





Canada. Laws, Statutes, etc.

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C-2.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-2.**

An Act to amend the British North America Act, 1867,  
with respect to the Senate.

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First reading, October 1, 1962.

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The PRIME MINISTER.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962



1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-2.**

An Act to amend the British North America Act, 1867,  
with respect to the Senate.

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

**1.** Section 29 of the *British North America Act, 1867* is repealed and the following substituted therefor:

Tenure of  
place in  
Senate.

“**29.** A Senator shall, subject to this Act, hold his place in the Senate until he attains the age of seventy-five years, or until the coming into force of this section if at that time he has already attained that age.”

5

Short title  
and  
citation.

**2.** This Act may be cited as the *British North America Act, 1962*, and the *British North America Acts, 1867 to 1960*, and this Act may be cited together as the *British North America Acts, 1867 to 1962*.

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Com-  
mencement.

**3.** This Act shall come into force on the ninetieth day following the end of the session of Parliament in which this Act is assented to.

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**C-3.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA

**BILL C-3.**

An Act to amend the Food and Drugs Act.

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First Reading, October 1, 1962.

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THE MINISTER OF NATIONAL HEALTH  
AND WELFARE.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962



1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-3.

An Act to amend the Food and Drugs Act.

1952-53, c. 38;  
1960-61, c. 37.

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

**1.** Subsection (2) of section 14 of the *Food and Drugs Act* is repealed and the following substituted therefor: 5

Exception.

“(2) Subsection (1) does not apply to the distribution, under prescribed conditions, of samples of drugs to physicians, dentists, veterinary surgeons or pharmacists.”

**2.** The said Act is further amended by adding 10 thereto, immediately after section 14 thereof, the following section:

Sale of certain drugs prohibited.

“**14A.** No person shall sell any drug described in Schedule H.”

**3.** Subsection (1) of section 24 of the said Act is 15 amended by striking out the word “and” at the end of paragraph (l) thereof, by adding the word “and” at the end of paragraph (m) thereof and by adding thereto the following paragraph:

“(n) respecting 20  
(i) the method of preparation, manufacture, preserving, packing, labelling, storing and testing of any new drug, and  
(ii) the sale or the conditions of sale of any new drug, 25  
and defining for the purposes of this Act the expression “new drug”.”

## EXPLANATORY NOTES.

*Clause 1:* The purpose of this amendment is to provide for closer and more effective control over the distribution of drug samples.

Subsection (2) at present reads as follows:

"(2) Subsection (1) does not apply to the distribution of samples of drugs by mail or otherwise to physicians, dentists or veterinary surgeons or to the distribution of drugs, other than those mentioned in Schedule F, to registered pharmacists for individual redistribution to adults only or to a distributor in compliance with individual requests."

*Clause 2:* New. The purpose of this amendment is to provide in the interest of the public health for the absolute prohibition of the sale of certain designated drugs.

*Clause 3:* New. The purpose of this amendment is to provide specific authority for the enactment of regulations controlling the introduction to the public of new drugs.

4. The said Act is further amended by adding thereto, immediately after Schedule G thereof, the following Schedule:

"SCHEDULE H.

Thalidomide  
Lysergic acid diethylamide"



*Clause 4:* This amendment is consequential upon the amendment set out in clause 2 above.

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THE HOUSE OF COMMONS OF CANADA

BILL C-4

An Act to amend the Department of National Health and Welfare Act

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First Reading, December 1, 1965

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The Minister of National Health and Welfare

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PRINTED AND CONTROLLED BY THE GOVERNMENT OF CANADA  
OTTAWA, 1965



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C-4.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-4.**

An Act to amend the Department of National  
Health and Welfare Act.

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First Reading, October 1, 1962.

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THE MINISTER OF NATIONAL HEALTH  
AND WELFARE.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1-0  
The Senate, Twenty-Fifth Parliament, at Ottawa, 11, 1962.

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1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-4.**

An Act to amend the Department of National Health and Welfare Act.

R.S., c. 74.

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

**1.** Paragraph (g) of section 5 of the *Department of National Health and Welfare Act* is repealed. 5

**2.** The said Act is further amended by adding thereto, immediately after section 7 thereof, the following section:

National Council of Welfare.

“**7A.** (1) There shall be a National Council of Welfare consisting of the Deputy Minister of Welfare, who shall 10 be chairman, the Deputy Minister or Chief Executive Officer of the Provincial Department of Welfare of each province, and such other persons, not to exceed ten in number, as may be appointed by the Governor in Council, who shall hold office during good behaviour 15 for three years.

Meetings and duties.

(2) The National Council of Welfare shall meet at such times and places as the Minister may direct and shall be charged with such duties and powers as the Governor in Council may prescribe.” 20



## EXPLANATORY NOTES.

*Clause 1:* The purpose of this amendment is to delete a provision listing certain Acts under the administration of the Minister of National Health and Welfare. There are a number of omissions in the present listing. It is not considered necessary in this statute to enumerate the various Acts administered as such an enumeration invariably becomes obsolete and the Minister is already charged, under paragraph (a) of section 5, with the administration of all Acts of Parliament that relate to the health, social security and welfare of the people of Canada and that are not by law assigned to any other minister or department of the Government of Canada.

The paragraph being repealed reads as follows:

"(a) the administration of the *Food and Drugs Act*, the *Opium and Narcotic Drug Act*, the *Quarantine Act*, the *Public Works Health Act*, the *Leprosy Act*, the *Proprietary or Patent Medicine Act* and the *National Physical Fitness Act* and of all orders and regulations passed or made under any of the said Acts;"

*Clause 2:* New. The purpose of this amendment is to establish a National Council of Welfare. The wording of the new section follows closely the wording of the present section 7 of the Act, under which a similar council in the field of health was established. It is intended that the functions and duties of the National Council of Welfare shall be to consider matters relating to welfare activities in Canada and to advise the Minister thereon and thus perform functions in the field of welfare similar to those performed by the council established under section 7 in the field of health.





**C-5.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-5.**

An Act to amend the Post Office Act.

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First Reading, October 1, 1962.

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**THE POSTMASTER GENERAL.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-5.

An Act to amend the Post Office Act.

R.S., c. 212;  
1952-53, c. 45;  
1953-54, cc.  
20, 39;  
1956, c. 43.

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

1. (1) All that portion of subsection (2) of section 11 of the *Post Office Act* preceding paragraph (a) thereof is 5 repealed and the following substituted therefor:

Newspapers  
and  
periodicals.

“(2) Subject to subsection (3) and section 12, the postage rates for newspapers and periodicals referred to in subsection (1) are”

(2) All that portion of paragraph (d) of subsection (2) 10 of section 11 of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

Semi-  
monthly,  
monthly or  
quarterly.

“(d) for those published less frequently than once a week but not less frequently than quarterly,”

(3) Paragraph (e) of subsection (2) of section 11 of the 15 said Act is repealed.

(4) Subsections (3) and (4) of section 11 of the said Act are repealed and the following substituted therefor:

Religion,  
science,  
agriculture,  
fisheries,  
literature  
or arts.

“(3) Any newspaper or periodical referred to in this section, other than one referred to in paragraph (f) of 20 subsection (2), that is devoted to religion, the sciences, agriculture or the fisheries, or that is devoted to social or literary criticism or reviews of literature or the arts or is an academic or scholarly journal, is subject to postage at the rate of one and one-half cents for each pound weight 25 or fraction thereof, subject to the exception that five thousand copies per issue of any such newspaper or periodical may be transmitted by mail free of postage.”



## EXPLANATORY NOTES.

The purpose of this Bill is to implement certain recommendations of the Royal Commission on Publications by repealing local delivery rates on second class mail, and by extending to certain cultural publications the privileges now granted to newspapers and periodicals devoted to religion, the sciences or agriculture. The latter amendment would permit such publications to be transmitted by mail at the rate of one and one-half cents per pound, while extending to all such publications the privilege of free transmission by mail anywhere in Canada for the first five thousand copies per issue. The amendment would also apply to publications devoted to the fisheries.

*Clause 1:* (1) The portion of subsection (2) being amended at present reads as follows:

“(2) Subject to subsections (3) and (4) and to section 12, the postage rates for newspapers and periodicals referred to in subsection (1) are”

(2) and (3) Paragraphs (d) and (e) of subsection (2) at present read as follows:

“(d) for those published less frequently than once a week but not less frequently than *once a month*,

(i) with a circulation of ten thousand or more copies per issue, one and three-quarter cents for each pound weight or fraction thereof, and

(ii) with a circulation of less than ten thousand copies per issue, one and one-half cents for each pound weight or fraction thereof,

subject to the exception that two thousand five hundred copies per issue may be transmitted by mail free of postage within a distance of forty miles from its known place of publication in the case of a newspaper or periodical published in a city, town or village with a population of not more than ten thousand persons;

(e) for those published less frequently than once a month but not less frequently than quarterly, two cents for each pound weight or fraction thereof; and”

(4) Subsection (3) at present reads as follows:

“(3) *Subject to subsection (4)*, any newspaper or periodical referred to in this section, other than one referred to in paragraph (e) or (f) of subsection (2) or the copies per issue of those that may be transmitted free of postage under paragraph (c) or (d) of subsection (2), that is devoted to religion, the sciences or agriculture is subject to postage at the rate of one and one-half cents for each pound weight or fraction thereof.”

Subsection (4), which would be repealed, reads as follows:

“(4) All copies of newspapers and periodicals referred to in this section, other than those referred to in paragraph (f) of subsection (2), that are addressed for delivery within the postal area of publication where there is letter carrier delivery service, are subject to postage at the rate of one cent for the first two ounces or fraction thereof and one cent for the next two ounces or fraction thereof and one cent for each additional four ounces or fraction thereof to each separate address.”



2. Subsection (1) of section 12 of the said Act is repealed and the following substituted therefor:

Specimens.

"12. (1) Specimen copies of newspapers or periodicals referred to in paragraphs (a) to (e) of subsection (2) of section 11 are liable to postage at the rate of four cents for each pound weight or fraction thereof within the limits prescribed by the Postmaster General." 5

Clause 2: Subsection (1) of section 12 at present reads as follows:

"12. (1) Specimen copies of newspapers or periodicals referred to in paragraphs (a) to (e) of subsection (2) of section 11, with the exception of those mentioned in subsection (4) of that section, are liable to postage at the rate of four cents for each pound weight or fraction thereof within the limits prescribed by the Postmaster General."

THE HOUSE OF COMMONS OF CANADA

BILL C-6

AN ACT TO AMEND THE NEWSSTAMP ACT  
1910

First Reading October 1, 1910

The Minister of Finance

PRINTED BY THE KING'S PRINTER  
OTTAWA, 1910





**C-6.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-6.**

An Act to repeal The Newfoundland Savings  
Bank Act, 1939.

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First Reading, October 1, 1962.

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**THE MINISTER OF FINANCE.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962



1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-6.**

An Act to repeal The Newfoundland Savings Bank Act, 1939.

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

Repeal of the Newfoundland Savings Bank Acts.

**1.** *The Newfoundland Savings Bank Act, 1939, No. 53 of the Statutes of Newfoundland, 1939, and The Newfoundland Savings Bank Act, Chapter 252 of the Revised Statutes of Newfoundland, 1952, and all amendments thereto and all orders, rules and regulations made thereunder are repealed.* 5

Disposal of surplus assets.

**2.** The surplus assets of the Newfoundland Savings Bank remaining after the disposal of its banking business to the Bank of Montreal pursuant to an Agreement dated the 30th day of March, 1962, between Her Majesty in right of Newfoundland, the Newfoundland Savings Bank and the Bank of Montreal, are hereby vested in Her Majesty in right of Newfoundland. 10 15

Coming into force.

**3.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

#### EXPLANATORY NOTE.

By Agreement dated the 30th of March, 1962, between the Government of Newfoundland, the Newfoundland Savings Bank, and the Bank of Montreal, the latter acquired all the active deposit accounts, and the real and personal property, of the Newfoundland Savings Bank.

The Newfoundland Savings Bank was created in 1834 by the Government of Newfoundland. It is presently constituted under *The Newfoundland Savings Bank Act, 1939*, which appears in the Revised Statutes of Newfoundland, 1952, as Chapter 252 thereof. Under that Act the Province of Newfoundland is liable for all moneys deposited in the Newfoundland Savings Bank and for the interest thereon. A general reserve fund of the Newfoundland Savings Bank was created from the profits of the Bank and any amount in that fund in excess of 20% of the deposits in the Bank was required to be paid into the Newfoundland Consolidated Revenue Fund.

The subject of savings banks is within the legislative jurisdiction of Parliament. It is now desired to repeal *The Newfoundland Savings Bank Act, 1939*, and to transfer the remaining assets to the Province of Newfoundland.

EXPLANATORY NOTE

By Agreement dated the 29th of March 1962 between the Government of Newfoundland, the Newfoundland Savings Bank, and the Bank of Montreal, the latter acquired all the assets and liabilities, and the real and personal property, of the Newfoundland Savings Bank.

The Newfoundland Savings Bank was created in 1854 by the Government of Newfoundland. It is hereby re-constituted under the name of the Bank of Montreal, which appears in the first section of the Statute of 1962 as Chapter 253 of the Statute of Newfoundland. All the property of Newfoundland Savings Bank and for the name thereof, a general reserve fund of the Newfoundland Savings Bank was assigned to the Bank of Montreal, and any amount in that fund in excess of 10% of the deposits of the Bank was required to be paid into the Newfoundland Consolidated

of Revenue Fund.

The subject of a review report is to be the legislative provisions of the Statute of 1962, and to be reported to the House of Assembly of Newfoundland.



**C-7.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-7.**

An Act to amend the Bankruptcy Act  
(Wage Earners' Assignments).

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First Reading, October 1, 1962.

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Mr. ORLIKOW.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-7.**

An Act to amend the Bankruptcy Act  
(Wage Earners' Assignments).

R.S., c. 14.

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

Part IIA  
added.

**1.** *The Bankruptcy Act* is amended by adding thereto, immediately after section 26 thereof, the following headings and sections: 5

"PART IIA.

WAGE EARNERS' ASSIGNMENTS.

Application.

**26A.** The provisions of this Part shall apply exclusively to proceedings under this Part; and every other provision of this Act shall apply to proceedings under this Part *mutatis mutandis* insofar as it is not inapplicable to or inconsistent or in conflict with such proceedings. 10

Proceedings  
on assign-  
ment by wage  
earner.

**26B.** (1) Where an insolvent person who works for wages, salary, commission or hire and who does not on his own account carry on business (hereafter in this Part referred to as a "wage earner") has filed an assignment 15

Trustee.

(a) the official receiver shall appoint a responsible person residing in the locality of the wage earner to act in the matter of such assignment; a person so appointed for this purpose has, if he is not a licensed trustee, all the powers of a licensed trustee; 20

Proposal.

(b) the wage earner shall make a proposal that (i) shall include terms dealing with unsecured debts generally; 25



## EXPLANATORY NOTES.

The purpose of this Bill is to adjust the procedure of the *Bankruptcy Act* to cover the case—increasingly common—of a wage earner who has incurred financial obligations immediately exceeding his salary income and his assets; yet who can, under budgetary supervision and with a time extension, reimburse his creditors one hundred per cent—exclusive of any excess of unconscionable lending rates. Although the Act presently permits a wage earner to make an assignment, it fails of a solution fair to wage earner and creditor because the procedure contemplates existing assets out of which the creditors may be partially but quickly satisfied. Thus, where a wage earner who has few, if any, assets beyond an earning capacity, attempts to assign:

- (1) the assignment may be cancelled because no licensed trustee will act, *S. 26(5)*;
- (2) a court may refuse an assignment, *Dumont v. Perras (1957)*, 36 C.B.R. 172 (Que.).
- (3) the court, accepting the assignment, may refuse a discharge, *Jones v. Boutillier, (1932) 13 C.B.R. 448 (N.B.)*.

The existing procedure succours the unscrupulous wage earner, traps the desperate wage earner, benefits the unconscionable creditor, and deprives the unsecured creditor. The method is unsatisfactory to the average wage earning debtor who needs relief and to his average creditor. To avoid executions and repossessions and to attempt to meet his credit debt instalments, such a wage earner must charge still more of his future wages against more loans while his bargaining position on finance rates progressively worsens.

The remedy proposed is to grant the wage earner an extension of time up to three years—longer in the court's discretion—at the price and discipline of budgetary control of the wage earner's income during that period and the payment of his debts one hundred cents on the dollar.

*Clause 1: 26A.* Restricts the provisions of this Part to the wage earner's type of assignment exclusively and applies the applicable provisions of the rest of the Act to a wage earner's assignment.

**26B.** (1) Provides that a trustee may be a responsible person who is not a licensed trustee; and provides for the wage earner's proposal to his creditors;



- (ii) may include terms dealing with secured debts severally;
- (iii) may provide for priority of payment during the life of the proposal as between the secured and unsecured debts; 5
- (iv) shall include terms for the submission of future wages, salary, commissions, hire or other income of the wage earner to the control of the trustee;
- (v) shall provide that the trustee may from 10 time to time during the life of the proposal increase or reduce the amount of any of the instalment payments provided by the proposal or extend or shorten the time for any such payments where it appears, 15 after hearing upon such notice as the trustee may order, that the circumstances of the wage earner so warrant or require;
- (vi) may provide for the constitution and powers of a committee of the creditors; 20
- (vii) may include terms for relief in respect of an executory contract; and
- (viii) may include other terms not inconsistent with the purposes of this Part.

Unconscion-  
able  
transactions.

(2) The trustee may apply to the court for 25 relief in respect of any executory contract; and, after hearing upon notice, where the court finds that, having regard to the risk and to all the circumstances, the financial obligations under the contract upon the wage earner are excessive or that the obligations generally 30 are harsh and unconscionable, the court may

Power of  
court.

- (i) re-open the transaction or contract and take an account between the wage earner and the creditor or his assignee;
- (ii) notwithstanding any statement or settle- 35 ment of account or any agreement purporting to close previous dealings and create a new obligation, re-open any transaction or contract already executed and relieve the wage earner from payment 40 of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of a loan, or from the consequence of any other obligation performed by the wage earner under 45 such transaction or contract already executed;
- (iii) order the creditor or his assignee to repay such excess if the excess has been paid or allowed on account by the wage earner 50 or to make restitution to the wage earner

in respect of the performance by the wage earner of such other obligation;

(iv) we made either wholly or in part or revised or altered any security given or agreement made in respect of any other obligation;

performed or to be performed by the wage earner, under a transaction or contract;

and if the creditor or his assignee has parted with the security, order that he indemnify the wage earner; and

(v) order such further and other remedy by way of relief as the court may deem just and equitable

and equitable

of the wage earner.

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shall have priority power over the wage earner and his property for all purposes and the implementation of the proposal and may make such orders as are necessary to the purpose and implementation of the proposal including orders directed to any employer of the wage earner.

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(2) Provides for relief against unconscionable transactions. Prior to his assignment such relief is available to the wage earner in the ordinary courts. This provision allows the bankruptcy court to deal with unconscionable transactions in the course of handling the wage earner's affairs.

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in respect of the performance by the wage earner of such other obligation;

- (iv) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any other obligation, performed or to be performed by the wage earner, under a transaction or contract; and, if the creditor or his assignee has parted with the security, order him to indemnify the wage earner; and
- (v) order such further and other remedy by way of relief as the court may deem just and equitable.

Court has supervisory powers.

**26c.** During the life of the proposal, the court shall have supervisory powers over the wage earner and his property for all purposes and the implementation of the proposal and may make such orders as are necessary to the purposes and implementation of the proposal including orders directed to any employer of the wage earner.

Discharge on implementation.

**26d.** (1) Where the wage earner has performed his obligations under the terms of the proposal, the trustee shall thereupon apply to the court for an appointment for a hearing of the application for the wage earner's discharge.

Where proposal not implemented after three years.

(2) Where three years have elapsed after the approval of the proposal and the wage earner has failed to complete the performance of his obligations thereunder, the court may, upon application by the wage earner and after hearing upon notice, if satisfied that the wage earner so failed due to circumstances for which he could not justly be held accountable, either grant or refuse an absolute order of discharge or suspend the operation of the order for a specified time, or grant an order of discharge subject to any terms or conditions with respect to any earnings or income that may afterwards become due to the wage earner or with respect to his after-acquired property and may make such other provision, by way of injunction or otherwise, as may be just and equitable.

Trustee's remuneration.

**26e.** The remuneration of the trustee shall be a sum not exceeding five per cent calculated upon, and payable from time to time out of, the payments made by the wage earner under the proposal."

Coming into force.

**2.** This Act shall come into force on the 1st day of July 1963.



**26c.** Provides that the court shall have supervisory control over the wage earner and his property.

**26d.** Provides for the discharge of the wage earner. If, at the end of 3 years, he has not fully paid his creditors due to misfortune, the court may discharge him fully or on terms or extend him additional time.

**26e.** The trustee's remuneration is a maximum 5% of the wage earner's salary.

*Clause 2:* Provides a commencement date.

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C-8.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

BILL C-8.

An Act respecting the Jurisdiction of the Exchequer  
Court of Canada.

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First Reading, October 1, 1962.

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Mr. PETERS.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27254-2



1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-8.

An Act respecting the Jurisdiction of the Exchequer Court of Canada.

