any other method whatsoever, and whether in a manner recognized by law as a binding form of marriage or not, agrees or consents to practise or enter into—

"(a.) Any form of polygamy; or—

"(b.) Any kind of conjugal union with more than one person at the same time; or—

Polygamy.
Conjugal union with more than one person.

- Spiritual marriage. “(c.) What among the persons commonly called Mormons is known as spiritual or plural marriage ; or—
- Living with a person who is married or who lives with another. “(d.) Who lives, cohabits, or agrees or consents to live or cohabit, in any kind of conjugal union with a person who is married to another, or with a person who lives or cohabits with another or others in any kind of conjugal union ; and—
- “2. Every one who,—
- Celebrating rites, &c. “(a.) Celebrates, is a party to, or assists in any such rite or ceremony which purports to make binding or to sanction any of the sexual relationships mentioned in sub-section one of this section ; or—
- Forms, &c. “(b.) Procures, enforces, enables, is a party to, or assists in the compliance with, or carrying out of, any such form, rule or custom which so purports ; or—
- Contract and consent. “(c.) Procures, enforces, enables, is a party to, or assists in the execution of any such form of contract which so purports, or the giving of any such consent which so purports,—
- Penalty. “Is guilty of a misdemeanour, and liable to imprisonment for five years and to a fine of five hundred dollars :
- Requisites of indictment and proof. “3. In any charge or indictment for any offence mentioned in sub-section two of this section it shall be sufficient to describe the offence in the language of that sub-section applicable thereto ; and no averment or proof of the method in which the sexual relationship charged was entered into, agreed to or consented to, shall be necessary in any such indictment, or upon the trial of the person thereby charged ; nor shall it be necessary upon such trial to prove carnal connection had or intended to be had between the parties implicated.”
- Husband and wife may be witnesses. “6. In every case arising under section four, or under sub-section one of section five of this Act, the lawful husband or wife of the defendant shall be a competent, but not a compellable witness for or against the defendant.”

OFFENCES AGAINST THE PERSON.

- R.S.C., c. 162. sections repealed ; new sections. **12.** Sections thirty-nine, forty and forty-one of chapter one hundred and sixty-two of the Revised Statutes, respecting Offences against the Person, are hereby repealed, and the following sections enacted in lieu thereof:—
- Carnally knowing a girl under fourteen. “**39.** Every one who unlawfully and carnally knows and abuses any girl under the age of fourteen years is guilty of felony, and liable to imprisonment for life, or for any term not less than five years, and to be whipped.”
- Attempt to commit such offence. “**40.** Every one who attempts to have unlawful carnal knowledge of any girl under the age of fourteen years is guilty of a misdemeanour, and liable to two years’ imprisonment, and to be whipped.”
- Indecent assault. “**41.** Every one who commits any indecent assault upon any female is guilty of a misdemeanour, and liable to two years’ imprisonment, and to be whipped.”

13. Where, upon the hearing of any charge under sections thirty-nine, forty or forty-one of chapter one hundred and sixty-two of the Revised Statutes, as hereinbefore enacted, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the court or justices, understand the nature of an oath, the evidence of such girl or other child of tender years may be received, though not given upon oath, if, in the opinion of the court or justices, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth :

Evidence, in such cases, of child of tender years.

2. But no person shall be liable to be convicted of the offence, unless the testimony admitted by virtue of this section, and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof implicating the accused :

Must be corroborated.

3. Any witness whose evidence is admitted under this section is liable to indictment and punishment for perjury in all respects as if he or she had been sworn :

Perjury.

4. Upon the trial of an indictment for rape, or for an offence under the said section thirty-nine, if the jury are not satisfied that the defendant is guilty of the felony charged, but are satisfied that he is guilty of an offence under section forty-one, they may acquit him of the felony and convict him of the offence aforesaid, and thereupon he may be punished as if convicted on an indictment under section forty-one.

On trial for rape, &c., conviction for attempt.

14. Every one who, by personating her husband, induces a married woman to permit him to have connection with her, is guilty of rape.

Carnally knowing woman by personating her husband, is rape.

MALICIOUS INJURIES TO PROPERTY.