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 *Exchequer Court Divorce Jurisdiction Act*. 5
- Jurisdiction of Exchequer Court.           **2.**       The Exchequer Court of Canada (hereinafter referred to as "the Court") shall have jurisdiction to entertain an action for dissolution of marriage or for annulment of marriage instituted by a person domiciled in the province of Quebec or Newfoundland and shall have power and authority to grant a divorce *a vinculo matrimonii* to such a person on the ground that the defendant has since the celebration of his or her marriage been guilty of adultery or to grant a decree of annulment of marriage, as the case may be. 10 15
- Conditions upon which decree be pronounced.       **3.**       In an action for dissolution of marriage, if the Court is satisfied by the evidence that the case of the plaintiff has been proved, and does not find that the plaintiff has been in any manner accessory to or has connived at the adultery of the defendant, or that the plaintiff has condoned the adultery complained of, or that the action was commenced and is proceeded with in collusion with the defendant or the co-respondent, then the Court may give judgment declaring such marriage to be dissolved: Provided always that the Court shall not be bound to give such judgment if it finds that the plaintiff since his marriage to the defendant has been guilty of adultery, or if the plaintiff has, in the opinion of the Court, been guilty of unreasonable delay in commencing or proceeding with the action or has been guilty 20 25
- Proviso.

### EXPLANATORY NOTES.

There are at present courts for divorce and matrimonial causes in all the provinces except Quebec and Newfoundland. In these provinces, a plaintiff can obtain dissolution of marriage or annulment of marriage only by a private Act of the Federal Parliament. As the number of divorce cases has considerably increased in the last ten years, this procedure for that and various other reasons is becoming more and more objectionable. The purpose of this Bill is therefore to provide that the Exchequer Court of Canada will in future have jurisdiction in divorce and nullity in the case of actions originating from Quebec and Newfoundland. The jurisdiction as to alimony, care of the children and other matrimonial causes will remain in the provincial courts of those two provinces.

This Bill does not change the grounds for divorce or nullity. It does not establish divorce courts in Quebec or Newfoundland. It does not make available to persons residing in Quebec or Newfoundland anything not now available to them. It merely transfers the hearing of divorce and nullity petitions, in the case of persons residing in these two provinces, from Parliament to the Exchequer Court of Canada.

The Bill provides further that the said Court shall hear such cases only at Ottawa.



of mental or physical cruelty to the defendant, or has, without just cause, deserted the defendant or separated *a mensa et thoro* from the defendant, before the adultery complained of or has otherwise conducted to the commission of adultery by the defendant.

Jurisdiction to be exercised at Ottawa.

4. The jurisdiction conferred upon the Exchequer Court of Canada by this Act shall be exercised only at the city of Ottawa.

EXPLANATORY NOTES.

These are all present bills for divorce and matrimonial causes in all the provinces except Quebec and Newfoundland. In these provinces a plaintiff can obtain a divorce in the case of adultery or desertion only by a writ from the Federal Government. The number of divorces granted has considerably increased in the last few years. This was due to the fact that various other causes are forbidden there and that of divorce. The purpose of this bill is to provide that the Exchequer Court of Canada will in future have jurisdiction in divorce and matrimonial cases of all provinces except Quebec and Newfoundland. It is intended to be a general law of the country and other matrimonial causes will remain in the provincial courts of those two provinces.

This bill does not change the grounds for divorce or nullity. It does not change the rules in Quebec or Newfoundland. It does not change the rules in respect of evidence in cases of desertion and adultery nor how evidence is taken. It merely transfers the jurisdiction of divorce and nullity to the Exchequer Court of Canada in those two provinces. It is intended to be a general law of the country and other matrimonial causes will remain in the provincial courts of those two provinces.

The bill provides further that the Exchequer Court shall try each case only in Ottawa.

It is intended to be a general law of the country and other matrimonial causes will remain in the provincial courts of those two provinces.



**C-9.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-9.**

An Act to amend the British North America Acts, 1867 to 1960, with respect to the Readjustment of Representation in the House of Commons.

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First reading, October 1, 1962.

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Mr. FISHER.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

BILL C-9.

An Act to amend the British North America Acts, 1867 to 1960, with respect to the Readjustment of Representation in the House of Commons.

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

R.S., c. 304.

1. The first eight lines of subsection (1) of section fifty-one of the *British North America Act, 1867*, as enacted by the *British North America Act, 1952*, being chapter 304 of the Revised Statutes of Canada, 1952, are repealed and the following substituted therefor: 5

Readjustment of representation in Commons.

“51. (1) Subject as hereinafter provided, the number of members of the House of Commons shall be two hundred and sixty-three and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, independent of the Parliament of Canada in such manner, and from such time as the said Parliament from time to time provides, subject and according to the following rules:” 10 15

Short title and citation.

2. This Act may be cited as the *British North America Act, 1962*, and the *British North America Acts, 1867 to 1960*, and this Act may be cited together as the *British North America Acts, 1867 to 1962*. 20

EXPLANATORY NOTES.

The purpose of this Bill is to introduce in subsection (1) of section 51 of the B.N.A. Act, 1867 the underlined words "independent of the Parliament of Canada" so that the readjustment of the representation in the Commons be done in future by an independent body rather than by a Committee of the House of Commons.



ADAMANT TO HOLD ON TO SOVEREIGNTY

BILL C-9

Bill C-9, the Canada Act, 1982, is the final stage of the process of patriating the Canadian Constitution from the United Kingdom to Canada.

The purpose of this Bill is to introduce in amended form the Constitution Act, 1982, which will provide for the patriation of the Constitution of Canada, and for the amendment of the Constitution in the future by an independent body rather than by the Queen in Council.

The Bill also provides for the establishment of a Council of Ministers of the Crown, and for the appointment of the Governor General and the Prime Minister.

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**C-10.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-10.**

**An Act to provide for Minimum Wages for Employees in  
Federal Works, Undertakings and Businesses.**

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First Reading, October 1, 1962.

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Mr. KNOWLES.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962





EXPLANATORY NOTE.

The purpose of this bill is to establish a minimum rate of wages with respect to all employees in Canada who come under federal labour jurisdiction. This bill provides that such minimum rate of wages shall be \$1.25 per hour. The bill also provides that its terms do not affect any employee whose rate of wages is higher than the minimum established by this legislation. However, any rate of wages less favourable to employees than \$1.25 per hour is superseded by this bill.

"Part-time employee."	(f) "part-time employee" means any employee whose employer requires or permits such employee to work or to be at his disposal for 32 hours or less in any week;	
"Rate of wages."	(g) "rate of wages" means the basis of calculation of wages;	5
"Wage" or "wages."	(h) "wage" or "wages" means any compensation for labour or services paid to or retained by, or partly paid to and partly retained by, an employee, whether measured by time, piece, commission or by any other method whatsoever or by any combination of such methods;	10
"Week."	(i) "week" means the period between midnight on Saturday and midnight on the immediately following Saturday.	15

Application of Act.

<b>3.</b>	This Act applies to and in respect of employment upon or in connection with any work, undertaking or business that is within the legislative authority of the Parliament of Canada, including, but not so as to restrict the generality of the foregoing,	20
(a)	works, undertakings, or businesses operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;	25
(b)	railways, canals, telegraphs and other works and undertakings connecting a province with any other or others of the provinces, or extending beyond the limits of a province;	
(c)	lines of steam and other ships connecting a province with any other or others of the provinces or extending beyond the limits of a province;	30
(d)	ferries between any province and any other province or between any province and any country other than Canada;	35
(e)	aerodromes, aircraft and lines of air transportation;	
(f)	radio broadcasting stations;	
(g)	banks and banking;	40
(h)	such works or undertakings as, although wholly situate within a province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces; and	45







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

and to and in respect of,

(j) all employees employed by any employer 5 engaged in any such work, undertaking or business.

Minimum wages for employees.

4. (1) Every full-time employee shall be paid by his employer, in respect of the time such employee is required or permitted by his employer to work or to be at 10 his disposal, wages which are not less than wages calculated at the rate of \$1.25 per hour.

(2) Every part-time employee shall be paid by his employer, in respect of the time such employee is required or permitted by his employer to work or to be at his disposal, 15 wages which are not less than wages calculated at the rate set out in subsection (1) hereof, provided however that the Governor in Council may by regulation fix, in the case of every such part-time employee, a rate higher than that set out in subsection (1) hereof, and any rate thus fixed shall 20 have the same force and effect as if herein enacted.

Items to be supplied without cost to employees.

5. Where an employer requires any employee to use any special wearing apparel, tools or equipment he shall supply the same and provide for the laundering of the wearing apparel and the maintenance and repair of the tools and 25 equipment without costs to the employee.

Value of and maximum deductions for board or lodging supplied by employer.

6. Where board or lodging are supplied by an employer to an employee and are accepted by the employee the value of such board or lodging for the purpose of calculating the minimum wages the employee shall be paid under 30 this Act shall not exceed \$.40 per meal for board and \$.50 per day for lodging and no employer shall deduct from the wages of such employee any sum for board or lodging in excess of the values fixed herein.

Effect of Act on other Acts, agreements, contracts and customs.

7. (1) Nothing in this Act affects any provision 35 in any Act, agreement or contract of service or any custom which ensures to employees more favourable conditions than those provided by this Act.

(2) Any provision in any Act, agreement or contract of service or any custom which is less favourable 40 to employees than the provisions of this Act is superseded by this Act.





Agreements  
not to  
deprive  
employees  
of benefits  
of Act.

**8.** (1) No agreement, whether heretofore or hereafter entered into, shall have any force or effect in so far as it deprives any employee of any right, power, privilege or other benefit provided by this Act.

(2) No employer shall require an employee to return to him, nor shall he accept from an employee the whole or any part of any sum which he paid to that employee under the provisions of this Act. 5

Discrimination by employer prohibited.

**9.** No employer shall discharge or threaten to discharge or in any way discriminate against any employee for: 10

- (a) testifying or consenting to testify in any investigation or proceeding relative to the enforcement of this Act, or
- (b) giving any information to the Minister or his duly authorized representative regarding any matter governed by this Act. 15

Posting of abstracts.

**10.** Every employer shall post and keep posted in a conspicuous position in the place or places where his employees are employed so that the same may readily be seen and read by all employees any abstract or abstracts of this Act as may be prescribed by the Minister. 20

Records.

**11.** (1) Every employer shall at all times keep readily available for inspection by the Minister or his duly authorized representative in each place of employment operated by him in the province or at such other place or places as are approved by the Minister, true, correct and up to date records showing in respect of each employee employed in or from the place of employment during the preceding two years: 25

- (a) the name and residential address; 30
- (b) total wages paid for each week or other period;
- (c) the hours at which the time he was required or permitted to work or to be at the disposal of the employer began and ended in each day and the hours at which any interval or intervals for meals allowed in each day began and ended; 35
- (d) the total number of hours worked each day and each week;
- (e) each deduction made from wages for any purpose whatever and the purpose for which each deduction was made. 40

- (2) The records required under this section:
  - (a) shall be maintained by the employer for a period of not less than twenty-four months from the date the record was made; and 45





- (b) may be incorporated in any wage record which the employer is required to keep under any other Act of Parliament provided that the Minister may require that the records of any employer be kept in such form as he may prescribe whereupon such records shall be kept in the prescribed form. 5

Power to enter premises, inspect records and obtain information.

**12.** (1) The Minister or his duly authorized representative may at any reasonable time:

- (a) enter the premises of any employer and any premises where he has reasonable cause to believe that any employee is employed therein at the time of entry; 10
- (b) inspect or take extracts from any books, documents, statements, payrolls, papers or other records of an employer which in any way relate to wages to which any employee is entitled, or which he has been paid; 15
- (c) require any employer to verify, within a specified time, the entries in his records by statutory declaration or in such other manner as the Minister or his duly authorized representative may require; and 20
- (d) require any person to furnish, within a specified time, in a form acceptable to the Minister or his duly authorized representative, such information as the Minister or his duly authorized representative deems necessary to ascertain whether the provisions of this Act are being or have been complied with. 25 30

(2) Any person authorized pursuant to subsection (1) may administer all oaths and take all affidavits and statutory declarations required by him under the provisions of that subsection.

Money paid under Act deemed to be salary or wages.

**13.** All money paid by an employer to an employee under this Act and any money ordered to be paid by an employer under subsection (2) of section 15 shall be deemed to be salary or wages earned by the employee, and shall be subject accordingly to all deductions which the employer is required to make from salary or wages under any Act of Parliament. 35 40

Time limit for prosecutions.

**14.** Prosecutions for offences created by this Act shall be instituted within one year after the commission of the alleged offence.





Penalties.

- 15.** (1) Every person who:
- (a) fails to comply with any of the provisions of this Act; or
  - (b) with intent to deceive, makes any false or misleading statement in any communication, whether in writing or otherwise, to the Minister or his duly authorized representative; or
  - (c) interferes with or obstructs the Minister or his duly authorized representative in the exercise of any power conferred upon him by this Act;

is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars for the first offence and in default of payment to imprisonment for not more than thirty days, and for each subsequent offence, to a fine not exceeding four hundred dollars and in default of payment to imprisonment for not more than ninety days.

(2) If an employer is convicted of failure to pay to any employee any wages which he is required to pay under the provisions of this Act, the Court shall, in addition to the fine imposed, order the employer to pay to it forthwith an amount equivalent to that which the employer failed to pay to the employee and the court shall pay the said amount to the employee forthwith upon receipt of it.

(3) If the employer fails to pay any money ordered to be paid under subsection (2), the court may order that the employer be imprisoned for a further term of not less than thirty days nor more than ninety days.

Power of representative of Minister to determine amount of wages not paid.

**16.** (1) If a duly authorized representative of the Minister finds that an employer has failed to pay to any employee any wages which the employer is required to pay under the provisions of this Act, the representative may determine the amount which the employer failed to pay to the employee and if the amount is agreed to in writing by the employer and the employee, the employer shall within two days, pay it to the Deputy Minister who shall pay it to the employee forthwith upon receipt of it.

(2) An employer who pays such amount to the Deputy Minister as required by subsection (1) shall not be liable to prosecution for failure to pay to the employee concerned any wages required to be paid under the provisions of this Act.

Records of Deputy Minister.

**17.** (1) The Deputy Minister shall keep a record of all money paid to him by employers and paid by him to employees under section 17.





(2) Where money received by the Deputy Minister on behalf of an employee has not been paid to the employee concerned by reason of the fact that the Deputy Minister has been unable to ascertain the whereabouts of the employee, and the employee does not claim it within a period of two years from the date of receipt thereof by the Deputy Minister, such money shall, upon the order of the Deputy Minister, become the property of the Crown in right of Canada. 5

Regulations.

**18.** (1) The Governor in Council may make such 10 regulations, not inconsistent with this Act, as are necessary to carry out the provisions of this Act according to their true intent.

(2) All regulations shall take effect upon such 15 date as may be designated in the regulations, and shall have the same force and effect as if herein enacted.

Coming into force.

**19.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.



**C-11.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-11.**

An Act to amend the Trans-Canada Highway Act  
(Canada Highways).

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First Reading, October 1, 1962.

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Mr. HOWARD.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-11.**

An Act to amend the Trans-Canada Highway Act  
(Canada Highways).

R.S., c. 269;  
1956, c. 12;  
1959, c. 10;  
1960, c. 22.

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

**1.** The title of chapter 269 of the Revised Statutes of Canada, 1952, "*An Act to encourage and to assist in the construction of a Trans-Canada Highway*", is repealed and the following substituted therefor: 5

Title.

"*An Act to encourage and to assist in the construction of a Trans-Canada Highway and other highways in Canada.*" 10

**2.** Section 1 of the said Act is repealed and the following substituted therefor:

Short title.

"**1.** This Act may be cited as the *Canada Highways Act.*"

**3.** Subsection 1 of section 3 of the said Act is 15 repealed and the following substituted therefor:

Agreements  
with  
provinces.

"**3.** (1) With the approval of the Governor in Council the Minister may enter into an agreement with any province providing for the payment by Canada to the province of contributions in respect of the cost 20 to the province of the construction within the province of a highway as part of a trans-Canada highway and other highways."

**4.** Section 5 of the said Act is repealed and the following substituted therefor: 25

Contributions  
in respect of  
highways.

"**5.** Where a province has constructed or improved a highway that in the opinion of the Governor in Council may properly be included as a highway under this Act, the Governor in Council may authorize the



## EXPLANATORY NOTE.

This Bill enlarges the *Trans-Canada Highway Act* to the scope of *The Canada Highways Act*, 1919 Acts, c. 54; that is, to allow for the government of Canada financially to participate in the construction or improvement of any highway within a province, including a so-called Second Trans-Canada Highway.

The provinces were not able to avail themselves of that 1919 Act to any extent because of the financial limitations. The federal contribution was 40% of cost with an overall ceiling that was further limited by a special ceiling for each province. The proposed amendment retains the present overall financial ceiling set by Parliament and the discretionary approval within that ceiling by the Governor in Council. The amendment adopts the financial formula used in construction of the Trans-Canada Highway and applies it to the construction and improvement of other highways.

A federal-provincial agreement under section 3 will continue to cover planned highway and Trans-Canada highway construction; however, under section 5, a province may apply for federal contributions to constructed or improved highways. This provision applies the adaptability to the different highway needs of the provinces that was the object of the 1919 Act with the financial formula of the present Act as an incentive.

*Clauses 1 and 2:* new long and short titles to express purpose of Act as varied by the amendment.

*Clause 3:* The present section 3(1) is as follows:

"3. (1) With the approval of the Governor in Council the Minister may enter into an agreement with any province providing for the payment by Canada to the province of contributions in respect of the cost to the province of the construction of a highway within the province as part of a trans-Canada highway."

*Clause 4:* The present section 5 is as follows:

"5. (1) Where a province has prior to the 10th day of December, 1949, constructed a highway that in the opinion of the Governor in Council may properly be included as part of a trans-Canada highway, the Governor in Council may authorize the Minister of Finance to pay to the province out of unappropriated moneys in the Consolidated Revenue Fund a contribution in respect of the cost to the province of the construction of the highway in such amount and payable at such times and in such manner as the Governor in Council may determine, but not exceeding fifty per cent of the cost of construction as determined by the Governor in Council.

"(2) No contribution or payment shall be made under this section in respect of any highway unless, prior to the 9th day of December, 1956, in the opinion of the Minister, it meets the standards and specifications prescribed by an agreement made with the province under section 3."



Minister of Finance to pay to the province out of un-appropriated moneys in the Consolidated Revenue Fund a contribution in respect of the cost to the province of the construction or improvement, as the case may be, of the highway in such amount and payable at such times and in such manner as the Governor in Council may determine in accordance with and subject to the provisions of section 4." 5

Repeal.  
Acts, 1919,  
c. 54;  
1923, c. 4;  
1925, c. 4.

5. *The Canada Highways Act*, chapter 54 of the statutes of Canada, 1919, *An Act to extend the period of* 10  
*The Canada Highways Act*, chapter 4 of the statutes of Canada, 1923, and *The Canada Highways Extension Act, 1925*, are repealed.

The above subsection (2) is not re-enacted by this Bill as being unnecessary.

THE HOUSE OF COMMONS OF CANADA

Clause 5: Repeals *The Canada Highways Act* and its two extending Acts as being no longer necessary.

BILL C-13

An Act to provide in Canada for the Distribution and the Amendment of Marriage

May 1952, October 1, 1952

Mr. P. J. ...

Printed and Published by the Queen's Printer, Ottawa, Ontario, Canada





## C-12.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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### THE HOUSE OF COMMONS OF CANADA.

## BILL C-12.

An Act to provide in Canada for the Dissolution  
and the Annulment of Marriage.

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First Reading, October 1, 1962.

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Mr. PETERS.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-12.**

An Act to provide in Canada for the Dissolution  
and the Annulment of Marriage.

**H**ER 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 Divorce Act*. 5
- Application.**       **2.**       The provisions of this Act as to the dissolution of marriage and as to the annulment of marriage shall be in force in each of those provinces of Canada in which there is a court having jurisdiction to grant a divorce *a vinculo matrimonii*. 10
- Courts having jurisdiction.**   **3.**       In each province to which this Act applies, the court having jurisdiction to grant a divorce *a vinculo matrimonii* shall have jurisdiction for all purposes of this Act.
- Domicile.**       **4.**       (1) For the purposes of this Act, a party to a marriage who is domiciled in any province of Canada shall be deemed to be domiciled in every other province of Canada. 15
- (2) For the purposes of this Act, where a husband has been domiciled in a province or provinces 20 during a period of the marriage but is not so domiciled at the commencement of the hearing of a petition by a wife, the wife shall be deemed to be domiciled in a province if, as an unmarried woman, she would be so domiciled and, in such case, the domicile of the wife shall be the domicile of 25 both parties to the marriage.



## EXPLANATORY NOTES.

The purpose of this Bill is to provide a law for the dissolution and annulment of marriage that is common to all persons domiciled in Canada; that is capable of administration by the courts with propriety and justice; and that is founded, in each case, upon a judicial judgment that a marriage relationship is repudiated or does not exist—but without providing means to use the law to escape the marriage relationship.

The Bill proposes to have the law administered by the existing provincial courts under their own rules of procedure. Present provincial laws respecting alimony, guardianship and maintenance of children would continue. The present provincial matrimonial laws would also continue. Parliament would retain its jurisdiction over divorce and nullity of marriage.

*Clause 2:* This clause applies the divorce and nullity provisions to all provinces having a divorce court. Quebec and Newfoundland do not have such courts.

*Clause 3:* These provincial courts apply the Act.

*Clause 4:* At present a court in a province may only hear a divorce action if the husband has his domicile in that province except in certain cases covered by the *Divorce Jurisdiction Act*. *Subclause (1)* gives a court jurisdiction to hear a divorce action if the parties are domiciled in any one of the ten provinces. Thus, for example, a wife in Quebec may petition in Ontario although her husband has changed his domicile to British Columbia. *Subclause (2)* provides for the case where the husband has acquired a domicile outside Canada since the marriage while the wife remains in Canada; under these circumstances, she may acquire a provincial domicile of her own and a court may hear her petition. This provision is wider than the present right given by the *Divorce Jurisdiction Act*.



Definitions.  
 "Petition."  
 "Petitioner."  
 "Proceed-  
 ings."  
 "Respond-  
 ent."

5. In this Act,  
 "petition" includes a cross-petition;  
 "petitioner" includes a cross-petitioner;  
 "proceedings" includes cross-proceedings; and  
 "respondent" includes a petitioner against whom there is a cross-petition. 5

Grounds for  
 dissolution  
 of marriage.

6. A court having jurisdiction under this Act may, upon petition by one of the parties to the marriage, decree dissolution of the marriage upon one or more of the following grounds: 10
- (a) that, since the marriage, the other party to the marriage has committed adultery;
  - (b) that, since the marriage, the other party to the marriage has, without just cause or excuse, wilfully deserted the petitioner for a period of 15 not less than two years;
  - (c) that the other party to the marriage has wilfully and persistently refused to consummate the marriage, if the court is satisfied that, as at the commencement of the hearing of the 20 petition, the marriage had not been consummated;
  - (d) that, since the marriage, the other party to the marriage has, during a period of not less than one year, habitually been guilty of 25 cruelty to the petitioner;
  - (e) that, since the marriage, the other party to the marriage has committed rape, sodomy, or bestiality;
  - (f) that, since the marriage, the other party to 30 the marriage has, for a period of not less than two years
    - (i) been a habitual drunkard; or
    - (ii) habitually been intoxicated by reason of taking or using to excess any sedative, 35 narcotic, or stimulating drug or preparation, or has, for a part or parts of such a period, been a habitual drunkard and has, for the other part or parts of the period, habitually been so 40 intoxicated;
  - (g) that, since the marriage, the petitioner's husband has, within a period not exceeding five years
    - (i) suffered frequent convictions for crime in 45 respect of which he has been sentenced in the aggregate to imprisonment for not less than three years; and

*Clause 6:* This clause sets out the grounds for divorce. These grounds are qualified by *Clause 7* which provides that, except in certain cases, no divorce action can be brought sooner than three years after marriage. They are also qualified by *Clause 9* which provides for a reconciliation procedure. Essentially, the grounds hereby provided for divorce are adultery, desertion and cruelty; they are so defined as to prove the repudiation or non-existence of the marriage relationship. *Subclause (a)* provides for adultery; *subclauses (b), (c), (f), (g), (h), (j)* and *(k)* are desertion in one form or another; *(l)* is involuntary desertion; *(d)* and *(i)* are cruelty, either habitual or dangerous to the life of the other party; *(e)* is a variety of desertion that repudiates the marriage relationship through perversion or depravity; *(m)* is a general form of physical desertion that may be mutual or by one party but is limited to a minimum five year period; and *(n)* provides for desertion that is unexplainable except by presumption of the death of the missing partner.



- (ii) habitually left his wife without reasonable means of support;
- (h) that, since the marriage, the other party to the marriage has been in prison for a period of not less than three years after conviction for an offence punishable by death or imprisonment for life or for a period of five years or more, and is still in prison at the date of the petition; 5
- (i) that, since the marriage and within a period of one year immediately preceding the date of the filing of the petition, the other party to the marriage has been convicted, on indictment, of
- (i) having attempted to murder or unlawfully to kill the petitioner, 15
- (ii) having committed an offense involving the intentional infliction of grievous bodily harm on the petitioner or the intent to inflict grievous bodily harm on the petitioner; 20
- (j) that a party to the marriage has habitually and wilfully failed, throughout the period of two years immediately preceding the date of the filing of the petition, to pay maintenance to the other party 25
- (i) ordered to be paid under an order of a court in a province, or
- (ii) agreed to be paid under an agreement between the parties to the marriage providing for their separation, 30
- if the court is satisfied that reasonable attempts have been made by the petitioner to enforce the order or agreement under which the maintenance was ordered or agreed to be paid; 35
- (k) that the other party to the marriage has, for a period of not less than one year, failed to comply with a decree of restitution of conjugal rights made by a court in a province; 40
- (l) that the other party to the marriage
- (i) is, at the date of the filing of the petition, of unsound mind and unlikely to recover, and
- (ii) since the marriage and within a period of six years immediately preceding the date of the petition, had been confined for a period of, or for periods aggregating, not less than five years in an institution where persons may be confined for unsoundness 45



of mind is consistent with law; or in some  
than one such institution.

If the court is satisfied that at the commence-  
ment of the hearing of the petition, the other  
party is still confined in such an institution  
and is unlikely to recover;

(w) that the parties to the marriage have separated  
and thereafter have lived separately and apart  
for a continuous period of not less than five  
years immediately preceding the date of the  
filing of the petition, and there is no reasonable  
likelihood of cohabitation being resumed, not-  
withstanding

(i) that the cohabitation was brought to an  
end by the action or conduct of one only of  
the parties, whether constituting desert-  
tion, or not; or

(ii) that there was in existence at any relevant  
time a decree of a court suspending the  
obligation of the parties to the marriage  
to cohabit or an agreement between those  
parties for separation;

(v) that the other party to the marriage has been  
absent from the petitioner for such time and  
in such circumstances as to provide reasonable  
grounds for believing that he or she is dead.

(1) Subject to the special provisions for a  
decree of dissolution of marriage which may be instituted  
within three years after the date of the marriage in certain  
cases of desertion or absence, the following provisions shall apply to the  
dissolution of marriage by way of proceedings for a

(2) Nothing in this section shall be taken to  
require the leave of the court to the institution of proceed-  
ings for a decree of dissolution of marriage on one or more  
of the grounds specified in paragraphs (a), (c), and (v)  
of section six, and on no other ground, or to the institution  
of proceedings for a decree of dissolution of marriage by way  
of cross-proceedings.

(3) The court shall not grant leave under this  
section to institute proceedings, except on the ground that  
it is not just that leave should be granted, if the court is  
satisfied on the evidence that the case is one involving  
exceptional hardship on the part of the other party to the  
marriage.

(4) In determining an application for leave to  
institute proceedings under this section, the court shall have  
regard to the interests of any children of the marriage and  
to the question whether there is any reasonable possibility  
of a reconciliation between the parties before the expiration  
of the period of three years after the date of the marriage.

- of mind in accordance with law, or in more than one such institution, if the court is satisfied that, at the commencement of the hearing of the petition, the other party is still confined in such an institution and is unlikely to recover; 5
- (m) that the parties to the marriage have separated and thereafter have lived separately and part for a continuous period of not less than five years immediately preceding the date of the filing of the petition, and there is no reasonable likelihood of cohabitation being resumed, notwithstanding 10
- (i) that the cohabitation was brought to an end by the action or conduct of one only of the parties, whether constituting desertion, or not, or 15
- (ii) that there was in existence at any relevant time a decree of a court suspending the obligation of the parties to the marriage to cohabit or an agreement between those parties for separation; 20
- (n) that the other party to the marriage has been absent from the petitioner for such time and in such circumstances as to provide reasonable grounds for presuming that he or she is dead. 25

When leave  
required.

7. (1) Subject to this section, proceedings for a decree of dissolution of marriage shall not be instituted within three years after the date of the marriage except by leave of the court. 30
- (2) Nothing in this section shall be taken to require the leave of the court to the institution of proceedings for a decree of dissolution of marriage on one or more of the grounds specified in paragraphs (a), (c), and (e) of section six, and on no other ground, or to the institution of proceedings for a decree of dissolution of marriage by way of cross-proceedings. 35
- (3) The court shall not grant leave under this section to institute proceedings except on the ground that to refuse to grant that leave would impose exceptional hardship on the applicant or that the case is one involving exceptional depravity on the part of the other party to the marriage. 40
- (4) In determining an application for leave to institute proceedings under this section, the court shall have regard to the interests of any children of the marriage and to the question whether there is any reasonable probability of a reconciliation between the parties before the expiration of the period of three years after the date of the marriage. 45



**Clause 7:** This clause provides that, normally, a divorce action cannot be instituted within 3 years after marriage except for adultery, non-consummation, and depravity. Leave can be granted by the court in other cases but only under safeguards.



Grounds of annulment of marriage.

Void marriage.

8. (1) A court may decree nullity of marriage upon the ground that the marriage is void or upon the ground that the marriage is voidable.

(2) A marriage is void where

- (a) either of the parties is, at the time of the marriage, lawfully married to some other person; 5  
or
- (b) the parties are within the prohibited degrees of consanguinity or affinity; or
- (c) the marriage is not a valid marriage under the law of the place where the marriage takes place, by reason of a failure to comply with the requirements of the law of that place with respect to the form of solemnization of marriages; or 10
- (d) the consent of either of the parties is not a real consent because 15
  - (i) it was obtained by duress or fraud; or
  - (ii) that party is mistaken as to the identity of the other party, or as to the nature of the ceremony performed; or 20
  - (iii) that party is mentally incapable of understanding the nature of the marriage contract; or
- (e) either of the parties is not of marriageable age under the law of the place where the marriage takes place. 25

Voidable marriage.

(3) A marriage, not being a marriage that is void, is voidable, where, at the time of the marriage

- (a) either party to the marriage is incapable of consummating the marriage, if the court is 30 satisfied that the incapacity to consummate the marriage also existed at the time when the hearing of the petition commenced and that
  - (i) the incapacity is not curable, or
  - (ii) the respondent refuses to submit to such 35 medical examination as the court considers necessary for the purpose of determining whether the incapacity is curable, or
  - (iii) the respondent refuses to submit to proper treatment for the purpose of curing the 40 incapacity,

except that a decree of nullity of marriage shall not be made on this ground where the court is of opinion that by reason of the petitioner's knowledge of the incapacity at the time of 45 the marriage, or the conduct of the petitioner since the marriage, or the lapse of time, or for any other reason, it would, in the particular circumstances of the case, be harsh and

Clause 8: This clause sets out the grounds for annulment of marriage.

- (a) either party to the marriage is (i) of unsound mind; (ii) a mental defective;
- (b) subject to treatment attacks of insanity or epilepsy;
- (c) either party to the marriage is suffering from a venereal disease in a communicable form; or
- (d) the wife is pregnant by a person other than the husband; except that a decree of nullity of marriage shall not be made by virtue of paragraph (d), (e), or (f) unless the court is satisfied that
- (i) the petitioner was, at the time of the marriage, ignorant of the facts constituting the ground;
- (ii) the petitioner was not later than twelve months after the date of the marriage; and
- (iii) marital intercourse has not taken place since the petitioner discovered the existence of the facts constituting the ground.
- (e) It is the duty of the court in which a matrimonial cause has been instituted to satisfy itself from time to time as to the possibility of a reconciliation of the parties to the marriage (unless the proceedings are of such a nature that it would not be appropriate to do so), and if at any time it appears to the judge constituting the court, either from the nature of the case, the evidence in the proceedings or the attitude of those parties or of either or them, or of counsel, that there is a reasonable possibility of such a reconciliation, the judge may do all or any of the following:
  - (a) adjourn the proceedings to afford those parties an opportunity of becoming reconciled or to enable anything to be done in accordance with either of the next two succeeding paragraphs;
  - (b) with the consent of those parties, interview them in person, with or without counsel, as to the judge thinks proper with a view to effecting a reconciliation;
  - (c) nominate (i) an approved marriage guidance or other appropriate organization or a person with experience or training in marriage counselling or



- oppressive to the respondent, or contrary to the public interest, to make a decree;
- (b) either party to the marriage is
    - (i) of unsound mind;
    - (ii) a mental defective; 5
    - (iii) subject to recurrent attacks of insanity or epilepsy; or
  - (c) either party to the marriage is suffering from a venereal disease in a communicable form; or
  - (d) the wife is pregnant by a person other than the 10 husband; except that a decree of nullity of marriage shall not be made by virtue of paragraph (b), (c), or (d) unless the court is satisfied that
    - (i) the petitioner was, at the time of the 15 marriage, ignorant of the facts constituting the ground;
    - (ii) the petition was filed not later than twelve months after the date of the marriage; and
    - (iii) marital intercourse has not taken place 20 with the consent of the petitioner since the petitioner discovered the existence of the facts constituting the ground.

Reconciliation.

**9.** (1) It is the duty of the court in which a matrimonial cause has been instituted to give consideration, 25 from time to time, to the possibility of a reconciliation of the parties to the marriage (unless the proceedings are of such a nature that it would not be appropriate to do so), and if at any time it appears to the Judge constituting the court, either from the nature of the case, the evidence 30 in the proceedings, or the attitude of those parties, or of either of them, or of counsel, that there is a reasonable possibility of such a reconciliation, the Judge may do all or any of the following:

- (a) adjourn the proceedings to afford those parties 35 an opportunity of becoming reconciled or to enable anything to be done in accordance with either of the next two succeeding paragraphs;
- (b) with the consent of those parties, interview them in chambers, with or without counsel, as 40 the Judge thinks proper, with a view to effecting a reconciliation;
- (c) nominate
  - (i) an approved marriage guidance or other appropriate organization or a person with 45 experience or training in marriage conciliation; or



(2) If, not less than fourteen days after an adjournment under subsection (1) has taken place, either of the parties to the marriage requests that the hearing be proceeded with, the judge shall resume the hearing or arrangements shall be made for the proceedings to be dealt with by another judge, as the case requires, as soon as 10 practicable.

10. Where a judge has acted as a conciliator under paragraph (b) of subsection (1) of section 9 but the attempt to effect a reconciliation has failed, the judge shall not, except at the request of the parties to the proceedings, continue to hear the proceedings or determine the proceedings, and, in the absence of such a request, arrangements shall be made for the proceedings to be dealt with by another judge.

11. Evidence of anything said or of any admission made in the course of an endeavour to effect a reconciliation is not admissible in any court or in proceedings before a person authorized by law or by contract of the parties to make and subscribe, before a person authorized to take an oath or affirmation of secrecy.

12. A person qualified to perform the functions of a conciliator, upon the performance of his functions as such a conciliator, may make and subscribe, before a person authorized to take an oath or affirmation of secrecy.

**Clauses 9-12:** These clauses provide a reconciliation procedure to be used by the court where possible.

13. The Minister of Justice may, by order, make such regulations as he may think fit for the purposes of this Act.

14. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council, and shall apply to the territories and the Yukon and Northwest Territories.

15. This Act shall be construed as if it were part of the laws of the territories and the Yukon and Northwest Territories.

(ii) in special circumstances, some other suitable person,  
to endeavour, with the consent of these parties,  
to effect a reconciliation.

(2) If, not less than fourteen days after an adjournment under subsection (1) has taken place, either of the parties to the marriage requests that the hearing be proceeded with, the Judge shall resume the hearing, or arrangements shall be made for the proceedings to be dealt with by another Judge, as the case requires, as soon as practicable. 5 10

Hearing  
when recon-  
ciliation  
fails.

**10.** Where a Judge has acted as conciliator under paragraph (b) of subsection (1) of section 9 but the attempt to effect a reconciliation has failed, the Judge shall not, except at the request of the parties to the proceedings, continue to hear the proceedings, or determine the proceedings, and, in the absence of such a request, arrangements shall be made for the proceedings to be dealt with by another Judge. 15

Statements  
not  
admissible  
evidence.

**11.** Evidence of anything said or of any admission made in the course of an endeavour to effect a reconciliation is not admissible in any court or in proceedings before a person authorized by law, or by consent of the parties, to hear, receive, or examine evidence. 20

**12.** A marriage conciliator shall, before entering upon the performance of his functions as such a conciliator, make and subscribe, before a person authorized to take oaths, an oath or affirmation of secrecy. 25

Repeal  
R.S. 1952,  
cc. 84 and 176.

**13.** The *Divorce Jurisdiction Act* and sections four, five and six of the *Marriage and Divorce Act* are repealed. 30

Commence-  
ment.

**14.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

First Reading, Tuesday, 7th March 1952, at Ottawa, O.C.

THE HOUSE OF COMMONS OF CANADA

BILL C-13

An Act regarding the Matrimonial Law

First reading, February 1, 1952

*Clause 13:* This clause repeals federal laws that are covered by this Bill.

*Clause 14:* This clause provides for the Act to become effective when proclaimed so as to permit a period during which the provincial courts may, where necessary, amend their matrimonial rules of procedure.

Mr. Howland

Bill C-13  
MATRIMONIAL LAW  
1952



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**C-13.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-13.**

An Act respecting the Solicitor General Act.

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First reading, October 1, 1962.

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Mr. HOWARD.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-13.**

An Act respecting the Solicitor General Act.

R.S. 1952,  
c. 253.

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

Repeal.

1. The *Solicitor General Act*, being Chapter 253 of the Statutes of Canada, 1952, is repealed.



# C-14.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

## BILL C-14.

An Act respecting Indians.

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First reading, October 1, 1962.

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Mr. HOWARD.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962



### EXPLANATORY NOTES.

The purpose of this Bill is to consolidate the *Indian Act* and its various amendments into one Statute.

An ancillary effect, which will be of immense value to the Native Indian people of Canada, is that this Bill, as required by Section 3 of the Bill of Rights, will be examined by the Minister of Justice in order to ascertain whether any of the provisions hereof are inconsistent with the purposes and provisions of the *Canadian Bill of Rights* and if such is the case in order that these inconsistencies may be reported to the House of Commons.

If this Bill is found to be inconsistent with the purposes and provisions of the Bill of Rights the House will be able to make the necessary changes during Committee stage.



- “Elector.” (e) “elector” means a person who  
 (i) is registered on a Band List,  
 (ii) is of the full age of twenty-one years, and  
 (iii) is not disqualified from voting at band elections; 5
- “Estate.” (f) “estate” includes real and personal property and any interest in the land;
- “Indian.” (g) “Indian” means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian; 10
- “Indian moneys.” (h) “Indian moneys” means all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands;
- “Intoxicant.” (i) “intoxicant” includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption 20 that are intoxicating;
- “Member of a band.” (j) “member of a band” means a person whose name appears on a Band List or who is entitled to have his name appear on a Band List;
- “Mentally incompetent Indian.” (k) “mentally incompetent Indian” means an 25 Indian who, pursuant to the laws of the province in which he resides, has been found to be mentally defective or incompetent for the purposes of any laws of that province providing for the administration of estates of mentally defective 30 or incompetent persons;
- “Minister.” (l) “Minister” means the Minister of Citizenship and Immigration;
- “Registered.” (m) “registered” means registered as an Indian in the Indian Register; 35
- “Registrar.” (n) “Registrar” means the officer of the Department who is in charge of the Indian Register;
- “Reserve.” (o) “reserve” means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit 40 of a band;
- “Superintendent.” (p) “superintendent” includes a commissioner, regional supervisor, Indian superintendent, assistant Indian superintendent and any other 45 person declared by the Minister to be a superintendent for the purposes of this Act, and with reference to a band or a reserve, means the superintendent for that band or reserve;
- “Surrendered lands.” (q) “surrendered lands” means a reserve or part of a reserve or any interest therein, the legal title 50





to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart.

“Band.”

(2) The expression “band” with reference to a reserve or surrendered lands means the band for whose use and benefit the reserve or the surrendered lands were set apart. 5

Exercise of powers conferred on band or Council.

(3) Unless the context otherwise requires or this Act otherwise provides

(a) a power conferred upon a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the electors of the band, and 10

(b) a power conferred upon the council of a band shall be deemed not to be exercised unless it is exercised pursuant to the consent of a majority of the councillors of the band present at a meeting of the council duly convened. 15

#### ADMINISTRATION.

Minister to administer Act.

**3.** (1) This Act shall be administered by the Minister of Citizenship and Immigration, who shall be the superintendent general of Indian affairs. 20

Authority of Deputy Minister and chief officer.

(2) The Minister may authorize the Deputy Minister of Citizenship and Immigration or the chief officer in charge of the branch of the Department relating to Indian affairs to perform and exercise any of the duties, powers and functions that may be or are required to be performed or exercised by the Minister under this Act or any other Act of the Parliament of Canada relating to Indian affairs. 25

#### APPLICATION OF ACT.

Application of Act.

**4.** (1) A reference in this Act to an Indian does not include any person of the race of aborigines commonly referred to as Eskimos. 30

G. in C. may declare Act inapplicable

(2) The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 37 to 41, shall not apply to 35

(a) any Indians or any group or band of Indians, or  
(b) any reserve or any surrendered lands or any part thereof,

and may by proclamation revoke any such declaration.

Certain sections inapplicable to Indians living off reserves.

(3) Sections 113 to 122 and, unless the Minister otherwise orders, sections 42 to 52 do not apply to or in respect of any Indian who does not ordinarily reside on a reserve or on lands belonging to Her Majesty in right of Canada or a province. 40





## DEFINITION AND REGISTRATION OF INDIANS.

Indian Register.