15. Sub-section one of section twenty-seven of chapter one hundred and sixty-eight of the Revised Statutes, respecting Malicious Injuries to Property, is hereby repealed and the following substituted therefor :—

Section 27 of R.S.C., c. 168, amended.

“**27.** Every one who unlawfully and maliciously cuts, breaks, throws down, or in any wise destroys any fence of any description whatsoever, or any wall, stile or gate, or any part thereof respectively or any post or stake planted or set up on any land, marsh, swamp or land covered by water, on or as the boundary or part of the boundary line thereof, or in lieu of a fence thereto, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars, over and above the amount of the injury done :”

Destroying, &c., any fence gate, &c.

16. Sub-section one of section forty-five of the last cited Act is hereby repealed, and the following substituted therefor :—

Section 45 amended.

“**45.** Every one who unlawfully and maliciously kills, maims, wounds, poisons or injures any dog, bird, beast, or other animals.

Killing or injuring other animals.

animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or kept for any domestic purpose, or purpose of lawful profit or advantage or science, or kept for any lawful purpose, shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, over and above the amount of injury done, or to three months' imprisonment with or without hard labour :”

Section 58 repealed : new section.

Committing damage, not before provided for, exceeding \$20.

17. Section fifty-eight of the last cited Act is hereby repealed, and the following substituted therefor :—

“**58.** Every one who unlawfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either corporeal or incorporeal and either of a public or a private nature, for which no punishment is hereinbefore provided, the damage, injury or spoil being to an amount exceeding twenty dollars, is guilty of a misdemeanour, and liable to five years' imprisonment, and to a penalty of five hundred dollars.”

Section 59 amended.

Committing damage, not before provided for, and not exceeding \$20.

18. Sub-section one of section fifty-nine of the last cited Act is hereby repealed, and the following substituted therefor :—

“**59.** Every one who unlawfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, either corporeal or incorporeal and either of a public or private nature, for which no punishment is hereinbefore provided, shall, on summary conviction, be liable to a penalty not exceeding twenty dollars, and such further sum, not exceeding twenty dollars, as appears to the justice to be a reasonable compensation for the damage, injury or spoil so committed,—which last mentioned sum of money shall, in the case of private property, be paid to the person aggrieved ; and if such sums of money, together with the costs, if ordered, are not paid, either immediately after the conviction, or within such period as the justice, at the time of the conviction, appoints, the justice may cause the offender to be imprisoned for any term not exceeding two months, with or without hard labour :”

Compensation to person aggrieved.

THREATS AND OTHER OFFENCES.

Section 13 of R.S.C., c. 173, amended.

19. Sub-section two of section thirteen of chapter one hundred and seventy-three of the Revised Statutes of Canada, intituled “*An Act respecting threats, intimidation and other offences,*” is hereby repealed and the following substituted therefor :—

Prosecution for conspiracy.

“**2.** No prosecution shall be maintainable against any person for conspiracy, in refusing to work with or for any employer or workman, or for doing any act or causing any act to be done for the purpose of a trade combination, unless such act is an offence punishable by statute.”

20. In the last cited Act the expression "valuable security" includes any order, exchequer acquittance or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of Canada or of any Province thereof, or of the United Kingdom, or of Great Britain or Ireland, of any British colony or possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada or the United Kingdom, or any British colony or possession, or in any foreign state or country, or to any deposit in any savings bank or other bank, and also includes any debenture, deed, bond, bill, note, warrant, order or other security whatsoever for money or for payment of money, whether of Canada, or of any Province thereof, or of the United Kingdom, or of any British colony or possession, or of any foreign state, and any document of title to lands or goods as hereinbefore defined, wheresoever such lands or goods are situate, and any stamp or writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge or other instrument, evidencing payment of money, or the delivery of any chattel personal; and every such valuable security shall, where value is material, be deemed to be of value equal to that of such unsatisfied money, chattel personal, share, interest or deposit, for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling or evidencing title to which, such valuable security is applicable, or to that of such money or chattel personal, the payment or delivery of which is evidenced by such valuable security.

"Valuable security" defined.

PROCEDURE.

21. Jurors, after having been sworn, may, in the discretion of the judge, be allowed, at any time before giving their verdict, the use of a fire when out of court, and be allowed reasonable refreshment.

Jurors may have fire and refreshments.

22. The third section of the Act of the Legislature of the Province of New Brunswick, twenty-first Victoria, chapter twenty-two, intituled "*An Act in amendment of the Criminal Law,*" is hereby repealed.

N.B., 21 V., c. 22, section 3 repealed.

23. Whenever it is made to appear, at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of the judge of any Superior Court, or the judge of a County Court having criminal jurisdiction, that any person who resides out of Canada is able to give material information relating to any indictable offence for which a prosecution is pending, or relating to any person accused of such offence, such judge may, by order under his hand, appoint a commissioner or commissioners to take the evidence, upon oath, of such person :

Commissioners to take evidence out of Canada.

Procedure.

2. Until otherwise provided by rules of court, the practice and procedure in connection with the appointment of commissioners under this section, the taking of depositions by such commissioners, and the certifying and return thereof, and the use of such depositions as evidence at the trial, shall be as nearly as practicable the same as those which prevail in the respective courts in connection with the like matters in civil causes.

SUMMARY CONVICTIONS.

Section 77 of R.S.C., c. 178, further amended.

24. The paragraph substituted by section eight of the Act fifty-first Victoria, chapter forty-five, for the paragraph lettered (d) of section seventy-seven of "*The Summary Convictions Act*," is hereby repealed, and the following substituted therefor :—

Proceedings on appeal.

(d.) The court to which such appeal is made shall thereupon hear and determine the matter of appeal and make such order therein, with or without costs to either party, including costs of the court below, as seems meet to the court,—and, in case of the dismissal of an appeal by the defendant and the affirmance of the conviction or order, shall order and adjudge the appellant to be punished according to the conviction, or to pay the amount adjudged by the said order, and to pay such costs as are awarded,—and shall, if necessary, issue process for enforcing the judgment of the court; and whenever, after any such deposit has been made as aforesaid, the conviction or order is affirmed, the court may order the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, to be paid out of the money deposited, and the residue, if any, to be repaid to the appellant; and whenever, after any such deposit, the conviction or order is quashed, the court shall order the money to be repaid to the appellant.

If the conviction or order is affirmed.

If quashed.

Section 78 repealed; new section.

25. Section seventy-eight of "*The Summary Convictions Act*" is hereby repealed, and the following substituted therefor :—

Trial of appeal from summary conviction.

"**78.** When an appeal against any summary conviction or decision has been lodged in due form and in compliance with the requirements of this Act, the court appealed to shall try, and shall be the absolute judge, as well of the facts as of the law, in respect to such conviction or decision; and any of the parties to the appeal may call witnesses and adduce evidence, whether such witnesses were called or evidence adduced at the hearing before the justice or not, either as to the credibility of any witness, or as to any other fact material to the enquiry; but any evidence taken before the justice at the hearing below, signed by the witness giving the same and certified by the justice, may be read on such appeal, and shall have the like force and effect as if the witness was there examined: Provided, that the court appealed to is satisfied by affidavit or otherwise,

As to evidence.

that the personal presence of the witness cannot be obtained by any reasonable efforts."

26. Section eighty of the last cited Act is hereby repealed, and the following substituted therefor:—

"**80.** In every case of appeal from any summary conviction or order had or made before any justice, the court to which such appeal is made shall, notwithstanding any defect in such conviction or order, and notwithstanding that the punishment imposed or the order made may be in excess of that which might lawfully have been imposed or made, hear and determine the charge or complaint on which such conviction or order has been had or made, upon the merits, and may confirm, reverse or modify the decision of the said justice, or may make such other conviction or order in the matter as the court thinks just, and may, by such order, exercise any power which the justice whose decision is appealed from might have exercised; and such order or conviction shall have the same effect and may be enforced in the same manner as if it had been made by such justice. The court may also make such order as to costs to be paid by either party as it thinks fit:

"2. Any order or conviction made by the court on appeal may also be enforced by process of the court itself."