**5.** An Indian Register shall be maintained in the Department, which shall consist of Band Lists and General Lists and in which shall be recorded the name of every person who is entitled to be registered as an Indian.

Band Lists and General Lists.

**6.** The name of every person who is a member of a band and is entitled to be registered shall be entered in the Band List for that band, and the name of every person who is not a member of a band and is entitled to be registered shall be entered in a General List. 5

Deletions and additions.

**7.** (1) The Registrar may at any time add to or delete from a Band List or a General List the name of any person who, in accordance with the provisions of this Act, is entitled or not entitled, as the case may be, to have his name included in that List. 10

Date of change.

(2) The Indian Register shall indicate the date on which each name was added thereto or deleted therefrom. 15

Existing lists to constitute Register.

**8.** Upon the coming into force of this Act, the band lists then in existence in the Department shall constitute the Indian Register, and the applicable lists shall be posted in a conspicuous place in the superintendent's office that serves the band or persons to whom the list relates and in all other places where band notices are ordinarily displayed. 20

Deletions and additions may be protested.

**9.** (1) Within six months after a list has been posted in accordance with section 8 or within three months after the name of a person has been added to or deleted from a Band List or a General List pursuant to section 7 25

(a) in the case of a Band List, the council of the band, any ten electors of the band, or any three electors if there are less than ten electors in the band, 30

(b) in the case of a posted portion of a General List, any adult person whose name appears on that posted portion, and 35

(c) the person whose name was included in or omitted from the list referred to in section 8, or whose name was added to or deleted from a Band List or a General List. 35

may, by notice in writing to the Registrar, containing a brief statement of the grounds therefor, protest the inclusion, omission, addition, or deletion, as the case may be, of the name of that person, and the onus of establishing those grounds lies on the person making the protest. 40







Registrar to  
cause in-  
vestigation.

(2) Where a protest is made to the Registrar under this section he shall cause an investigation to be made into the matter and shall render a decision, and subject to a reference under subsection (3), the decision of the Registrar is final and conclusive. 5

Reference  
to Judge.

(3) Within three months from the date of a decision of the Registrar under this section

(a) the council of the band affected by the Registrar's decision, or

(b) the person by or in respect of whom the protest was made, 10

may, by notice in writing, request the Registrar to refer the decision to a judge for review, and thereupon the Registrar shall refer the decision, together with all material considered by the Registrar in making his decision, to the judge of the county or district court of the county or district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other county or district as the Minister may designate, or in the Province of Quebec, to the judge of the Superior Court for the district in which the band is situated or in which the person in respect of whom the protest was made resides, or such other district as the Minister may designate. 15 20

Inquiry and  
decision.

(4) The judge of the county, district or Superior Court, as the case may be, shall inquire into the correctness of the Registrar's decision, and for such purposes may exercise all the powers of a commissioner under Part I of the *Inquiries Act*; the judge shall decide whether the person in respect of whom the protest was made is, in accordance with the provisions of this Act, entitled or not entitled, as the case may be, to have his name included in the Indian Register, and the decision of the judge is final and conclusive. 1951, c. 29, s. 9. 25 30

One  
reference  
only.

(5) Not more than one reference of a Registrar's decision in respect of a protest may be made to a judge under this section. 35

Burden of  
proof.  
New.

(6) Where a decision of the Registrar has been referred to a judge for review under this section, the burden of establishing that the decision of the Registrar is erroneous is on the person who requested that the decision be so referred. 40

Wife and  
minor  
children.

**10.** Where the name of a male person is included in, omitted from, added to or deleted from a Band List or a General List, the names of his wife and his minor children shall also be included, omitted, added or deleted, as the case may be. 45





- Persons entitled to be registered.
- 11.** Subject to section 12, a person is entitled to be registered if that person
- (a) on the 26th day of May, 1874, was, for the purposes of *An Act providing for the organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, chapter 42 of the statutes of 1868, as amended by section 6 of chapter 6 of the statutes of 1869, and section 8 of chapter 21 of the statutes of 1874, considered to be entitled to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the various tribes, bands or bodies of Indians in Canada; 5
  - (b) is a member of a band 15
    - (i) for whose use and benefit, in common, lands have been set apart or since the 26th day of May, 1874, have been agreed by treaty to be set apart, or
    - (ii) that has been declared by the Governor in Council to be a band for the purposes of this Act; 20
  - (c) is a male person who is a direct descendant in the male line of a male person described in paragraph (a) or (b); 25
  - (d) is the legitimate child of
    - (i) a male person described in paragraph (a) or (b), or
    - (ii) a person described in paragraph (c);
  - (e) is the illegitimate child of a female person described in paragraph (a), (b) or (d); or 30
  - (f) is the wife or widow of a person who is entitled to be registered by virtue of paragraph (a), (b), (c), (d) or (e).

- Persons not entitled to be registered.
- 12.** (1) The following persons are not entitled to be registered, namely, 35
- (a) a person who
    - (i) has received or has been allotted half-breed lands or money scrip,
    - (ii) is a descendent of a person described in subparagraph (i), 40
    - (iii) is enfranchised, or
    - (iv) is a person born of a marriage entered into after the 4th day of September, 1951, and has attained the age of twenty-one years, whose mother and whose father's mother are not persons described in paragraph (a), (b), (d), or entitled to be registered by virtue of paragraph (e) of section 11, 45





unless, being a woman, that person is the wife or widow of a person described in section 11, and

- (b) a woman who married a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described in section 11. 5

Protest re illegitimate child. New.

(1a) The addition to a Band List of the name of an illegitimate child described in paragraph (e) of section 11 may be protested at any time within twelve months after the addition, and if upon the protest it is decided that the father of the child was not an Indian, the child is not entitled to be registered under paragraph (e) of section 11: Provided this subsection applies only to persons born after August 14, 1956. 10 15

Certificate.

(2) The Minister may issue to any Indian to whom this Act ceases to apply, a certificate to that effect.

Exception.

(3) Subparagraphs (i) and (ii) of paragraph (a) of subsection (1) do not apply to a person who

- (a) pursuant to this Act is registered as an Indian on the day this subsection comes into force, or  
 (b) is a descendant of a person described in paragraph (a) of this subsection. 20

Admission to band and transfer of membership.

**13.** Subject to the approval of the Minister and, if the Minister so directs, to the consent of the admitting band, 25

- (a) a person whose name appears on a General List may be admitted into membership of a band with the consent of the council of the band; and 30  
 (b) a member of a band may be admitted into membership of another band with the consent of the council of the latter band.

Woman marrying outside band ceases to be member.

**14.** A woman who is a member of a band ceases to be a member of that band if she marries a person who is not a member of that band, but if she marries a member of another band, she thereupon becomes a member of the band of which her husband is a member. 35

Payments to persons ceasing to be members.

**15.** (1) Subject to subsection (2), an Indian who becomes enfranchised or who otherwise ceases to be a member of a band is entitled to receive from Her Majesty 40

- (a) one *per capita* share of the capital and revenue moneys held by Her Majesty on behalf of the band, and  
 (b) an amount equal to the amount that in the opinion of the Minister he would have received during the next succeeding twenty years under 45





any treaty then in existence between the band and Her Majesty if he had continued to be a member of the band.

Payments not to be made in certain cases.

(2) A person is not entitled to receive any amount under subsection (1)

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- (a) if his name was removed from the Indian register pursuant to a protest made under section 9, or
- (b) if he is not entitled to be a member of a band by reason of the application of paragraph (e) of section 11 or subparagraph (iv) of paragraph (a) of section 12.

Payments to minors.

(3) Where by virtue of this section moneys are payable to a person who is under the age of twenty-one, the Minister may

- (a) pay the moneys to the parent, guardian or other person having the custody of that person or to the public trustee, public administrator or other like official for the province in which that person resides, or
- (b) cause payment of the moneys to be withheld until that person reaches the age of twenty-one.

Compensation for permanent improvements.

(4) Where the name of a person is removed from the Indian Register and he is not entitled to any payment under subsection (1), the Minister shall, if he considers it equitable to do so, authorize payment, out of moneys appropriated by Parliament, of such compensation as the Minister may determine for any permanent improvements made by that person on lands in a reserve.

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Commutation of payments under former Act.

(5) Where, prior to the coming into force of this Act, any woman became entitled, under section 14 of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or any prior provisions to the like effect, to share in the distribution of annuities, interest moneys or rents, the Minister may, in lieu thereof, pay to such woman out of the moneys of the band an amount equal to ten times the average annual amounts of such payments made to her during the ten years last preceding or, if they were paid for less than ten years, during the years they were paid.

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Transfer of funds.

**16.** (1) Section 15 does not apply to a person who ceases to be a member of one band by reason of his becoming a member of another band, but, subject to subsection (3), there shall be transferred to the credit of the latter band the amount to which that person would, but for this section, have been entitled under section 15.

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Transferred member's interest in lands and moneys.

(2) A person who ceases to be a member of one band by reason of his becoming a member of another band is not entitled to any interest in the lands or moneys held by Her Majesty on behalf of the former band, but he is entitled

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to the same interest in common in lands and tenements held by Her Majesty on behalf of the latter band as other members of that band.

(2) Where a woman who is a member of one band becomes a member of another band by reason of marriage, and the net capital value of the capital and revenues money held by Her Majesty on behalf of the first-mentioned band is greater than the net capital value of such money as held for the second-mentioned band, there shall be transferred to the credit of the second-mentioned band an amount equal to the net capital value held for that band, and the remainder of the money to which the woman would, but for this section, have been entitled under section 15 shall be paid to her in such manner and at such times as the Minister may determine.

(1) The Minister may, whenever he considers

- (a) constitute new bands and establish band lists with respect thereto from existing band lists or General Lists or both;
- (b) amalgamate bands that, by a vote of a majority of their members, request to be amalgamated;
- (c) where a band has applied for amalgamation, remove any name from the band list and add it to the General List.

(2) Where provision is subsection (1) a new band has been established from an existing band or any part thereof, such portion of the reserves lands and funds of the existing band as the Minister determines shall be held for the use and benefit of the new band.

(3) No provision may be made under subsection (1) in respect of the division from or addition to a list consequent upon the exercise by the Minister of any of his powers under subsection (1).

Transfers

(1) Subject to the provisions of this Act, reserves shall be held by Her Majesty for the use and benefit of the respective bands in which they were set apart; and subject as aforesaid to the terms of any trusts or covenants, the Governor in Council may determine whether any property for which lands in a reserve are used or are to be used in for the use and benefit of the band.

(2) The Minister may authorize the use of lands in a reserve for the purpose of Indian schools, the administration of Indian affairs, Indian burial grounds, Indian health projects or with the consent of the Council of



to the same interest in common in lands and moneys held by Her Majesty on behalf of the latter band as other members of that band.

Transfer of woman by marriage.

(3) Where a woman who is a member of one band becomes a member of another band by reason of marriage, and the *per capita* share of the capital and revenue moneys held by Her Majesty on behalf of the first-mentioned band is greater than the *per capita* share of such moneys so held for the second-mentioned band, there shall be transferred to the credit of the second-mentioned band an amount equal to the *per capita* share held for that band, and the remainder of the money to which the woman would, but for this section, have been entitled under section 15 shall be paid to her in such manner and at such times as the Minister may determine.

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Minister may constitute new bands.

**17.** (1) The Minister may, whenever he considers it desirable,

- (a) constitute new bands and establish Band Lists with respect thereto from existing Band Lists or General Lists, or both,
- (b) amalgamate bands that, by a vote of a majority of their electors, request to be amalgamated, and
- (c) where a band has applied for enfranchisement, remove any name from the Band List and add it to the General List.

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Division of reserves and funds.

(2) Where pursuant to subsection (1) a new band has been established from an existing band or any part thereof, such portion of the reserve lands and funds of the existing band as the Minister determines shall be held for the use and benefit of the new band.

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No protest. New.

(3) No protest may be made under section 9 in respect of the deletion from or addition to a list consequent upon the exercise by the Minister of any of his powers under subsection (1).

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#### RESERVES.

Reserves to be held for use and benefit of Indians.

**18.** (1) Subject to the provisions of this Act, reserves shall be held by Her Majesty for the use and benefit of the respective bands for which they were set apart; and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which lands in a reserve are used or are to be used is for the use and benefit of the band.

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Use of reserves for schools, etc.

(2) The Minister may authorize the use of lands in a reserve for the purpose of Indian schools, the administration of Indian affairs, Indian burial grounds, Indian health projects or, with the consent of the council of

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the band, for any other purpose for the general welfare of the band, and may take any lands in a reserve required for such purposes, but where an individual Indian, immediately prior to such taking, was entitled to the possession of such lands, compensation for such use shall be paid to the Indian, in such amount as may be agreed between the Indian and the Minister, or, failing agreement, as may be determined in such manner as the Minister may direct. 5

Minister may authorize surveys and subdivisions.

**19.**

- The Minister may
- (a) authorize surveys of reserves and the preparation of plans and reports with respect thereto, 10
  - (b) divide the whole or any portion of a reserve into lots or other subdivisions, and
  - (c) determine the location and direct the construction of roads in a reserve. 15

POSSESSION OF LANDS IN RESERVES.

Possession of lands in a reserve.

**20.** (1) No Indian is lawfully in possession of land in a reserve unless, with the approval of the Minister, possession of the land has been allotted to him by the council of the band.

Certificate of Possession.

(2) The Minister may issue to an Indian who is lawfully in possession of land in a reserve a certificate, to be called a Certificate of Possession, as evidence of his right to possession of the land described therein. 20

Location tickets issued under previous legislation.

(3) For the purposes of this Act, any person who, on the 4th day of September, 1951, held a valid and subsisting location ticket issued under *The Indian Act 1880*, or any statute relating to the same subject matter, shall be deemed to be lawfully in possession of the land to which the location ticket relates and to hold a Certificate of Possession with respect thereto. 25 30

Temporary possession.

(4) Where possession of land in a reserve has been allotted to an Indian by the council of the band, the Minister may, in his discretion, withhold his approval and may authorize the Indian to occupy the land temporarily and may prescribe the conditions as to use and settlement that are to be fulfilled by the Indian before the Minister approves of the allotment. 35

Certificate of Occupation.

(5) Where the Minister withholds approval pursuant to subsection (4), he shall issue a Certificate of Occupation to the Indian, and the Certificate entitles the Indian, or those claiming possession by devise or descent, to occupy the land in respect of which it is issued for a period of two years from the date thereof. 40





Extension of Certificate of Occupation, and approval of allotment.

(6) The Minister may extend the term of a Certificate of Occupation for a further period not exceeding two years, and may, at the expiration of any period during which a Certificate of Occupation is in force

- (a) approve the allotment by the council of the band and issue a Certificate of Possession if in his opinion the conditions as to use and settlement have been fulfilled, or
- (b) refuse approval of the allotment by the council of the band and declare the land in respect of which the Certificate of Occupation was issued to be available for reallocation by the council of the band.

Register.

**21.** There shall be kept in the Department a register, to be known as the Reserve Land Register, in which shall be entered particulars relating to Certificates of Possession and Certificates of Occupation and other transactions respecting lands in a reserve.

Improvements on lands subsequently included in a reserve.

**22.** Where an Indian who is in possession of lands at the time they are included in a reserve, made permanent improvements thereon before that time, he shall be deemed to be in lawful possession of such lands at the time they are so included.

Compensation for improvements.

**23.** An Indian who is lawfully removed from lands in a reserve upon which he has made permanent improvements may, if the Minister so directs, be paid compensation in respect thereof in an amount to be determined by the Minister, either from the person who goes into possession or from the funds of the band, at the discretion of the Minister.

Transfer of possession.

**24.** An Indian who is lawfully in possession of lands in a reserve may transfer to the band or to another member of the band the right to possession of the land, but no transfer or agreement for the transfer of the right to possession of lands in a reserve is effective until it is approved by the Minister.

Transfer where Indian ceases to reside on reserve.

**25.** (1) An Indian who ceases to be entitled to reside on a reserve may, within six months or such further period as the Minister may direct, transfer to the band or another member of the band the right to possession of any lands in the reserve of which he was lawfully in possession.

Right of possession not transferred reverts to band.

(2) Where an Indian does not dispose of his right of possession in accordance with subsection (1), the right to possession of the land reverts to the band, subject





to the payment to the Indian who was lawfully in possession of the land, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

Correction of  
Certificate or  
Location  
Tickets.

**26.** Whenever a Certificate of Possession or Occupation or a Location Ticket issued under *The Indian Act, 1880*, or any statute relating to the same subject matter was, in the opinion of the Minister, issued to or in the name of the wrong person, through mistake, or contains any clerical error or misnomer, or wrong description of any material fact therein, the Minister may cancel the Certificate or Location Ticket and issue a corrected Certificate in lieu thereof. 5 10

Cancellation  
of Certifi-  
cates or  
Location  
Tickets.

**27.** The Minister may, with the consent of the holder thereof, cancel any Certificate of Possession or Occupation or Location Ticket referred to in section 26, and may cancel any Certificate of Possession or Occupation or Location Ticket that in his opinion was issued through fraud or in error. 15

Grants, etc.  
of reserve  
lands void.

**28.** (1) Subject to subsection (2), a deed, lease, contract, instrument, document or agreement of any kind whether written or oral, by which a band or a member of a band purports to permit a person other than a member of that band to occupy or use a reserve or to reside or otherwise exercise any rights on a reserve is void. 20 25

Minister  
may issue  
permits.

(2) The Minister may by permit in writing authorize any person for a period not exceeding one year, or with the consent of the council of the band for any longer period, to occupy or use a reserve or to reside or otherwise exercise rights on a reserve. 30

Reserve  
lands exempt  
from seizure.

**29.** Reserve lands are not subject to seizure under legal process.

#### TRESPASS ON RESERVES.

Penalty for  
trespass.

**30.** A person who trespasses on a reserve is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month or to both fine and imprisonment. 35

Information  
by Attorney  
General.

**31.** (1) Without prejudice to section 30, where an Indian or a band alleges that persons other than Indians are or have been 40  
(a) unlawfully in occupation or possession of,





- (b) claiming adversely the right to occupation or possession of, or
- (c) trespassing upon

a reserve or part of a reserve, the Attorney General of Canada may exhibit an Information in the Exchequer Court of Canada claiming, on behalf of the Indian or the band, the relief or remedy sought. 5

Information deemed action or suit by Crown.

(2) An Information exhibited under subsection (1) shall, for all purposes of the *Exchequer Court Act*, be deemed to be an action or suit by the Crown within the meaning of paragraph (d) of section 29 of that Act. 10

Existing remedies preserved.

(3) Nothing in this section shall be construed to impair, abridge or otherwise affect any right or remedy that, but for this section, would be available to Her Majesty or to an Indian or a band. 15

SALE OR BARTER OF PRODUCE.

Sale or barter of produce prohibited unless superintendent approves.

**32.** (1) A transaction of any kind whereby a band or a member thereof purports to sell, barter, exchange, give or otherwise dispose of cattle or other animals, grain or hay, whether wild or cultivated, or root crops or plants or their products from a reserve in Manitoba, Saskatchewan or Alberta, to a person other than a member of that band, is void unless the superintendent approves the transaction in writing. 20

Exemption.

(2) The Minister may at any time by order exempt a band and the members thereof or any member thereof from the operation of this section, and may revoke any such order. 25

Offence.

**33.** Every person who enters into a transaction that is void under subsection (1) of section 32 is guilty of an offence. 30

ROADS AND BRIDGES.

Band to maintain roads, bridges, etc.

**34.** (1) A band shall ensure that the roads, bridges, ditches and fences within the reserve occupied by that band are maintained in accordance with instructions issued from time to time by the superintendent.

Minister may maintain roads, bridges, etc.

(2) Where, in the opinion of the Minister, a band has not carried out the instructions of the superintendent given under subsection (1), the Minister may cause the instructions to be carried out at the expense of the band or any member thereof and may recover the cost thereof from any amounts that are held by Her Majesty and are payable to the band or such member. 40





## LANDS TAKEN FOR PUBLIC PURPOSES.

Local  
authorities  
may take  
lands with  
consent of  
G. in C.

**35.** (1) Where by an Act of the Parliament of Canada or a provincial legislature Her Majesty in right of a province, a municipal or local authority or a corporation is empowered to take or to use lands or any interest therein without the consent of the owner, the power may, with the consent of the Governor in Council and subject to any terms that may be prescribed by the Governor in Council, be exercised in relation to lands in a reserve or any interest therein. 5

Procedure.

(2) Unless the Governor in Council otherwise directs, all matters relating to compulsory taking or using of lands in a reserve under subsection (1) shall be governed by the statute by which the powers are conferred. 10

Grant in  
lieu of  
compulsory  
taking.

(3) Whenever the Governor in Council has consented to the exercise by a province, authority or corporation of the powers referred to in subsection (1), the Governor in Council may, in lieu of the province, authority or corporation taking or using the lands without the consent of the owner, authorize a transfer or grant of such lands to the province, authority or corporation, subject to any terms that may be prescribed by the Governor in Council. 15 20

Payment.

(4) Any amount that is agreed upon or awarded in respect of the compulsory taking or using of land under this section or that is paid for a transfer or grant of land pursuant to this section shall be paid to the Receiver General of Canada for the use and benefit of the band or for the use and benefit of any Indian who is entitled to compensation or payment as a result of the exercise of the powers referred to in subsection (1). 25

## SPECIAL RESERVES.

Act applies  
to reserves  
not vested in  
the Crown.