27. Section eighty-seven of the last cited Act is hereby amended by adding the following words at the end of the said section: "Provided that the court or judge, where so satisfied as aforesaid, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just as are by section eighty of this Act conferred upon the court to which an appeal is taken under the provisions of section seventy-six of this Act."

28. In this section the expression "the court" means and includes:

(a.) In the Province of Ontario, any division of the High Court of Justice for Ontario;

(b.) In the Province of Quebec, the Court of Queen's Bench, Crown side;

(c.) In the Provinces of Nova Scotia, New Brunswick and British Columbia, the Supreme Court in and for each of the said Provinces respectively;

(d.) In the Province of Prince Edward Island, the Supreme Court of Judicature for that Province;

(e.) In the Province of Manitoba, Her Majesty's Court of Queen's Bench for Manitoba; and—

(f.) In the North-West Territories, the Supreme Court of the North-West Territories:

2. Any person aggrieved, the prosecutor or complainant as well as the defendant, who desires to question a conviction,

Section 80 repealed; new section.

Decision on appeal to be given on the merits.

Powers of court.

As to costs.

Enforcing order of court.

Section 87 amended.

Powers of court if punishment is excessive.

Section added. Interpretation.

"The court."

Justice, on application of person ag-

grieved, to state a case for opinion of the court.

order, determination or other proceeding of a justice under this Act, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to such justice to state and sign a case setting forth the facts of the case, and the grounds on which the proceeding is questioned, and, if the justice declines to state the case, may apply to the court for an order requiring the case to be stated :

Time and form of application.

3. The application shall be made and the case stated within such time and in such manner as is, from time to time, directed by rules or orders under the Act fifty-second Victoria, chapter forty :

Recognizance to be given by appellant.

4. The appellant, at the time of making such application, and before a case is stated and delivered to him by the justice, shall, in every instance, enter into a recognizance before such justice or any other justice exercising the same jurisdiction, with or without surety or sureties, and in such sum as to the justice seems meet, conditioned to prosecute his appeal without delay, and to submit to the judgment of the court, and pay such costs as are awarded by the same ; and the appellant shall, at the same time, and before he shall be entitled to have the case delivered to him, pay to the justice such fees as he is entitled to ; and the appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same justice, or such other justice as is then sitting, within ten days after the judgment of the court has been given, to abide such judgment, unless the judgment appealed against is reversed :

Fees to be paid to justice.

Justice may refuse to state a case if he deems application frivolous.

5. If the justice is of opinion that the application is merely frivolous, but not otherwise, he may refuse to state a case, and shall, on the request of the applicant, sign and deliver to him a certificate of such refusal ; provided that the justice shall not refuse to state a case where the application for that purpose is made to him by or under the direction of Her Majesty's Attorney General of Canada, or of any Province :

If justice refuses, court may, by rule, order a case to be stated.

6. Where the justice refuses to state a case, it shall be lawful for the appellant to apply to the court, upon an affidavit of the facts, for a rule calling upon the justice, and also upon the respondent, to show cause why such case should not be stated ; and such court may make such rule absolute, or discharge the application, with or without payment of costs, as to the court seems meet ; and the justice, upon being served with such rule absolute, shall state a case accordingly, upon the appellant entering into such recognizance as hereinbefore provided :

Court to determine finally.

7. The court to which a case is transmitted under the foregoing provisions shall hear and determine the question or questions of law arising thereon, and shall thereupon affirm, reverse or modify the conviction, order or determination in respect of which the case has been stated, or remit the matter to the justice with the opinion of the court thereon, or may make such other order in relation to the matter, and may make such orders as to costs, as to the court seems fit ; and all such

orders shall be final and conclusive upon all parties : Provided always, that any justice who states and delivers a case in pursuance of this section shall not be liable to any costs in respect or by reason of such appeal against his determination :

Justice not liable for costs.

8. The court for the opinion of which a case is stated shall have power, if it thinks fit, to cause the case to be sent back for amendment ; and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.

Case may be sent back for amendment.

9. The authority and jurisdiction hereby vested in the court for the opinion of which a case is stated may, subject to any rules and orders of court in relation thereto, be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time :

Powers of the court may be exercised by a judge in chambers.