**36.** Where lands have been set apart for the use and benefit of a band and legal title thereto is not vested in Her Majesty, this Act applies as though the lands were a reserve within the meaning of this Act. 30

## SURRENDERS.

No sale etc.,  
until  
surrender.

**37.** Except where this Act otherwise provides, lands in a reserve shall not be sold, alienated, leased or otherwise disposed of until they have been surrendered to Her Majesty by the band for whose use and benefit in common the reserve was set apart. 35





Band may surrender. Absolute or qualified.

**38.** (1) A band may surrender to Her Majesty any right or interest of the band and its members in a reserve.  
 (2) A surrender may be absolute or qualified, conditional or unconditional.

How surrender made.

**39.** (1) A surrender is void unless 5  
 (a) it is made to Her Majesty,  
 (b) it is assented to by a majority of the electors of the band  
     (i) at a general meeting of the band called by the council of the band, 10  
     (ii) at a special meeting of the band called by the Minister for the purpose of considering a proposed surrender, or  
     (iii) by a referendum as provided in the regulations, and 15  
 (c) it is accepted by the Governor in Council.

Minister may call meeting or referendum.

(2) Where a majority of the electors of a band did not vote at a meeting or referendum called pursuant to subsection (1) of this section or pursuant to section 51 of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, the Minister may, if the proposed surrender was assented to by a majority of the electors who did vote, call another meeting by giving thirty days' notice thereof or another referendum as provided in the regulations.

Assent of band.

(3) Where a meeting is called pursuant to subsection (2) and the proposed surrender is assented to at the meeting or referendum by a majority of the electors voting, the surrender shall be deemed, for the purpose of this section, to have been assented to by a majority of the electors of the band. 30

Secret ballot.

(4) The Minister may, at the request of the council of the band or whenever he considers it advisable, order that a vote at any meeting under this section shall be by secret ballot.

Officials required.

(5) Every meeting under this section shall be held in the presence of the superintendent or some other officer of the Department designated by the Minister. 35

Certification of surrender.

**40.** When a proposed surrender has been assented to by the band in accordance with section 39, it shall be certified on oath by the superintendent or other officer who attended the meeting and by the chief or a member of the council of the band, and shall then be submitted to the Governor in Council for acceptance or refusal. 40

Effect of surrender.

**41.** A surrender shall be deemed to confer all rights that are necessary to enable Her Majesty to carry out the terms of the surrender. 45



Section 26. Powers.

1	<p>1. The Governor may make regulations for providing that a deceased Indian who at the time of his death was in possession of land in a reserve shall, in such circumstances and for such purposes as the regulations may provide, be deemed to have been at the time of his death lawfully in possession of that land.</p>	<p>1. The Governor may make regulations for providing that a deceased Indian who at the time of his death was in possession of land in a reserve shall, in such circumstances and for such purposes as the regulations may provide, be deemed to have been at the time of his death lawfully in possession of that land.</p>
2	<p>2. Regulations made under this section may be made applicable to estates of Indians who died before or after the coming into force of this Act.</p>	<p>2. Regulations made under this section may be made applicable to estates of Indians who died before or after the coming into force of this Act.</p>
3	<p>3. Without affecting the generality of section 13, the Administrator may</p>	<p>3. Without affecting the generality of section 13, the Administrator may</p>
4	<p>(a) make a list of the names of wills and administrators of estates of deceased Indians remove them and deposit them in their stead;</p>	<p>(a) make a list of the names of wills and administrators of estates of deceased Indians remove them and deposit them in their stead;</p>
5	<p>(b) authorize persons to carry out the terms of the will of a deceased Indian;</p>	<p>(b) authorize persons to carry out the terms of the will of a deceased Indian;</p>
6	<p>(c) authorize administrators to administer the property of Indians who die testate;</p>	<p>(c) authorize administrators to administer the property of Indians who die testate;</p>
7	<p>(d) carry out the terms of wills of deceased Indians and administer the property of Indians who die testate;</p>	<p>(d) carry out the terms of wills of deceased Indians and administer the property of Indians who die testate;</p>
8	<p>(e) make a list of wills and other documents or findings and in the event of a vacancy or default to make a list of persons to whom the matter referred to in section 13.</p>	<p>(e) make a list of wills and other documents or findings and in the event of a vacancy or default to make a list of persons to whom the matter referred to in section 13.</p>
9	<p>4. (1) The person that would have jurisdiction if the document were not an Indian will, with the consent of the Minister, exercised in accordance with this Act, the jurisdiction and authority conferred or referred to in sections 21 and 22, in any other provision of this Act and any other power jurisdiction and authority ordinarily vested in that court.</p>	<p>4. (1) The person that would have jurisdiction if the document were not an Indian will, with the consent of the Minister, exercised in accordance with this Act, the jurisdiction and authority conferred or referred to in sections 21 and 22, in any other provision of this Act and any other power jurisdiction and authority ordinarily vested in that court.</p>
10	<p>(2) The Minister may direct in any particular case that an application for the grant of probate of the will to or issue of administration shall be made to the court that would have jurisdiction if the document were not an Indian will and the Administrator may refer to such court any question arising out of any will or the administration of any estate.</p>	<p>(2) The Minister may direct in any particular case that an application for the grant of probate of the will to or issue of administration shall be made to the court that would have jurisdiction if the document were not an Indian will and the Administrator may refer to such court any question arising out of any will or the administration of any estate.</p>

## DESCENT OF PROPERTY.

Powers of Minister with respect to property of deceased Indians.

**42.** (1) Unless otherwise provided in this Act, all jurisdiction and authority in relation to matters and causes testamentary, with respect to deceased Indians, is vested exclusively in the Minister, and shall be exercised subject to and in accordance with regulations of the Governor in Council. 5

Deceased Indian may be deemed to have been lawfully in possession of land.

(2) The Governor in Council may make regulations for providing that a deceased Indian who at the time of his death was in possession of land in a reserve shall, in such circumstances and for such purposes as the regulations prescribe, be deemed to have been at the time of his death lawfully in possession of that land. 10

Application of regulations.

(3) Regulations made under this section may be made applicable to estates of Indians who died before or after the coming into force of this Act. 15

Particular powers.

**43.** Without restricting the generality of section 42, the Minister may

- (a) appoint executors of wills and administrators of estates of deceased Indians, remove them and appoint others in their stead, 20
- (b) authorize executors to carry out the terms of the wills of deceased Indians,
- (c) authorize administrators to administer the property of Indians who die intestate,
- (d) carry out the terms of wills of deceased Indians and administer the property of Indians who die intestate, and 25
- (e) make or give any order, direction or finding that in his opinion it is necessary or desirable to make or give with respect to any matter referred to in section 42. 30

Courts may exercise jurisdiction with consent of Minister.

**44.** (1) The court that would have jurisdiction if the deceased were not an Indian may, with the consent of the Minister, exercise, in accordance with this Act, the jurisdiction and authority conferred in relation to matters and causes testamentary upon the Minister by this Act and any other powers, jurisdiction and authority ordinarily vested in that court. 35

Minister may refer a matter to the court.

(2) The Minister may direct in any particular case that an application for the grant of probate of the will or letters of administration shall be made to the court that would have jurisdiction if the deceased were not an Indian, and the Minister may refer to such court any question arising out of any will or the administration of any estate. 40



(3) A court right is exercising any jurisdiction or authority under this section shall not without the consent in writing of the Minister enforce any order relating to real property on a tenant.

Order  
relating  
to real

WILLS

(1) Nothing in this Act shall be construed to prevent or prohibit an Indian from devising or bequeathing his property by will.

Indian may  
devise will

(2) The Minister may accept as a will any written instrument signed by an Indian in which he indicates his wishes or intention with respect to the disposition of his property upon his death.

Form  
of will

(3) No will executed by an Indian is of any legal force or effect as a disposition of property until the Minister has approved the will or a court has granted probate thereof pursuant to this Act.

Consent

(1) The Minister may declare the will of an Indian to be void in whole or in part if he is satisfied that

Minister  
may declare  
will void

(a) the will was executed under duress or undue influence,

(b) the testator at the time of execution of the will lacked testamentary capacity,

(c) the terms of the will would impose hardship or pecuniary loss upon the testator and a responsible party to provide,

(d) the will purports to dispose of land in a reserve or in a reserve contrary to the interest of the band or contrary to this Act,

(e) the terms of the will are so vague, uncertain or ambiguous that proper administration and equitable distribution of the estate of the testator would be difficult or impossible to carry out in accordance with this Act, or

(f) the terms of the will are against the public interest.

(2) Where a will of an Indian is declared by the Minister or by a court to be wholly void, the person executing the will shall be deemed to have died intestate and where the will is so declared to be void in part only, any bequest or devise subject thereby, unless a contrary intention appears in the will, shall be deemed to have lapsed.

Where will  
declared  
void

Orders  
relating  
to lands.

(3) A court that is exercising any jurisdiction or authority under this section shall not without the consent in writing of the Minister enforce any order relating to real property on a reserve.

### WILLS.

Indians may  
make wills.

**45.** (1) Nothing in this Act shall be construed to prevent or prohibit an Indian from devising or bequeathing his property by will. 5

Form  
of will.

(2) The Minister may accept as a will any written instrument signed by an Indian in which he indicates his wishes or intention with respect to the disposition of his property upon his death. 10

Probate.

(3) No will executed by an Indian is of any legal force or effect as a disposition of property until the Minister has approved the will or a court has granted probate thereof pursuant to this Act. 15

Minister  
may declare  
will void.

**46.** (1) The Minister may declare the will of an Indian to be void in whole or in part if he is satisfied that

- (a) the will was executed under duress or undue influence,
- (b) the testator at the time of execution of the will lacked testamentary capacity, 20
- (c) the terms of the will would impose hardship on persons for whom the testator had a responsibility to provide,
- (d) the will purports to dispose of land in a reserve in a manner contrary to the interest of the band or contrary to this Act, 25
- (e) the terms of the will are so vague, uncertain or capricious that proper administration and equitable distribution of the estate of the deceased would be difficult or impossible to carry out in accordance with this Act, or 30
- (f) the terms of the will are against the public interest.

Where will  
declared  
void.

(2) Where a will of an Indian is declared by the Minister or by a court to be wholly void, the person executing the will shall be deemed to have died intestate, and where the will is so declared to be void in part only, any bequest or devise affected thereby, unless a contrary intention appears in the will, shall be deemed to have lapsed. 40





APPEALS.

Appeal to Exchequer Court.

**47.** (1) A decision of the Minister made in the exercise of the jurisdiction or authority conferred upon him by section 42, 43 or 46 may, within two months from the date thereof, be appealed by any person affected thereby to the Exchequer Court of Canada, if the amount in controversy in the appeal exceeds five hundred dollars or if the Minister consents to an appeal. 5

Rules.

(2) The judges of the Exchequer Court may make rules respecting the practice and procedure governing appeals under this section. 10

DISTRIBUTION OF PROPERTY ON INTESTACY.

Widow's share where net value less than \$2,000.

**48.** (1) Where the net value of the estate of an intestate does not, in the opinion of the Minister, exceed in value two thousand dollars, the estate shall go to the widow.

Widow's share where estate \$2,000 or more.

(2) Where the net value of the estate of an intestate, in the opinion of the Minister, is two thousand dollars or more, two thousand dollars shall go to the widow, and the remainder shall go as follows, namely, 15

- (a) if the intestate left no issue, the remainder shall go to the widow, 20
- (b) if the intestate left one child, one-half of the remainder shall go to the widow, and
- (c) if the intestate left more than one child, one-third of the remainder shall go to the widow,

and where a child has died leaving issue and such issue is alive at the date of the intestate's death, the widow shall take the same share of the estate as if the child had been living at that date. 25

Where children not provided for.

- (3) Notwithstanding subsections (1) and (2), (a) where in any particular case the Minister is satisfied that any children of the deceased will not be adequately provided for, he may direct that all or any part of the estate that would otherwise go to the widow shall go to the children, and 30 35

Right to occupy lands.

- (b) the Minister may direct that the widow shall have the right, during her widowhood, to occupy any lands on a reserve that were occupied by her deceased husband at the time of his death.

Distribution to issue.

(4) Where an intestate dies leaving issue his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue. 40





Distribution  
to father  
and mother.

(5) Where an intestate dies leaving no widow or issue his estate shall go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor.

Distribution  
to brothers,  
sisters and  
issue of  
brothers  
and sisters.

(6) Where an intestate dies leaving no widow or issue or father or mother his estate shall go to his brothers and sisters in equal shares, and if any brother or sister is dead the children of the deceased brother or sister shall take the share their parent would have taken if living, but where the only persons entitled are children of deceased brothers and sisters, they shall take *per capita*. 5 10

Next-of-kin.

(7) Where an intestate dies leaving no widow, issue, father, mother, brother or sister, and no children of any deceased brother or sister, his estate shall go to his next-of-kin. 15

Distribution  
amongst  
next-of-kin.

(8) Where the estate goes to the next-of-kin it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them, but in no case shall representation be admitted after brothers' and sisters' children, and any interest in land in a reserve shall vest in Her Majesty for the benefit of the band if the nearest of kin of the intestate is more remote than a brother or sister. 20

Degrees of  
kindred.

(9) For the purposes of this section, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative, and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree. 25

Descendants  
and relatives  
born after  
intestate's  
death.

(10) Descendants and relatives of the intestate begotten before his death but born thereafter shall inherit as if they had been born in the lifetime of the intestate and had survived him. 30

Estate not  
disposed  
of by will.

(11) All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate. 35

No dower  
or estate  
by curtesy.

(12) No widow is entitled to dower in the land of her deceased husband dying intestate, and no husband is entitled to an estate by curtesy in the land of his deceased wife so dying, and there is no community of real or personal property situated on a reserve. 40

Illegitimate  
children.

(13) Illegitimate children and their issue shall inherit from the mother as if the children were legitimate, and shall inherit as if the children were legitimate, through the mother, if dead, any real or personal property that she would have taken, if living, by gift, devise or descent from any other person. 45





Intestate  
being an  
illegitimate  
child.

(14) Where an intestate, being an illegitimate child, dies leaving no widow or issue, his estate shall go to his mother, if living, but if the mother is dead his estate shall go to the other children of the same mother in equal shares, and where any child is dead the children of the 5 deceased child shall take the share their parent would have taken if living; but where the only persons entitled are children of deceased children of the mother, they shall take *per capita*.

"Widow"  
includes  
"widower."

(15) This section applies in respect of an 10 intestate woman as it applies in respect of an intestate male, and for the purposes of this section the word "widow" includes "widower".

"Child"  
defined.

(16) In this section "child" includes a legally 15 adopted child and a child adopted in accordance with Indian custom.

Devisee of  
lands not  
entitled to  
possession  
until  
possession  
approved.

**49.** A person who claims to be entitled to possession or occupation of lands in a reserve by devise or descent shall be deemed not to be in lawful possession or occupation of that land until the possession is approved by the Minister. 20

Where  
devisee  
not entitled  
to reside on  
reserve.

**50.** (1) A person who is not entitled to reside on a reserve does not by devise or descent acquire a right to possession or occupation of land in that reserve.

Sale by  
superinten-  
dent.

(2) Where a right to possession or occupation 25 of land in a reserve passes by devise or descent to a person who is not entitled to reside on a reserve, that right shall be offered for sale by the superintendent to the highest bidder among persons who are entitled to reside on the reserve and the proceeds of the sale shall be paid to the devisee or descendant, as the case may be. 30

Unsold  
lands  
revert  
to band.

(3) Where no tender is received within six 30 months or such further period as the Minister may direct after the date when the right to possession or occupation is offered for sale under subsection (2), the right shall revert to the band free from any claim on the part of the devisee or 35 descendant, subject to the payment, at the discretion of the Minister, to the devisee or descendant, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

Purchaser  
not entitled  
to possession  
until  
possession  
approved.

(4) The purchaser of a right to possession or 40 occupation of land under subsection (2) shall be deemed not to be in lawful possession or occupation of the land until the possession is approved by the Minister.





## MENTALLY INCOMPETENT INDIANS.

Powers of  
Minister  
generally.

**51.** (1) Subject to this section, all jurisdiction and authority in relation to the property of mentally incompetent Indians is vested exclusively in the Minister.

Particular  
powers.

(2) Without restricting the generality of sub-section (1), the Minister may 5

(a) appoint persons to administer the estates of mentally incompetent Indians,

(b) order that any property of a mentally incompetent Indian shall be sold, leased, alienated, mortgaged, disposed of or otherwise dealt with 10 for the purpose of

(i) paying his debts or engagements,

(ii) discharging encumbrances on his property,

(iii) paying debts or expenses incurred for his maintenance or otherwise for his benefit, or 15

(iv) paying or providing for the expenses of future maintenance, and

(c) make such orders and give such directions as he considers necessary to secure the satisfactory management of the estates of mentally incompe- 20 tent Indians.

Property off  
reserve.

(3) The Minister may order that any property situated off a reserve and belonging to a mentally incompetent Indian shall be dealt with under the laws of the province in which the property is situated. 25

## GUARDIANSHIP.

Administra-  
tion of  
property  
of infant  
children.

**52.** The Minister may administer or provide for the administration of any property to which infant children of Indians are entitled, and may appoint guardians for such purpose.

## MANAGEMENT OF RESERVES AND SURRENDERED LANDS.

Disposition  
of  
surrendered  
lands.

**53.** (1) The Minister or a person appointed by him 30 for the purpose may manage, sell, lease or otherwise dispose of surrendered lands in accordance with this Act and the terms of the surrender.

Grant where  
original  
purchaser  
dead.

(2) Where the original purchaser of surrendered lands is dead and the heir, assignee or devisee of the 35 original purchaser applies for a grant of the lands, the Minister may, upon receipt of proof in such manner as he directs and requires in support of any claim for the grant and upon being satisfied that the claim has been equitably and justly established, allow the claim and authorize a grant to 40 issue accordingly.





Departmental employees not to acquire surrendered lands.

(3) No person who is appointed to manage, sell, lease or otherwise dispose of surrendered lands or who is an officer or servant of Her Majesty employed in the Department may, except with the approval of the Governor in Council, acquire directly or indirectly any interest in surrendered lands. 5

Assignments.

**54.** Where surrendered lands have been agreed to be sold or otherwise disposed of and Letters Patent relating thereto have not issued, or where surrendered lands have been leased, the purchaser, lessee or other person having an interest in the surrendered lands may, with the approval of the Minister, assign his interest in the surrendered lands or a part thereof to any other person. 10

Surrendered Lands Register.

**55.** (1) There shall be kept in the Department a register, to be known as the Surrendered Lands Register, in which shall be entered particulars in connection with any lease or other disposition of surrendered lands by the Minister or any assignment thereof. 15

Conditional assignment.

(2) A conditional assignment shall not be registered. 20

Proof of execution.

(3) Registration of an assignment may be refused until proof of its execution has been furnished.

Effect of registration.

(4) An assignment registered under this section is valid against an unregistered assignment or an assignment subsequently registered. 25

Certificate of registration rendered.

**56.** Where an assignment is registered there shall be endorsed on the original copy thereof a certificate of registration signed by the Minister or by an officer of the Department authorized by him to sign such certificates.

Regulations.

**57.** The Governor in Council may make regulations 30

- (a) authorizing the Minister to grant licences to cut timber on surrendered lands, or, with the consent of the council of the band, on reserve lands,
- (b) imposing terms, conditions and restrictions with respect to the exercise of rights conferred by licences granted under paragraph (a), 35
- (c) providing for the disposition of surrendered mines and minerals underlying lands in a reserve, 40
- (d) prescribing the penalty not exceeding one hundred dollars or imprisonment for a term of three months or both fine and imprisonment that may be imposed on summary conviction for violation of any regulation made under this section, and 45





- (e) providing for the seizure and forfeiture of any timber or minerals taken in violation of any regulation made under this section.

Uncultivated  
or unused  
lands.

**58.** (1) Where land in a reserve is uncultivated or unused, the Minister may, with the consent of the council of the band, 5

- (a) improve or cultivate such land and employ persons therefor, authorize and direct the expenditure of so much of the capital funds of the band as he considers necessary for such improvement or cultivation including the purchase of such stock, machinery or material or for the employment of such labour as the Minister considers necessary, 10
- (b) where the land is in the lawful possession of any individual, grant a lease of such land for agricultural or grazing purposes or for any purpose that is for the benefit of the person in possession, and 15
- (c) where the land is not in the lawful possession of any individual, grant for the benefit of the band a lease of such land for agricultural or grazing purposes. 20

Distribution  
of proceeds.

(2) Out of the proceeds derived from the improvement or cultivation of lands pursuant to paragraph (b) of subsection (1), a reasonable rent shall be paid to the individual in lawful possession of the lands or any part thereof, and the remainder of the proceeds shall be placed to the credit of the band, but if improvements are made on the lands occupied by an individual, the Minister may deduct the value of such improvements from the rent payable to such individual under this subsection. 25 30

Lease at  
request of  
occupant.

(3) The Minister may lease for the benefit of any Indian upon his application for that purpose, the land of which he is lawfully in possession without the land being surrendered. 35

Disposition  
of grass,  
timber, non-  
metallic  
substances,  
etc.

(4) Notwithstanding anything in this Act, the Minister may, without a surrender

- (a) dispose of wild grass or dead or fallen timber, and 40
- (b) with the consent of the council of the band, dispose of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, or, where such consent cannot be obtained without undue difficulty or delay, may issue temporary permits for the taking of sand, gravel, clay and other non-metallic substances upon or under lands in a reserve, renewable only with the consent of the council of the band, 45





and the proceeds of such transactions shall be credited to band funds or shall be divided between the band and the individual Indians in lawful possession of the lands in such shares as the Minister may determine.

Adjustment  
of contracts.

**59.** The Minister may, with the consent of the council of a band 5

- (a) reduce or adjust the amount payable to Her Majesty in respect of a sale, lease or other disposition of surrendered lands or a lease or other disposition of lands in a reserve or the rate of interest payable thereon, and 10
- (b) reduce or adjust the amount payable to the band by an Indian in respect of a loan made to the Indian from band funds. 10

G. in C. may  
grant to  
band  
control over  
lands.

**60.** (1) The Governor in Council may at the request of a band grant to the band the right to exercise such control and management over lands in the reserve occupied by that band as the Governor in Council considers desirable. 15

Withdrawal.

(2) The Governor in Council may at any time withdraw from a band a right conferred upon the band under subsection (1). 20

#### MANAGEMENT OF INDIAN MONEYS.

Indian  
moneys to  
be held for  
use and  
benefit.

**61.** (1) Indian moneys shall be expended only for the benefit of the Indians or bands for whose use and benefit in common the moneys are received or held, and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which Indian moneys are used or are to be used is for the use and benefit of the band. 25

Interest.

(2) Interest upon Indian moneys held in the Consolidated Revenue Fund shall be allowed at a rate to be fixed from time to time by the Governor in Council. 30

Capital and  
revenue.

**62.** All Indian moneys derived from the sale of surrendered lands or the sale of capital assets of a band shall be deemed to be capital moneys of the band and all Indian moneys other than capital moneys shall be deemed to be revenue moneys of the band. 35

Payments  
to Indians.

**63.** Notwithstanding the *Financial Administration Act*, where moneys to which an Indian is entitled are paid to a superintendent under any lease or agreement made under this Act, the superintendent may pay the moneys to the Indian. 40



Department of Capital  
Matters with  
Consent

With the consent of the Council of a band, the  
Minister may authorize and direct the expenditure of capital  
money of the band

- (a) to distribute per capita to the members of the band an amount not exceeding fifty per cent of the capital money of the band derived from the sale of surrendered lands;
  - (b) to construct and maintain roads, bridges, ditches and water courses on the reserve or on surrendered lands;
  - (c) to construct and maintain other boundary lines on reserves;
  - (d) to purchase land for use by the band as a reserve or as an addition to a reserve;
  - (e) to purchase for the band the interest of a member of the band in lands on a reserve;
  - (f) to purchase livestock and farm implements, farm equipment or machinery for the band;
  - (g) to construct and maintain or to be in connection with a reserve such permanent improvements or works as in the opinion of the Minister will be of permanent value to the band or will constitute a capital investment;
  - (h) to make to members of the band for the purpose of promoting the welfare of the band loans not exceeding one-half of the total value of the chattels owned by the borrower, and
    - (i) the chattels owned by the borrower, and
    - (ii) the land with respect to which he holds or is entitled to receive a Certificate of Possession;
  - (i) and may charge interest and take security therefor;
  - (j) to meet expenses necessarily incidental to the acquisition of lands on a reserve, surrendered lands and any band property;
  - (k) to construct houses for members of the band for the purpose of housing them or to make loans to members of the band for building purposes with or without security and to provide for the payment of loans made to members of the band for building purposes;
  - (l) for all other purposes that in the opinion of the Minister are in the benefit of the band.
- The Minister may pay from capital money
- (a) compensation to an Indian in an amount that is determined in accordance with this Act to be payable to him in respect of land compulsorily taken from him for band purposes, and

Expenditure  
of capital  
moneys with  
consent.

**64.** With the consent of the council of a band, the Minister may authorize and direct the expenditure of capital moneys of the band

- (a) to distribute *per capita* to the members of the band an amount not exceeding fifty per cent of the capital moneys of the band derived from the sale of surrendered lands, 5
- (b) to construct and maintain roads, bridges, ditches and water courses on the reserves or on surrendered lands, 10
- (c) to construct and maintain outer boundary fences on reserves,
- (d) to purchase land for use by the band as a reserve or as an addition to a reserve,
- (e) to purchase for the band the interest of a member of the band in lands on a reserve, 15
- (f) to purchase livestock and farm implements, farm equipment, or machinery for the band,
- (g) to construct and maintain on or in connection with a reserve such permanent improvements or works as in the opinion of the Minister will be of permanent value to the band or will constitute a capital investment, 20
- (h) to make to members of the band, for the purpose of promoting the welfare of the band, loans not exceeding one-half of the total value of
  - (i) the chattels owned by the borrower, and
  - (ii) the land with respect to which he holds or is eligible to receive a Certificate of Possession, 30
 and may charge interest and take security therefor,
- (i) to meet expenses necessarily incidental to the management of lands on a reserve, surrendered lands and any band property, 35
- (j) to construct houses for members of the band, to make loans to members of the band for building purposes with or without security and to provide for the guarantee of loans made to members of the band for building purposes, 40 and
- (k) for any other purpose that in the opinion of the Minister is for the benefit of the band.

Expenditure  
of capital.

**65.** (a) The Minister may pay from capital moneys compensation to an Indian in an amount that is determined in accordance with this Act to be payable to him in respect of land compulsorily taken from him for band purposes, and 45





- (b) expenses incurred to prevent or suppress grass or forest fires or to protect the property of Indians in cases of emergency.

Expenditure of revenue moneys with consent of band.

**66.** (1) With the consent of the council of a band, the Minister may authorize and direct the expenditure of revenue moneys for any purpose that in his opinion will promote the general progress and welfare of the band or any member of the band. 5

Minister may direct expenditure.

(2) The Minister may make expenditures out of the revenue moneys of the band to assist sick, disabled, aged or destitute Indians of the band and to provide for the burial of deceased indigent members of the band and to provide for the payment of contributions under the *Unemployment Insurance Act* on behalf of employed persons who are paid in respect of their employment out of moneys of the band. 15

Expenditure of revenue moneys with authority of Minister.

(3) The Minister may authorize the expenditure of revenue moneys of the band for all or any of the following purposes, namely,

- (a) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves;
- (b) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable; 25
- (c) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;
- (d) to prevent overcrowding of premises on reserves used as dwellings; 30
- (e) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves; and
- (f) for the construction and maintenance of boundary fences. 35

Recovery of moneys expended for raising or collecting Indian moneys.

**66A.** Where money is expended by Her Majesty for the purpose of raising or collecting Indian moneys, the Minister may authorize the recovery of the amount so expended from the moneys of the band. 40

Maintenance of dependants.

**67.** (1) Where the Minister is satisfied that a male Indian

- (a) has deserted his wife or family without sufficient cause,
- (b) has conducted himself in such a manner as to justify the refusal of his wife or family to live with him, or 45





(c) has been separated by imprisonment from his wife and family, he may order that payments of any annuity or interest money to which that Indian is entitled shall be applied to the support of the wife or family or both the wife and family of that Indian. 5

Maintenance of illegitimate child.

(2) Where the Minister is satisfied that a female Indian has deserted her husband or family, he may order that payments of any annuity or interest money to which that Indian is entitled shall be applied to the support of her family. 10

Illegitimate children.

(3) Where the Minister is satisfied that one or both the parents of an illegitimate child is an Indian, he may stop payments out of any annuity or interest moneys to which either or both of the parents would otherwise be entitled and apply the moneys to the support of the child, but not so as to prejudice the welfare of any legitimate child of either Indian. 15

Management of revenue moneys by band.

**68.** (1) The Governor in Council may by order permit a band to control, manage and expend in whole or in part its revenue moneys and may amend or revoke any such order. 20

Regulations.

(2) The Governor in Council may make regulations to give effect to subsection (1) and may declare therein the extent to which this Act and the *Financial Administration Act* shall not apply to a band to which an order made under subsection (1) applies. 25

#### LOANS TO INDIANS.

Loans to Indians.

**69.** (1) The Minister of Finance may from time to time advance to the Minister out of the Consolidated Revenue Fund such sums of money as the Minister may require to enable him 30

- (a) to make loans to bands, groups of Indians or individual Indians for the purchase of farm implements, machinery, livestock, motor vehicles, fishing equipment, seed grain, fencing materials, materials to be used in native handicrafts, any other equipment, and gasoline and other petroleum products, or for the making of repairs or the payment of wages, or for the clearing and breaking of land within reserves, 35 40
- (b) to expend or to lend money for the carrying out of co-operative projects on behalf of Indians, or
- (c) to provide for any other matter prescribed by the Governor in Council.





Regulations.	(2) The Governor in Council may make regulations to give effect to subsection (1).	
Accounting.	(3) Expenditures that are made under subsection (1) shall be accounted for in the same manner as public moneys.	5
Repayment.	(4) The Minister shall pay to the Minister of Finance all moneys that he receives from bands, groups of Indians or individual Indians by way of repayments of loans made under subsection (1).	
Limitation.	(5) The total amount of outstanding advances to the Minister under this section shall not at any one time exceed one million dollars.	10
Report to Parliament.	(6) The Minister shall within fifteen days after the termination of each fiscal year or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session, lay before Parliament a report setting out the total number and amount of loans made under subsection (1) during that year.	15

## FARMS.

Minister may operate farms.	<b>70.</b> (1) The Minister may operate farms on reserves and may employ such persons as he considers necessary to instruct Indians in farming and may purchase and distribute without charge, pure seed to Indian farmers.	20
Application of profits.	(2) The Minister may apply any profits that result from the operation of farms pursuant to subsection (1) on reserves to extend farming operations on the reserves or to make loans to Indians to enable them to engage in farming or other agricultural operations or he may apply such profits in any way that he considers to be desirable to promote the progress and development of the Indians.	25

## TREATY MONEY.

Treaty money payable out of C.R.F.	<b>71.</b> Moneys that are payable to Indians or to Indian bands under a treaty between Her Majesty and the band and for the payment of which the Government of Canada is responsible, may be paid out of the Consolidated Revenue Fund.	30
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## REGULATIONS.

Regulations.	<b>72.</b> (1) The Governor in Council may make regulations	35
	(a) for the protection and preservation of fur-bearing animals, fish and other game on reserves,	





- (b) for the destruction of noxious weeds and the prevention of the spreading or prevalence of insects, pests or diseases that may destroy or injure vegetation on Indian reserves,
- (c) for the control of the speed, operation and parking of vehicles on roads within reserves, 5
- (d) for the taxation, control and destruction of dogs and for the protection of sheep on reserves,
- (e) for the operation, supervision and control of pool rooms, dance halls and other places of amusement on reserves, 10
- (f) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable,
- (g) to provide medical treatment and health services for Indians, 15
- (h) to provide compulsory hospitalization and treatment for infectious diseases among Indians,
- (i) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof, 20
- (j) to prevent overcrowding of premises on reserves used as dwellings,
- (k) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves, 25
- (l) for the construction and maintenance of boundary fences, and
- (m) for empowering and authorizing the council of a band to borrow money for band projects or housing purposes and providing for the making of loans out of moneys so borrowed to members of the band for housing purposes. 30

Penalty.

(2) The Governor in Council may prescribe the penalty, not exceeding a fine of one hundred dollars or imprisonment for a term not exceeding three months or both fine and imprisonment, that may be imposed on summary conviction for violation of a regulation made under subsection (1). 35

Orders and regulations.

(3) The Governor in Council may make orders and regulations to carry out the purposes and provisions of this Act. 40

#### ELECTIONS OF CHIEFS AND BAND COUNCILS.

Elected councils.

**73.** (1) Whenever he deems it advisable for the good government of a band, the Minister may declare by order that after a day to be named therein the council of the band, consisting of a chief and councillors, shall be selected by elections to be held in accordance with this Act. 45





Composition  
of council.

(2) Unless otherwise ordered by the Minister, the council of a band in respect of which an order has been made under subsection (1) shall consist of one chief, and one councillor for every one hundred members of the band, but the number of councillors shall not be less than two nor more than twelve and no band shall have more than one chief. 5

Regulations.

(3) The Governor in Council may, for the purposes of giving effect to subsection (1), make orders or regulations to provide

(a) that the chief of a band shall be elected by 10

(i) a majority of the votes of the electors of the band, or

(ii) a majority of the votes of the elected councillors of the band from among themselves, but the chief so elected shall remain 15 a councillor,

(b) that the councillors of a band shall be elected by

(i) a majority of the votes of the electors of the band, or

(ii) a majority of the votes of the electors of 20 the band in the electoral section in which the candidate resides and that he proposes to represent on the council of the band.

Electoral  
sections.

(4) A reserve shall for voting purposes consist of one electoral section, except that where the majority of the 25 electors of a band who were present and voted at a referendum or a special meeting held and called for the purpose in accordance with the regulations have decided that the reserve should for voting purposes be divided into electoral sections and the Minister so recommends, the Governor in 30 Council may make orders or regulations to provide that the reserve shall for voting purposes be divided into not more than six electoral sections containing as nearly as may be an equal number of Indians eligible to vote and to provide for the manner in which electoral sections so established shall 35 be distinguished or identified.

Eligibility.

**74.** (1) No person other than an elector who resides in a section may be nominated for the office of councillor to represent that section on the council of the band.

Nomination.

(2) No person may be a candidate for election 40 as chief or councillor unless his nomination is moved and seconded by persons who are themselves eligible to be nominated.

Regulations  
governing  
elections.

**75.** (1) The Governor in Council may make orders and regulations with respect to band elections and, without 45 restricting the generality of the foregoing, may make regulations with respect to

(a) meetings to nominate candidates,

(b) the appointment and duties of electoral officers,





- (c) the manner in which voting shall be carried out,  
 (d) election appeals, and  
 (e) the definition of residence for the purpose of determining the eligibility of voters.
- Secrecy of voting. (2) The regulations made under paragraph (c) of subsection (1) shall make provision for secrecy of voting. 5
- Eligibility of voters for chief. **76.** (1) A member of a band who is of the full age of twenty-one years and is ordinarily resident on the reserve is qualified to vote for a person nominated to be chief of the band, and where the reserve for voting purposes consists of 10 one section, to vote for persons nominated as councillors.
- Councillor. (2) A member of a band who is of the full age of twenty-one years and is ordinarily resident in a section that has been established for voting purposes is qualified to vote for a person nominated to be councillor to represent 15 that section.
- Tenure of office. **77.** (1) Subject to this section, chiefs and councillors hold office for two years.
- Vacancy. (2) The office of chief or councillor becomes vacant when 20
- (a) the person who holds that office
- (i) is convicted of an indictable offence,  
 (ii) dies or resigns his office, or  
 (iii) is or becomes ineligible to hold office by virtue of this Act; or 25
- (b) the Minister declares that in his opinion the person who holds that office
- (i) is unfit to continue in office by reason of his having been convicted of an offence,  
 (ii) has been absent from meetings of the council for three consecutive meetings without being authorized to do so, or 30  
 (iii) was guilty, in connection with an election, of corrupt practice, accepting a bribe, dishonesty or malfeasance. 35
- Disqualification. (3) The Minister may declare a person who ceases to hold office by virtue of subparagraph (iii) of paragraph (b) of subsection (2) to be ineligible to be a candidate for chief or councillor for a period not exceeding six years.
- Special election. (4) Where the office of chief or councillor becomes vacant more than three months before the date when another election would ordinarily be held, a special election may be held in accordance with this Act to fill the vacancy. 40





Governor  
in Council  
may set  
aside  
election.

**78.** The Governor in Council may set aside the election of a chief or a councillor on the report of the Minister that he is satisfied that

- (a) there was corrupt practice in connection with the election, 5
- (b) there was a violation of this Act that might have affected the result of the election, or
- (c) a person nominated to be a candidate in the election was ineligible to be a candidate.

Regulations  
respecting  
band and  
council  
meetings.

**79.** The Governor in Council may make regulations 10 with respect to band meetings and council meetings and, without restricting the generality of the foregoing, may make regulations with respect to

- (a) presiding officers at such meetings,
- (b) notice of such meetings, 15
- (c) the duties of any representative of the Minister at such meetings, and
- (d) the number of persons required at the meeting to constitute a quorum.

#### POWERS OF THE COUNCIL

By-laws.

**80.** The council of a band may make by-laws not 20 inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely:

- (a) to provide for the health of residents on the reserve and to prevent the spreading of con- 25 tagious and infectious diseases;
- (b) the regulation of traffic;
- (c) the observance of law and order;
- (d) the prevention of disorderly conduct and nuisances; 30
- (e) the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their 35 services;
- (f) the construction and maintenance of water courses, roads, bridges, ditches, fences and other local works;
- (g) the dividing the reserve or a portion thereof 40 into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any such zone;



- (A) the regulation of the construction, repair and use of buildings, whether owned by the State or by individual members of the band;
- (B) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the selling agent of reserve lands for sections under section 80; for has been granted under section 80;
- (C) the destruction and control of noxious weeds;
- (D) the regulation of boating and boating tanks;
- (E) the construction and regulation of the use of public streets, electric, telegraph and other water supplies;
- (F) the control and prohibition of public games, sports, races, athletic contests and other amusements;
- (G) the regulation of the conduct and activities of hawkers, peddlers or others who enter the State to buy, sell or otherwise deal in wares or merchandise;
- (H) the preservation, protection and management of fish-bearing streams, fish and other fauna on the coast;
- (I) the removal and punishment of persons trespassing upon the State or possessing the means for prohibited persons;
- (J) with respect to any matter arising out of or incidental to the exercise of powers under this section and
- (K) the regulation on summary conviction of a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days or both the and imprisonment for violation of a by-law made under this section.

(1) A copy of every by-law made under the authority of section 80 shall be forwarded by mail by the Minister to the Council of the band to the Minister within four days after it is made.

(2) A by-law made under section 80 shall come into force forty days after a copy thereof is forwarded to the Minister pursuant to subsection (1), unless it is disallowed by the Minister within that period, but the Minister may declare the by-law to be in force at any time before the expiration of that period.

Section 80  
 and to be  
 Minister

Minister  
 shall be  
 by-law

- (h) the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band;
- (i) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section 60; 5 10
- (j) the destruction and control of noxious weeds;
- (k) the regulation of beekeeping and poultry raising;
- (l) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies; 15
- (m) the control and prohibition of public games, sports, races, athletic contests and other amusements;
- (n) the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise; 20
- (o) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve; 25
- (p) the removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prescribed purposes;
- (q) with respect to any matter arising out of or ancillary to the exercise of powers under this section; and 30
- (r) the imposition on summary conviction of a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days or both fine and imprisonment for violation of a by-law made under this section. 35

Copies of  
by-laws to be  
sent to  
Minister.

**81.** (1) A copy of every by-law made under the authority of section 80 shall be forwarded by mail by the chief or a member of the council of the band to the Minister within four days after it is made. 40

Effective  
date of  
by-law.

(2) A by-law made under section 80 shall come into force forty days after a copy thereof is forwarded to the Minister pursuant to subsection (1), unless it is disallowed by the Minister within that period, but the Minister may declare the by-law to be in force at any time before the expiration of that period. 45





Money  
by-laws.

**82.** (1) Without prejudice to the powers conferred by section 80, where the Governor in Council declares that a band has reached an advanced stage of development, the council of the band may, subject to the approval of the Minister, make by-laws for any or all of the following 5 purposes, namely:

- (a) the raising of money by
  - (i) the assessment and taxation of interests in land in the reserve of persons lawfully in possession thereof, and 10
  - (ii) the licensing of businesses, callings, trades and occupations;
- (b) the appropriation and expenditure of moneys of the band to defray expenses;
- (c) the appointment of officials to conduct the business of the council, prescribing their duties and providing for their remuneration out of moneys raised pursuant to paragraph (a); 15
- (d) the payment of remuneration, in such amount as may be approved by the Minister, to chiefs and councillors, out of any moneys raised pursuant to paragraph (a); 20
- (e) the imposition of a penalty for non-payment of taxes imposed pursuant to this section, recoverable on summary conviction, not exceeding the amount of the tax or the amount remaining unpaid; 25
- (f) the raising of money from band members to support band projects; and
- (g) with respect to any matter arising out of or ancillary to the exercise of powers under this section. 30

Restriction  
on expen-  
ditures.

(2) No expenditure shall be made out of moneys raised pursuant to paragraph (a) of subsection (1) except under the authority of a by-law of the council of the band. 35

Recovery  
of taxes.

**83.** Where a tax that is imposed upon an Indian by or under the authority of a by-law made under section 82 is not paid in accordance with the by-law, the Minister may pay the amount owing together with an amount equal to one-half of one per cent thereof out of moneys payable out of the funds of the band to the Indian. 40

G. in C. may  
revoke  
authority  
to make  
money  
by-laws.

**84.** The Governor in Council may revoke a declaration made under section 82 whereupon that section shall no longer apply to the band to which it formerly applied, but any by-law made under the authority of that section and in force at the time the declaration is revoked shall be deemed to continue in force until it is revoked by the Governor in Council. 45





Evidence.