10. After the decision of the court in relation to any such case stated for their opinion, the justice in relation to whose determination the case has been stated, or any other justice exercising the same jurisdiction, shall have the same authority to enforce any conviction, order or determination which has been affirmed, amended or made by such court, as the justice who originally decided the case would have had to enforce his determination if the same had not been appealed against ; and no action or proceeding whatsoever shall be commenced or had against a justice for enforcing such conviction, order or determination by reason of any defect in the same ;

Decision of the court may be enforced by the justice.

(a.) If necessary, any order of the court may be enforced by its own process :

Or by its own process.

11. No writ of *certiorari* or other writ shall be required for the removal of any conviction, order, or other determination in relation to which a case is stated under this section or otherwise, for obtaining the judgment or determination of a superior court on such case under this section :

Certiorari not to be required for proceedings under this section.

12. In all cases where the conditions, or any of them, in any recognizance entered into in pursuance of sub-sections four and six have not been complied with, such recognizance shall be dealt with in like manner as is provided by "*The Summary Convictions Act*" with respect to recognizances entered into thereunder :

How recognizance may be enforced.

13. Any person who appeals under the provisions of this section against any determination of a justice from which he is entitled to an appeal under the section substituted for section seventy-six of "*The Summary Convictions Act*," by section seven of the Act passed in the fifty-first year of Her Majesty's reign, chapter forty-five, shall be taken to have abandoned such last mentioned right of appeal finally and conclusively and to all intents and purposes :

Appellant under this section forfeits other right of appeal.

14. Where, by any special Act, it is provided that there shall be no appeal from any conviction or order, no proceedings shall be taken under this section in any case to which such provision in such special Act applies.

When this section shall not apply.

SPEEDY TRIALS.

As to recognizance, if defendant elects to be tried under "The Speedy Trials Act."

29. Any recognizance taken under '*The Criminal Procedure Act*,' for the purpose of binding a prosecutor or a witness, shall, if the person committed for trial elects to be tried under the provisions of "*The Speedy Trials Act*," be obligatory on each of the persons bound thereby, as to all things therein mentioned, with reference to the trial by the judge under the last cited Act, as if such recognizance had been originally entered into for the doing of such things with reference to such trial: Provided, that notice in writing shall be given, either personally or by leaving the same at the place of residence of the persons bound by such recognizance, as therein described, to appear before the judge at the place where such trial is to be had.

Notice to persons bound.

S. 9 of R.S.C., c. 175 amended. Prisoner may re-elect.

30. Section nine of "*The Speedy Trials Act*" is hereby amended by adding thereto the following sub-sections:—

"2. But if such person, after his said election to be tried by a jury, has been committed for trial, he may, at any time before the regular term or sittings of the court at which such trial by jury would take place, notify the sheriff that he desires to re-elect; whereupon it shall be the duty of the sheriff to proceed as directed by section six of this Act, and thereafter the person so committed shall be proceeded against as if his said election in the first instance had not been made."

Proceedings thereupon.

Continuance of proceedings if judge is unable to Act.

"3. Proceedings under this Act commenced before any judge may, where such judge is for any reason unable to act, be continued before any other judge competent to try prisoners under this Act in the same county, union of counties or judicial district; and such last mentioned judge shall have the same powers with respect to such proceedings as if such proceedings had been commenced before him, and may cause such portion of the proceedings to be repeated before him as he shall deem necessary."

PUNISHMENTS, PARDONS, ETC.

Section 28 of R.S.C., c. 181, amended.

31. Sub-section three of section twenty-eight of chapter one hundred and eighty-one of the Revised Statutes, respecting Punishments, Pardons and the Commutation of sentences, is hereby repealed and the following substituted therefor:—

Prisoners sentenced by court martial.

"3. Provided, that any prisoner sentenced for any term by any military, naval or militia court martial, or by any military or naval authority under any Mutiny Act, may be sentenced to imprisonment in a penitentiary; and if such prisoner is sentenced to a term less than two years, he may be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or in such other prison or place of confinement as is provided by the next preceding sub-section with respect to persons sentenced thereunder."

PUBLIC AND REFORMATORY PRISONS.

Certified Industrial Schools, Ontario.