**85.** A copy of a by-law made by the council of a band under this Act, if it is certified to be a true copy by the superintendent, is *prima facie* evidence that the by-law was duly made by the council and approved by the Minister, without proof of the signature or official character of the superintendent, and no such by-law is invalid by reason of any defect in form. 5

## TAXATION.

Property exempt from taxation.

**86.** Notwithstanding any other Act of the Parliament of Canada or any Act of the legislature of a province, but subject to subsection (2) and to section 82, the following property is exempt from taxation, namely,

(a) the interest of an Indian or a band in reserve or surrendered lands, and

(b) the personal property of an Indian or band situated on a reserve, 15

and no Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (a) or (b) or is otherwise subject to taxation in respect of any such property; and no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian, nor shall any such property be taken into account in determining the duty payable under the *Dominion Succession Duty Act* on or in respect of other property passing to an Indian. 25

## LEGAL RIGHTS.

General provincial laws applicable to Indians.

**87.** Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that such laws make provision for any matter for which provision is made by or under this Act.

Property on reserve not subject to alienation.

**88.** (1) Subject to this Act, the real and personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than an Indian. 35





Conditional sales.

(2) A person who sells to a band or a member of a band a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller, may exercise his rights under the agreement notwithstanding that the chattel is situated on a reserve. 5

Property deemed situated on reserve.

**89.** (1) For the purposes of sections 86 and 88, personal property that was  
 (a) purchased by Her Majesty with Indian moneys or moneys appropriated by Parliament for the 10 use and benefit of Indians or bands, or  
 (b) given to Indians or to a band under a treaty or agreement between a band and Her Majesty, shall be deemed always to be situated on a reserve.

Restriction on transfer.

(2) Every transaction purporting to pass title 15 to any property that is by this section deemed to be situated on a reserve, or any interest in such property, is void unless the transaction is entered into with the consent of the Minister or is entered into between members of a band or between the band and a member thereof. 20

Destruction of property.

(3) Every person who enters into any transaction that is void by virtue of subsection (2) is guilty of an offence, and every person who, without the written consent of the Minister, destroys personal property that is by this section deemed to be situated on a reserve, is guilty of an 25 offence.

#### TRADING WITH INDIANS.

Certain property on a reserve may not be acquired.

**90.** (1) No person may, without the written consent of the Minister, acquire title to any of the following property situated on a reserve, namely, 30  
 (a) an Indian grave house,  
 (b) a carved grave pole,  
 (c) a totem pole,  
 (d) a carved house post, or  
 (e) a rock embellished with paintings or carvings.

Articles manufactured for sale.

(2) Subsection (1) does not apply to chattels 35 referred to therein that are manufactured for sale by Indians.

Removal, destruction, etc.

(3) No person shall remove, take away, mutilate, disfigure, deface or destroy any chattel referred to in subsection (1) without the written consent of the Minister.

Penalty.

(4) A person who violates this section is guilty 40 of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months.





Departmental employees, etc., prohibited from trading without a licence.

- 91.** (1) No person who is
- (a) an officer or employee in the Department,
  - (b) a missionary engaged in mission work among Indians, or
  - (c) a school teacher on a reserve,
- shall, without a licence from the Minister or his duly authorized representative, trade for profit with an Indian or sell to him directly or indirectly goods or chattels, but no such licence shall be issued to a full-time officer or employee in the Department.

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Cancellation of licence.

(2) The Minister or his duly authorized representative may at any time cancel a licence given under this section.

Penalty.

(3) A person who violates subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars.

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Dismissal.

(4) Without prejudice to subsection (3), an officer or employee in the Department who contravenes subsection (1) may be dismissed from office.

#### REMOVAL OF MATERIALS FROM RESERVES.

Removal of material from reserve.

- 92.** A person who, without the written permission of the Minister or his duly authorized representative,
- (a) removes or permits anyone to remove from a reserve
    - (i) minerals, stone, sand, gravel, clay or soil, or
    - (ii) trees, saplings, shrubs, underbrush, timber, cordwood or hay,
  - (b) has in his possession anything removed from a reserve contrary to this section,
- is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.

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Sale of intoxicants.

- 93.** A person who directly or indirectly by himself or by any other person on his behalf knowingly
- (a) sells, barter, supplies or gives an intoxicant to
    - (i) any person on a reserve, or
    - (ii) an Indian outside a reserve
  - (b) opens or keeps or causes to be opened or kept on a reserve a dwelling house, building, tent, or place in which intoxicants are sold, supplied or given to any person, or
  - (c) makes or manufactures intoxicants on a reserve,
- is guilty of an offence and is liable on summary conviction to a fine of not less than fifty dollars and not more than three hundred dollars or to imprisonment for a term of not less than one month and not more than six months, with or without hard labour, or to both fine and imprisonment.

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Possession of  
intoxicants  
off a reserve.

- 94.** An Indian who  
(a) has intoxicants in his possession,  
(b) is intoxicated, or  
(c) makes or manufactures intoxicants

off a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 5

Coming into  
force of this  
section.

**95.** (1) Subsection (2) or subsection (3) shall come into force, or cease to be in force, in a province or in a part thereof only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the province or part thereof is issued by the Governor in Council at the request of the Lieutenant-Governor in Council of the province. 10 15

Exception  
to offences.

(2) No offence is committed against subparagraph (ii) of paragraph (a) of section 93 or paragraph (a) of section 94 if intoxicants are sold to an Indian for consumption in a public place in accordance with the law of the province where the sale takes place. 20

(3) No offence is committed against subparagraph (ii) of paragraph (a) of section 93 or paragraph (a) of section 94 if intoxicants are sold to or had in possession by an Indian in accordance with the law of the province where the sale takes place or the possession is had. 25

Possession of  
intoxicants  
on a reserve.

- 96.** A person who is found  
(a) with intoxicants in his possession, or  
(b) intoxicated

on a reserve, is guilty of an offence and is liable on summary conviction to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 30

Coming into  
force of  
this section.

**96A.** (1) Subsection (2) shall come into force, or cease to be in force, in a reserve only if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, in the reserve, is issued by the Governor in Council. 35

Exception  
to offences.

(2) No offence is committed against paragraph (a) of section 96 if intoxicants are had in possession by any person in accordance with the law of the province where the possession is had. 40

Referendum.

(3) A proclamation in respect of a reserve shall not be issued under subsection (1) except in accordance with the wishes of the band, as expressed at a referendum of the electors of the band by a majority of the electors who voted thereat. 45





Regulations.

(4) The Governor in Council may make regulations

(a) respecting the taking of votes and the holding of a referendum for the purposes of this section; and

(b) defining a reserve for the purposes of subsection (1) to consist of one or more reserves or any part thereof.

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When proclamation may issue.

(5) No proclamation bringing subsection (2) into force in a reserve shall be issued unless the council of the band has transmitted to the Minister a resolution of the council requesting that subsection (2) be brought into force in the reserve, and either

(a) the reserve is situated in a province or part thereof in which subsection (3) of section 95 is in force, or

(b) the Minister has communicated the contents of the resolution to the Attorney General of the province in which the reserve is situated, the Lieutenant-Governor in Council of the province has not, within sixty days after such communication, objected to the granting of the request, and the Governor in Council has directed that the wishes of the band with respect thereto be ascertained by a referendum of the electors of the band.

Further exception to offences.

(6) Where subsection (2) is in force in a reserve no offence is committed against subparagraph (ii) of paragraph (a) of section 93 or paragraph (a) of section 94 if intoxicants are sold to or had in possession by a member of the band in accordance with the law of the province in which the reserve is situated.

Exception where intoxicant used for sickness.

**97.** The provisions of this Act relating to intoxicants do not apply where the intoxicant is used or is intended to be used in cases of sickness or accident.

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Onus of proof.

**98.** In any prosecution under this Act the burden of proof that an intoxicant was used or was intended to be used in a case of sickness or accident is upon the accused.

Certificate of analysis is evidence.

**99.** In every prosecution under this Act a certificate of analysis furnished by an analyst employed by the Government of Canada or by a province shall be accepted as *prima facie* evidence of the facts stated therein and of the authority of the person giving or issuing the certificate, without proof of the signature of the person appearing to have signed the certificate or his official character, and without further proof thereof.

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Penalty  
where no  
other  
provided.

**100.** Every person who is guilty of an offence against any provision of this Act or any regulation made by the Governor in Council or the Minister for which a penalty is not provided elsewhere in this Act or the regulations, is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 5

#### FORFEITURES AND PENALTIES.

Seizure  
of goods.

**101.** (1) Whenever a peace officer or a superintendent or a person authorized by the Minister believes on reasonable grounds that an offence against section 33, 89, 10 92, 93, 94 or 96 has been committed, he may seize all goods and chattels by means of or in relation to which he reasonably believes the offence was committed.

Detention.

(2) All goods and chattels seized pursuant to subsection (1) may be detained for a period of three months 15 following the day of seizure unless during that period proceedings under this Act in respect of such offence are undertaken, in which case the goods and chattels may be further detained until such proceedings are finally concluded.

Forfeiture.

(3) Where a person is convicted of an offence 20 against the sections mentioned in subsection (1), the convicting court or judge may order that the goods and chattels by means of or in relation to which the offence was committed, in addition to any penalty imposed, are forfeited to Her Majesty and may be disposed of as the Minister directs. 25

Search.

(4) A justice who is satisfied by information upon oath that there is reasonable ground to believe that there are upon a reserve or in any building, receptacle or place any goods or chattels by means of or in relation to which an offence against any of the sections mentioned in sub- 30 section (1) has been, is being or is about to be committed, may at any time issue a warrant under his hand authorizing a person named therein or a peace officer at any time to search the reserve, building, receptacle or place for any such goods or chattels. 35

Disposition  
of fines.

**102.** Every fine, penalty or forfeiture imposed under this Act belongs to Her Majesty for the benefit of the band with respect to which or to one or more members of which the offence was committed or to which the offender, if an Indian, belongs, but the Governor in Council may from 40 time to time direct that the fine, penalty or forfeiture shall be paid to a provincial, municipal or local authority that bears in whole or in part the expense of administering the



law under which the fine, penalty or forfeiture is imposed, or that the fine, penalty or forfeiture shall be applied in the manner that he considers will best promote the purpose of the law under which the fine, penalty or forfeiture is imposed, or the administration of that law.

103. In any order, writ, warrant, summons or proceeding issued under this Act it is sufficient if the name of the person or Indian referred to therein is the name given to or the name by which the person or Indian is known by the person who issues the order, writ, warrant, summons or proceeding, and if no part of the name of the person is given to or known by the person issuing the order, writ, warrant, summons or proceeding, it is sufficient if the person or Indian is described in any manner by which he may be identified.

Language of Indian or Indian in writing, etc.

104. A police magistrate or a stipendiary magistrate has and may exercise, with respect to matters arising under this Act, jurisdiction over the whole country, town or of counties or judicial districts in which the city, town or other place in which he is appointed or in which he has jurisdiction under provincial law is situated.

Jurisdiction of magistrates

105. The Governor in Council may appoint persons to be, for the purposes of this Act, justices of the peace and those persons have and may exercise the powers and authority of two justices of the peace with respect to

Appointment of justices

- (a) offences under this Act;
(b) any offence against the provisions of the Criminal Code relating to animals and vegetation, except hunting and catching and carrying, where the offence is committed by an Indian or relates to the person or property of an Indian.

106. When immediately prior to the 1st day of September 1921 an Indian agent was or acted as justice of the peace under the Indian Act, chapter 93 of the Revised Statutes of Canada, 1921, he shall be deemed, for the purposes of this Act, to have been appointed under section 105, and he may exercise the powers and authority conferred by that section until the appointment is revoked by the Minister.

Indian agent as justice of the peace

- 107. For the purposes of this Act, or any matter relating to Indian Affairs:
(a) persons appointed by the Minister for the purpose;
(b) superintendants and

Persons appointed for Indian Affairs

law under which the fine, penalty or forfeiture is imposed, or that the fine, penalty or forfeiture shall be applied in the manner that he considers will best promote the purposes of the law under which the fine, penalty or forfeiture is imposed, or the administration of that law. 5

Description  
of Indians  
in writs, etc.

**103.** In any order, writ, warrant, summons or proceeding issued under this Act it is sufficient if the name of the person or Indian referred to therein is the name given to, or the name by which the person or Indian is known by, the person who issues the order, writ, warrant, summons or proceedings, and if no part of the name of the person is given to or known by the person issuing the order, writ, warrant, summons or proceedings, it is sufficient if the person or Indian is described in any manner by which he may be identified. 10 15

Jurisdiction  
of  
magistrates.

**104.** A police magistrate or a stipendiary magistrate has and may exercise, with respect to matters arising under this Act, jurisdiction over the whole county, union of counties or judicial district in which the city, town or other place for which he is appointed or in which he has jurisdiction under provincial laws is situated. 20

Appointment  
of justices.

**105.** The Governor in Council may appoint persons to be, for the purposes of this Act, justices of the peace and those persons have and may exercise the powers and authority of two justices of the peace with regard to 25

- (a) offences under this Act,
- (b) any offence against the provisions of the *Criminal Code* relating to cruelty to animals, common assault, breaking and entering and vagrancy, where the offence is committed by an Indian or 30 relates to the person or property of an Indian.

Indian agent  
*ex officio*  
a J.P.

**106.** Where, immediately prior to the 4th day of September, 1951, an Indian agent was *ex officio* a justice of the peace under the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, he shall be deemed, for the purposes of this Act, to have been appointed under section 105, and he may exercise the powers and authority conferred by that section until his appointment is revoked by the Minister. 35

Commis-  
sioners for  
taking oaths.

**107.** For the purposes of this Act, or any matter relating to Indian Affairs 40

- (a) persons appointed by the Minister for the purpose,
- (b) superintendents, and





(c) the Minister, Deputy Minister and the chief officer in charge of the branch of the Department relating to Indian affairs are *ex officio* commissioners for the taking of oaths.

## ENFRANCHISEMENT.

Enfranchisement of Indian and wife and minor children.

**108.** (1) On the report of the Minister that an Indian has applied for enfranchisement and that in his opinion the Indian

- (a) is of the full age of twenty-one years,
- (b) is capable of assuming the duties and responsibilities of citizenship, and
- (c) when enfranchised, will be capable of supporting himself and his dependants,

the Governor in Council may by order declare that the Indian and his wife and minor unmarried children are enfranchised.

(2) On the report of the Minister that an Indian woman married a person who is not an Indian, the Governor in Council may by order declare that the woman is enfranchised as of the date of her marriage and, on the recommendation of the Minister may by order declare that all or any of her children are enfranchised as of the date of the marriage or such other date as the order may specify.

Where wife living apart.

(3) Where, in the opinion of the Minister, the wife of an Indian is living apart from her husband, the names of his wife and his minor children who are living with the wife shall not be included in an order under subsection (1) that enfranchises the Indian unless the wife has applied for enfranchisement, but where the Governor in Council is satisfied that such wife is no longer living apart from her husband, the Governor in Council may by order declare that the wife and the minor children are enfranchised.

Order of enfranchisement.

(4) A person is not enfranchised unless his name appears in an order of enfranchisement made by the Governor in Council.

Enfranchised person ceases to be Indian.

**109.** A person with respect to whom an order for enfranchisement is made under this Act shall, from the date thereof, or from the date of enfranchisement provided for therein, be deemed not to be an Indian within the meaning of this Act or any other statute or law.





Sale of  
lands of  
enfranchised  
Indian.

**110.** (1) Upon the issue of an order of enfranchisement, any interest in land and improvements on an Indian reserve of which the enfranchised Indian was in lawful possession or over which he exercised rights of ownership, at the time of his enfranchisement, may be disposed of by him by gift or private sale to the band or another member of the band, but if not so disposed of within thirty days after the date of the order of enfranchisement such land and improvements shall be offered for sale by tender by the superintendent and sold to the highest bidder and the proceeds of such sale paid to him; and if no bid is received and the property remains unsold after six months from the date of such offering, the land, together with improvements, shall revert to the band free from any interest of the enfranchised person therein, subject to the payment, at the discretion of the Minister, to the enfranchised Indian, from the funds of the band, of such compensation for permanent improvements as the Minister may determine.

Grant to  
enfranchised  
Indian.

(2) When an order of enfranchisement issues or has issued, the Governor in Council may, with the consent of the council of the band, by order declare that any lands within a reserve of which the enfranchised Indian had formerly been in lawful possession shall cease to be Indian reserve lands.

(3) When an order has been made under subsection (2), the enfranchised Indian is entitled to occupy such lands for a period of ten years from the date of his enfranchisement, and the enfranchised Indian shall pay to the funds of the band, or there shall, out of any money payable to the enfranchised Indian under this Act, be transferred to the funds of the band, such amount per acre for the lands as the Minister considers to be the value of the common interest of the band in the lands.

(4) At the end of the ten-year period referred to in subsection (3) the Minister shall cause a grant of the lands to be made to the enfranchised Indian or to his legal representatives.

Enfranchise-  
ment of  
band.

**111.** (1) Where the Minister reports that a band has applied for enfranchisement, and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and in his opinion the band is capable of managing its own affairs as a municipality or part of a municipality, the Governor in Council may by order approve the plan, declare that all the members of the band are enfranchised, either as of the date of the order or such later date as may be fixed in the order, and may make regulations for carrying the plan and the provisions of this section into effect.





Majority  
vote  
required.

(2) An order for enfranchisement may not be made under subsection (1) unless more than fifty per cent of the electors of the band signify, at a meeting of the band called for the purpose, their willingness to become enfranchised under this section, and their approval of the plan. 5

Agreements  
with  
provinces  
or municipi-  
palities.

(3) The Governor in Council may, for the purpose of giving effect to this section, authorize the Minister to enter into an agreement with a province or a municipality, or both, upon such terms as may be agreed upon by the Minister and the province or municipality, or both. 10

Financial  
assistance.

(4) Without restricting the generality of subsection (3), an agreement made thereunder may provide for financial assistance to be given to the province or the municipality or both to assist in the support of indigent, infirm or aged persons to whom the agreement applies, and such financial assistance, or any part thereof, shall, if the Minister so directs, be paid out of moneys of the band, and any such financial assistance not paid out of moneys of the band shall be paid out of moneys appropriated by Parliament. 15 20

Committee  
of inquiry.

**112.** (1) Where a band has applied for enfranchisement within the meaning of this Act and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, the Minister may appoint a committee to inquire into and report upon any or all of the following matters, namely: 25

- (a) the desirability of enfranchising the band;
- (b) the adequacy of the plan submitted by it; and
- (c) any other matter relating to the application for enfranchisement or to the disposition thereof. 30

Composition.

(2) A committee appointed under subsection (1) shall consist of 35

- (a) a judge or retired judge of a superior, surrogate, district or county court,
- (b) an officer of the Department, and
- (c) a member of the band to be designated by the council of the band.

#### SCHOOLS.

Schools.

**113.** (1) The Governor in Council may authorize the Minister, in accordance with this Act, to enter into agreements on behalf of Her Majesty for the education in accordance with this Act of Indian children, with 40

- (a) the government of a province,
- (b) the Commissioner of the Northwest Territories,
- (c) the Commissioner of the Yukon Territory, 45
- (d) a public or separate school board, and





(e) a religious or charitable organization.

(2) The Minister may, in accordance with this Act, establish, operate and maintain schools for Indian children.

- Regulations. **114.** The Minister may 5
- (a) provide for and make regulations with respect to standards for buildings, equipment, teaching, education, inspection and discipline in connection with schools,
  - (b) provide for the transportation of children to 10 and from school,
  - (c) enter into agreements with religious organizations for the support and maintenance of children who are being educated in schools operated by those organizations, and 15
  - (d) apply the whole or any part of moneys that would otherwise be payable to or on behalf of a child who is attending a residential school to the maintenance of that child at that school. 20

Attendance. **115.** (1) Subject to section 116, every Indian child who has attained the age of seven years shall attend school.

- Idem. (2) The Minister may
- (a) require an Indian who has attained the age of 25 six years to attend school,
  - (b) require an Indian who becomes sixteen years of age during the school term to continue to attend school until the end of that term, and
  - (c) require an Indian who becomes sixteen years 30 of age to attend school for such further period as the Minister considers advisable, but no Indian shall be required to attend school after he becomes eighteen years of age.

- When attendance not ~~the~~ required. **116.** An Indian child is not required to attend 35 school if the child
- (a) is, by reason of sickness or other unavoidable cause that is reported promptly to the principal, unable to attend school.
  - (b) is, with the permission in writing of the super- 40intendent, absent from school for a period not exceeding six weeks in each term for the purpose of assisting in husbandry or urgent and necessary household duties,
  - (c) is under efficient instruction at home or else- 45where, within one year after the written approval by the Minister of such instruction, or





- (d) is unable to attend school because there is insufficient accommodation in the school that the child is entitled or directed to attend.

School to be attended.

**117.** Every Indian child who is required to attend school shall attend such school as the Minister may designate, but no child whose parent is a Protestant shall be assigned to a school conducted under Roman Catholic auspices and no child whose parent is a Roman Catholic shall be assigned to a school conducted under Protestant auspices, except by written direction of the parent. 5 10

Truant officers.

**118.** (1) The Minister may appoint persons, to be called truant officers, to enforce the attendance of Indian children at school, and for that purpose a truant officer has the powers of a peace officer.

Powers.