32. The Governor General, by warrant under his hand, may, at any time in his discretion (the consent of the Provincial Secretary of Ontario having been first obtained), cause any boy who is imprisoned in a reformatory or gaol in that Province, under sentence for an offence against a law of Canada, and who is certified by the court, judge or magistrate by whom he was tried to have been, in the opinion of such court, judge or magistrate, at the time of his trial, of or under the age of thirteen years, to be transferred for the remainder of his term of imprisonment to a certified industrial school in the Province.

Transfer of boy under thirteen to industrial school in Ontario.

33. Where, under any law of Canada, any boy is convicted in Ontario, whether summarily or otherwise, of any offence punishable by imprisonment, and the court, judge, stipendiary or police magistrate by whom he is so convicted is of opinion that such boy does not exceed the age of thirteen years, such court, judge or magistrate may sentence such boy to imprisonment in a certified industrial school for any term not exceeding five years and not less than two years: Provided, that no boy shall be sentenced to any such school unless public notice has been given in the *Ontario Gazette* and has not been countermanded, that such school is ready to receive and maintain boys sentenced under laws of the Dominion: Provided also, that no such boy shall be detained in any certified industrial school beyond the age of seventeen years.

Sentence of boy under thirteen to such school.

Proviso.

Proviso.

Halifax Industrial School.

34. Section sixty-one of chapter one hundred and eighty-three of the Revised Statutes, intituled "*An Act respecting Public and Reformatory Prisons,*" is hereby repealed and the following substituted therefor:—

R.S.C., c. 183, s. 61 repealed; new section.

61. Whenever any boy, who is a Protestant and a minor apparently under the age of sixteen years, is convicted in Nova Scotia of any offence for which by law he is liable to imprisonment, the judge, stipendiary magistrate, justice or justices by whom he is so convicted may sentence such boy to be detained in the Halifax Industrial School for any term not exceeding five years, and not less than two years."

Certain boys may be sentenced to Halifax Industrial school.

35. Section sixty-two of the said Act is hereby repealed and the following substituted therefor:—

Section 62 repealed; new section.

62. No such sentence shall be pronounced unless or until provision has been made by the municipality within which such conviction is had, out of its funds, for the support of boys so sentenced, at the rate of not less than sixty dollars per annum for each boy."

As to support of such boys.

St. Patrick's Home, Halifax.

Section 65 repealed; new section.

Certain boys may be sentenced to St. Patrick's Home, Halifax.

36. Section sixty-five of the said Act is hereby repealed and the following substituted therefor:—

“**65.** Whenever any boy, who is a Roman Catholic and apparently under the age of sixteen years, is convicted in Nova Scotia of any offence for which by law he is liable to imprisonment, the judge, stipendiary magistrate, justice or justices by whom he is so convicted may sentence such boy to be detained in Saint Patrick's Home at Halifax for any term not exceeding five years, and not less than two years; but no such sentence shall be pronounced unless or until provision has been made by the municipality within which such conviction is had, out of its funds, for the support of boys so sentenced, at the rate of not less than sixty dollars per annum for each boy.”

Section 66 repealed; new section.

Number of such prisoners may be limited.

37. Section sixty-six of the said Act is hereby repealed and the following substituted therefor:—

“**66.** The superintendent, or head of the said home, may at any time notify the mayor, warden or other chief magistrate of any municipality, that no prisoners, beyond those already under sentence in such home, will be received therein; and, after such notification, no such sentence shall be pronounced in such municipality until notice has been received by such mayor, warden or chief magistrate, from the said superintendent or head, that prisoners will again be received in the said home.”

Coming into force of sections 32 to 38.

38. The six preceding sections shall not, nor shall any of them, come into force until the same shall have been proclaimed by the Governor in Council.

R.S.C., c. 183, further amended.

39. The said Act is hereby further amended by adding at the end thereof the following sections:—

“PART VI.

“MANITOBA.

“*Manitoba Reformatory for Boys.*

What offenders may be sentenced to the Manitoba Reformatory for Boys.

“**78.** If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which such boy is convicted is satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the Manitoba reformatory for boys, then such court may sentence the boy to be imprisoned in such reformatory for such term as the court thinks fit, not being greater than the term of imprisonment which

could be imposed upon an adult for the like offence, and may further sentence such boy to be kept in such reformatory for an indefinite time after the expiration of such fixed term: Provided, that the whole period of confinement in such reformatory shall not exceed five years from the commencement of his imprisonment.

As to term of imprisonment.

“79. If any boy, apparently under the age of sixteen years, is convicted of any offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of fourteen days at the least, any judge of any one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and when he considers the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy to be sent either forthwith or at the expiration of his imprisonment in such gaol, to such reformatory, to be there detained for the purpose of his industrial and moral education for an indefinite period, not exceeding in the whole five years, from the commencement of his imprisonment in the common gaol.

In certain cases offenders summarily convicted may be sentenced to such reformatory.

“80. Every boy so sentenced shall be detained in such reformatory until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions hereof and to any regulations made as hereinafter provided, be detained in such reformatory for a period not to exceed five years from the commencement of his imprisonment, for the purpose of his industrial and moral education.

Detention for purposes of reform.

“81. A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or other magistrate by whom any boy is sentenced to confinement in such reformatory, shall be a sufficient authority to the sheriff, constable or other officer who is directed, verbally or otherwise, so to do, to convey such boy to the common gaol of the county where such sentence is pronounced, and for the gaoler of such gaol to receive and detain such boy, until some person, lawfully authorized, requires the delivery of such boy for removal to the reformatory.

Commitment of boy to gaol. until conveyed to reformatory.

“82. If any boy sentenced to be confined in such reformatory is in such a weak state of health that he cannot safely or conveniently be removed to the reformatory, he may be detained in the common gaol or other place of confinement in which he is, until he is sufficiently recovered to be safely and conveniently removed to the reformatory.

If the boy is in bad health.

“83. No boy shall be discharged from such reformatory at the termination of his term of confinement, if then labouring under any contagious or infectious disease, or under any acute or dangerous illness, but he shall be permitted to remain in such reformatory until he recovers from such disease or illness: Provided, that any boy remaining in such reformatory for any

As to discharge when boy is in bad health.

Proviso.

such cause shall be under the same discipline and control as if his term was still unexpired.

Detention of offender until conveyed to reformatory.

“**84.** Any sheriff or other person having the custody of any offender sentenced to imprisonment in the said reformatory, may detain the offender in the common gaol of the county or district in which such offender is sentenced, or other place of confinement in which such offender is, until some person lawfully authorized in that behalf requires such offender’s delivery for the purpose of being conveyed to such reformatory.

If term expires on Sunday.

“**85.** Whenever the time of any offender’s sentence in such reformatory, under any law within the legislative authority of the Parliament of Canada, expires on a Sunday, such offender shall be discharged on the previous Saturday, unless such offender desires to remain until the Monday following.”

Coming into force of section 39.

40. The provisions of this Act in respect to the Manitoba Reformatory for Boys shall not come into force until the same shall have been proclaimed by the Governor in Council.

EXTRA-JUDICIAL OATHS.

R.S.C., c. 141, s. 3 repealed; new section.

41. Section three of chapter one hundred and forty-one of the Revised Statutes of Canada, intituled “*An Act respecting extra-Judicial Oaths,*” is repealed and the following section is substituted therefor:—

Solemn declaration may be received.

“Any judge, justice of the peace, police or stipendiary magistrate, recorder, commissioner authorized to take affidavits to be used either in Provincial or Dominion courts, or any other functionary authorized by law to administer an oath in any matter may receive the solemn declaration of any person voluntarily making the same before him, in the form in the schedule to this Act, in attestation of the execution of any writing, deed or instrument, or of the truth of any allegation of fact, or of any account rendered in writing.”



CHAPTER 38.

An Act to amend "The Public Stores Act."

[Assented to 26th March, 1890].

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

1. The schedule to the Act passed in the session held in the fiftieth and fifty-first years of Her Majesty's reign, chaptered forty-five, and intituled "*An Act respecting Public Stores,*" is amended by striking out the word "worsted" therein. 50-51 V., c. 45, schedule amended.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.