(2) Without restricting the generality of subsection 15 (1), a truant officer may

- (a) enter any place where he believes, on reasonable grounds, that there are Indian children who are between the ages of seven and sixteen years of age, or who are required by the Minister to attend school, 20
- (b) investigate any case of truancy, and
- (c) serve written notice upon the parent, guardian or other person having the care or legal custody of a child to cause the child to attend school 25 regularly thereafter.

Notice to attend school.

(3) Where a notice has been served in accordance with paragraph (c) of subsection (2) with respect to a child who is required by this Act to attend school, and the child does not within three days after the service of notice attend school and continue to attend school regularly thereafter, the person upon whom the notice was served is guilty of an offence and is liable on summary conviction to a fine of not more than five dollars or to imprisonment for a term not exceeding ten days or to both fine and imprisonment. 30 35

No further notices required within one year of previous notice.

(4) Where a person has been served with a notice in accordance with paragraph (c) of subsection (2), it is not necessary within a period of twelve months thereafter to serve that person with any other notice in respect of further non-compliance with the provisions of this Act, and whenever such person within the period of twelve months fails to cause the child with respect to whom the notice was served or any other child of whom he has charge or control to attend school and continue in regular attendance as required by this Act, such person is guilty of an offence and 40 45 liable to the penalties imposed by subsection (3) as if he had been served with the notice.





Tardiness.

(5) A child who is habitually late for school shall be deemed to be absent from school.

Take into custody.

(6) A truant officer may take into custody a child whom he believes on reasonable grounds to be absent from school contrary to this Act and may convey the child to school, using as much force as the circumstances require. 5

Child who is expelled or fails to attend deemed juvenile delinquent.

**119.** An Indian child who  
 (a) is expelled or suspended from school, or  
 (b) refuses or fails to attend school regularly,  
 shall be deemed to be a juvenile delinquent within the meaning of the *Juvenile Delinquents Act*. 10

Denomination of teacher.

**120.** (1) Where the majority of the members of a band belongs to one religious denomination the school established on the reserve that has been set apart for the use and benefit of that band shall be taught by a teacher of that denomination. 15

Idem.

(2) Where the majority of the members of a band are not members of the same religious denomination and the band by a majority vote of those electors of the band who were present at a meeting called for the purpose requests that day schools on the reserve should be taught by a teacher belonging to a particular religious denomination, the school on that reserve shall be taught by a teacher of that denomination. 20

Minority religious denominations.

**121.** A Protestant or Roman Catholic minority of any band may, with the approval of and under regulations to be made by the Minister, have a separate day school or day school classroom established on the reserve unless, in the opinion of the Governor in Council, the number of children of school age does not so warrant. 30

Definitions.

**122.** In sections 113 to 121.

"Child."

(a) "child" means an Indian who has attained the age of six years but has not attained the age of sixteen years, and a person who is required by the Minister to attend school, 35

"School."

(b) "school" includes a day school, technical school, high school and residential school, and

"Truant officer."

(c) "truant officer" includes  
 (i) a member of the Royal Canadian Mounted Police, 40  
 (ii) a special constable appointed for police duty on a reserve, and  
 (iii) a school teacher and a chief of the band, when authorized by the superintendent.





## PRIOR GRANTS.

Prior grants  
and sales  
deemed  
authorized.

**123.** Where, prior to the 4th day of September, 1951, a reserve or portion of a reserve was released or surrendered to the Crown pursuant to Part I of the *Indian Act*, chapter 98 of the Revised Statutes of Canada, 1927, or pursuant to the provisions of the statutes relating to the release or surrender of reserves in force at the time of the release or surrender, and 5

(a) prior to that date Letters Patent under the Great Seal of Canada were issued purporting to grant a reserve or portion of a reserve so released or surrendered, or any interest therein, to any person, and the Letters Patent have not been declared void or inoperative by any Court of competent jurisdiction, or 10

(b) prior to that date a reserve or portion of a reserve so released or surrendered, or any interest therein, was sold or agreed to be sold by the Crown to any person, and the sale or agreement for sale has not been cancelled or by any Court of competent jurisdiction declared void 20 or inoperative.

the Letters Patent or the sale or agreement for sale, as the case may be, shall, for all purposes, be deemed to have been issued or made at the date thereof under the direction of the Governor in Council. 25

**124.** The *Indian Act*, being chapter 149, of the Revised Statutes of Canada, 1952, is repealed.



**C-15.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-15.**

**An Act to provide for Pay for Statutory Holidays for Employees and for Pay for Work Performed on Statutory Holidays in Federal Works, Undertakings and Businesses.**

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First Reading, October 1, 1962.

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**Mr. KNOWLES.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

BILL C-15.

An Act to provide for Pay for Statutory Holidays for Employees and for Pay for Work Performed on Statutory Holidays in Federal Works, Undertakings and Businesses.

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 *Statutory Holidays With Pay Act*. 5

Interpre-  
tation  
"Deputy  
Minister."

2. In this Act,  
(a) "Deputy Minister" means the Deputy Minister of Labour;

"Employee."

(b) "employee" means a person of any age of either sex who is in receipt of or entitled to any remuneration for labour or services performed for an employer; 10

"Employer."

(c) "employer" means any person, firm or corporation employing one or more employees and includes every agent, manager, representative, contractor, sub-contractor or principal and every other person who either: 15

(i) has control or direction of one or more employees; or

(ii) is responsible, directly or indirectly, in whole or in part, for the payment of wages to, or the receipt of wages by, one or more employees; 20

"Full time  
employee."

(d) "full time employee" means any employee who, in a week in which a statutory holiday occurs, works or is required to be at the disposal of his employer not less than 28 hours exclusive of overtime and any time the employee works or is required to be at the disposal of the employer on that holiday; 25 30



EXPLANATORY NOTE.

The purpose of this bill is to provide that all employees in Canada who come under federal labour jurisdiction shall receive their regular pay for at least eight statutory holidays each year, without having to work on those holidays. It also provides that when any such employee is required to work on any statutory holiday, as defined in the bill, he shall receive pay for such work at double time in addition to his regular pay for such holiday.

Nothing in this bill affects any provision for statutory holidays with pay enjoyed by any employees where such provisions are more favourable than those enjoyed herein, but this bill does supersede any provisions which are less favourable than those set out in this bill.

"Minister."	(e) "Minister" means the Minister of Labour;	
"Part time employee."	(f) "part time employee" means any employee other than a full time employee;	
"Pre-scribed."	(g) "prescribed" means prescribed by the Minister;	
"Statutory holiday."	(h) "statutory holiday" means New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day;	5
"Rate of wages."	(i) "rate of wages" means the basis of calculation of wages;	10
"Wage" or "wages."	(j) "wage" or "wages" means any compensation for labour or services paid to or retained by, or partly paid to and partly retained by, an employee, whether measured by time, piece, commission or by any other method whatever or by any combination of such methods;	15
"Week."	(k) "week" means the period between midnight on Saturday and midnight on the immediately following Saturday.	

Application of Act.

**3.** This Act applies to and in respect of employment upon or in connection with any work, undertaking or business that is within the legislative authority of the Parliament of Canada, including, but not so as to restrict the generality of the foregoing,

- (a) works, undertakings, or businesses operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;
- (b) railways, canals, telegraphs and other works and undertakings connecting a province with any other or others of the provinces, or extending beyond the limits of a province;
- (c) lines of steam and other ships connecting a province with any other or others of the provinces or extending beyond the limits of a province;
- (d) ferries between any province and any other province or between any province and any country other than Canada;
- (e) aerodromes, aircraft and lines of air transportation;
- (f) radio broadcasting stations;
- (g) banks and banking;
- (h) such works or undertakings as, although wholly situate within a province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces; and





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

and to and in respect of,

(j) all employees employed by any employer engaged in any such work, undertaking or business. 5

Statutory  
Holiday Pay  
for  
employees.

**4.** (1) Every full time employee, and every part time employee employed by an employer during not less than four consecutive weeks prior to a statutory holiday, who does not work and is not required to be at the disposal of his employer on a statutory holiday shall be paid by his employer in addition to all other sums to which he is entitled, a sum equal to that to which the employee would be entitled as wages exclusive of overtime for that day were that day not a statutory holiday. 15

(2) Every employee who works or is required to be at the disposal of his employer on a statutory holiday shall be paid by his employer in addition to all other sums to which he is entitled, a sum equal to a sum computed in accordance with subsection (1), plus a sum equal to two times the regular rate of wages of such employee for each hour or part thereof he works or is required to be at the disposal of his employer on such holiday. 20

(3) Where a statutory holiday falls on a day other than a regular work day of a full time employee the holiday shall for the purpose of this Act in so far as that employee is concerned be deemed to be the next following regular work day of such employee. 25

Evasion of  
section 4  
prohibited.

**5.** No employer shall discharge, or temporarily dispense with the services of, an employee, or alter the regular working hours of an employee for the purpose of evading compliance with section 4 of this Act. 30

Effect of  
Act on  
alternative  
holiday  
arrangement.

**6.** (1) Nothing in this Act affects any provision in any Act, agreement or contract of service or any custom which ensures to employees more favourable conditions than those provided by this Act. 35

(2) Any provision in any Act, agreement or contract of service or any custom which is less favourable to employees than the provisions of this Act is superseded by this Act. 40

Agreements  
not to  
deprive  
employees of  
benefits  
of Act.

**7.** (1) No agreement, whether heretofore or hereafter entered into, shall have any force or effect in so far as it deprives any employee of any right, power, privilege or other benefit provided by this Act. 45





(2) No employer shall require an employee to return to him, nor shall he accept from an employee the whole or any part of any sum which he paid to that employee under the provisions of this Act.

Discrimination by employer prohibited.

**8.** No employer shall discharge or threaten to discharge or in any way discriminate against any employee for: 5

- (a) testifying or consenting to testify in any investigation or proceeding relative to the enforcement of this Act, or 10
- (b) giving any information to the Minister or his duly authorized representative regarding any matter governed by this Act.

Posting of abstracts.

**9.** Every employer shall post and keep posted in a conspicuous place where his employees are engaged in their duties any prescribed abstract or abstracts of the provisions of this Act or the regulations. 15

Holiday Book.

**10.** (1) Every employer employing any employee to whom this Act applies shall at all times keep a record to be called a "holiday" book showing in the case of each of his employees: 20

- (a) the name and address of the employee;
- (b) the regular rate of wages of the employee;
- (c) the date of the commencement and termination of the employment of the employee; 25
- (d) the date of the statutory holiday of the employee in accordance with this Act;
- (e) the sum of money paid to the employee in respect of each statutory holiday excluding the sum referred to in clause (f); 30
- (f) the sum of money paid to the employee in respect of time the employee was required or permitted to work or to be at the disposal of the employer on each statutory holiday;
- (g) the exact hours the employee was required to work or to be at the disposal of the employer on each statutory holiday; 35
- (h) such other particulars as are prescribed.

(2) The holiday book may be incorporated in any holiday book or wages book which the employer is required to keep under any other Act of Parliament. 40

Power to inspect holiday book and obtain information.

**11.** The Minister or his duly authorized representative may at any reasonable time:





- (a) inspect the holiday book in use by any employer for the time being or any such book used by that employer during the preceding three years;
- (b) require any employer to verify the entries in his holiday book by statutory declaration or in such manner as the Minister or his duly authorized representative may require; 5
- (c) require any person to furnish, in a form acceptable to the Minister or his duly authorized representative, such information as the Minister or his duly authorized representative deems necessary to ascertain whether the provisions of this Act and the regulations are being or have been complied with. 10 15

Money paid under Act deemed to be salary or wages.

**12.** All money payable by an employer to any employee under this Act and any money ordered to be paid by an employer under subsection (2) of section 14 shall be deemed to be salary or wages earned by the employee, and shall be subject accordingly to all deductions which the employer is required to make from salary or wages under any Act of Parliament. 20

Time limit for prosecutions.

**13.** Prosecutions for offences created by this Act shall be instituted within one year after the commission of the alleged offence. 25

Penalties.

**14.** (1) Every person who:

- (a) fails to comply with or violates any provision of this Act or the regulations; or
- (b) with intent to deceive, makes any false or misleading statement in any communication, whether in writing or otherwise, to the Minister or his duly authorized representative; 30
- (c) interferes with or obstructs the Minister or his duly authorized representative in the exercise of any power conferred upon him by this Act or any regulation made thereunder; 35

is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars for the first offence and in default of payment to imprisonment for not more than thirty days, and for each subsequent offence, to a fine not exceeding four hundred dollars and in default of payment to imprisonment for not more than ninety days. 40

(2) If an employer is convicted of failure to pay to any employee any money which he is required to pay under the provisions of this Act, the Court shall, in addition to the fine imposed, order the employer to pay 45





to it forthwith an amount equivalent to that which the employer failed to pay to the employee and the court shall pay the said amount to the employee forthwith upon receipt of it.

(3) If the employer fails to pay any money 5  
ordered to be paid under subsection (2), the court may order that the employer be imprisoned for a further term of not less than thirty days nor more than ninety days.

Power of  
representa-  
tive of  
Minister to  
determine  
amount of  
average wage  
not paid.

**15.** (1) If a duly authorized representative of the Minister finds that an employer has failed to pay to any 10  
employee any money which the employer is required to pay under the provisions of this Act, the representative may determine the amount which the employer failed to pay to the employee and if the amount is agreed to in writing by the employer and the employee, the employer 15  
shall within two days, pay it to the Deputy Minister who shall pay it to the employee forthwith upon receipt of it.

(2) The employer who pays such amount to the Deputy Minister as required by subsection (1) shall not be liable to prosecution for failure to pay to the employee 20  
concerned the money referred to in subsection (1).

Records of  
Deputy  
Minister.

**16.** (1) The Deputy Minister shall keep a record of all money paid to him by employers and paid by him to employees under section 15.

(2) Where money received by the Deputy 25  
Minister on behalf of an employee has not been paid to the employee concerned by reason of the fact that the Deputy Minister has been unable to ascertain the whereabouts of the employee, and the employee does not claim it within a period of two years from the date of receipt thereof by the 30  
Deputy Minister, such money shall, upon the order of the Deputy Minister, become the property of the Crown in right of Canada.

Regulations.

**17.** (1) The Governor in Council may make such regulations, not inconsistent with this Act, as are necessary 35  
to carry out the provisions of this Act according to their true intent.

(2) All regulations shall take effect upon such date as may be designated in the regulations, and shall have the same force and effect as if herein enacted. 40

Coming  
into force.

**18.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.



## C-16.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

## BILL C-16.

An Act to provide for the Establishment of a  
Hospital Sweepstakes Board.

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First Reading, October 1, 1962.

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Mr. SMITH (Calgary South).

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-16.**

An Act to provide for the Establishment of a  
Hospital Sweepstakes Board.

**H**ER 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 "*Hospital Sweepstakes Act.*" 5
- Board established.**      **2.** (1) There shall be a Board, to be called the Hospital Sweepstakes Board, consisting of three members to be appointed by the Governor in Council.  
(2) The Board shall be a body corporate and politic.  
(3) The head office of the Board shall be in the City of Ottawa. 10  
(4) The Board may establish branches and agencies and appoint agents in Canada and may also, with the approval of the Governor in Council, establish branches and appoint agents elsewhere than in Canada. 15
- Members' qualifications.**      **3.** (1) The members shall be men of proven financial experience and each shall devote the whole of his time to the duties of his office.  
(2) No person shall hold office as a member who 20  
(a) is not a Canadian Citizen;  
(b) is a member of either House of Parliament or of a provincial legislature;  
(c) is employed in any capacity in the public service of Canada or of any province of Canada or holds any office or position for which any salary or other remuneration is payable out of public moneys; 25  
(d) accepts or holds any office or employment inconsistent with his duties and functions under this Act; and  
(e) has reached the age of seventy years. 30



### EXPLANATORY NOTES.

The purpose of this Bill is twofold. *Firstly*: by providing a legal outlet, under strictly supervised conditions, for those Canadian residents who wish to gamble on sweepstakes, lotteries and like games of chance, the Bill supplements those provisions of the *Criminal Code* which endeavour to prevent Canadian residents participating in such activities whether the gambling is promoted within or outside Canada. *Secondly*: it assures that moneys spent by Canadian residents on such activities will be redirected, with a minimum of expense, to the promotion of the welfare of Canadian residents rather than dissipated in large part for the benefit of promoters and, in many instances, outside Canada.

Accordingly, a Board is set up with power to operate sweepstakes on a national scale. In constitution, responsibility to the Minister of Finance and to Parliament, and provision for independent audit, it is somewhat similar to the Bank of Canada. The share capital is held by the Minister for the benefit of Canada. The organization expenses of the Board are financed by a loan from the Industrial Development Bank. The Board has power to operate outside the relevant provisions of the *Criminal Code*, *Post Office Act* and other prohibitive Acts. Apart from operating expenses and the maintenance of a sound financial structure, all income is paid to Her Majesty's Lieutenant Governors for the benefit of hospitals in the several provinces. The division of the profits is made according to the population of the provinces.

- Members' tenure.** **4.** Subject to section 4, a member shall be appointed to hold office during good behaviour for a period of seven years but may be removed at any time by the Governor in Council upon address of the Senate and House of Commons.
- Members' salary.** **5.** The salaries of the members shall be fixed by the Governor in Council. 5
- Board chairman.** **6.** (1) The Governor in Council shall designate one of the members to be Chairman of the Board.
- Duties.** (2) The Chairman is the chief executive officer of the Board and has supervision over and direction of the work and staff of the Board. 10
- Temporary member.** (3) If any member of the Board by reason of absence or other incapacity is unable at any time to perform the duties of his office, the Governor in Council may appoint a temporary substitute member upon such terms and conditions as the Governor in Council may prescribe. 15
- Vacancy.** (4) A vacancy in the membership of the Board does not impair the right of the remainder to act.
- Staff.** **7.** Such other officers and employees necessary for the proper conduct of the operations of the Board shall be appointed under the provisions of the *Civil Service Act*. 20
- R.S., 1952, c. 48.**
- 1952-53, c. 47.** **8.** For the purposes of the *Public Service Superannuation Act*, the officers and employees appointed as provided in section seven shall be deemed to be persons employed in the Public Service. 25
- Special staff.** **9.** The Governor in Council may appoint and fix the remuneration of experts or persons having technical or special knowledge to assist the Board in any matter in an advisory capacity.
- Oath.** **10.** Each member, officer and employee of the Board, before entering upon his duties, shall take an oath of fidelity and secrecy in a form prescribed by the Governor in Council. 30
- Capital.** **11.** (1) The capital of the Board shall be five million dollars but may be increased from time to time pursuant to a resolution passed by the members of the Board and approved by the Governor in Council and by the Parliament of Canada. 35





Equitable ownership in Canada.

(2) The capital shall be divided into one hundred thousand shares of the par value of fifty dollars each, which shall be issued to the Minister of Finance to be held by him on behalf of Canada.

Share registration.

(3) The shares issued to the Minister of Finance shall be registered by the Board in his name in the books of the Board at Ottawa. 5

Purpose of the Board.

**12.** The Board shall organize and operate a national sweepstakes to be held from time to time and at such times as the Board may determine and for such purposes shall have all powers necessary and incidental thereto. 10

Regulations.

**13.** The Board shall make regulations, subject to the approval of the Governor in Council, with respect to the organization and operation of a national sweepstakes and, in particular but without limiting the generality of the foregoing, may except in any manner, and so as to bind the Crown, such organization and operation from so much of the provisions of the *Criminal Code*, the *Post Office Act* or other Act of the Parliament of Canada as may be necessary for the lawful organization and operations of the Board. 15 20

1953-54, c. 51.  
R.S., 1952,  
c. 212.

Organization loan by Industrial Development Bank.

**14.** The Industrial Development Bank shall lend the Board, and the Bank is hereby authorized and empowered so to do, all moneys required to be expended for the purposes of the Board prior to the time when the Board is able to provide moneys out of its revenues to meet its expenditures and obligations and the Board, when able so to do, shall repay the Bank the moneys lent with interest of four per centum per annum. 25

R.S., 1952,  
c. 151.

Repayment.

Hospital Fund.

**15.** The Board, when it has repaid the moneys borrowed and has established a reserve and otherwise put its operations upon a sound basis, shall allocate the ascertained surplus available from the operations of the Board during each financial year to a "Hospital Fund"; thereafter in each year the Board shall apportion the moneys in the Fund to each Province in an amount having the same ratio to the Fund as the population of that Province has to the total population of all the Provinces and shall pay each portion so calculated to the Lieutenant Governor of the appropriate Province for the benefit of the public hospitals of that Province as may be determined and defined by the Lieutenant Governor. 30 35 40





Appointment  
of auditors.

**16.** (1) For the purpose of auditing the affairs of the Board, the Governor in Council shall, on the recommendation of the Minister of Finance, not later than January 31st each year, appoint two auditors, eligible to be appointed as auditors of a chartered bank, but no person is eligible for appointment if he or any member of his firm has been auditor for two successive years during the three next preceding years. 5

Vacancy.

(2) Where any vacancy occurs in the office of auditor of the Board, notice thereof shall forthwith be given by the Board to the Minister of Finance who thereupon shall appoint some other auditor eligible to be appointed as an auditor of a chartered bank to serve until January 31st next following. 10

Persons  
ineligible.

(3) No member, officer or employee of the Board and no member of a firm of auditors of which a member of the Board is a member is eligible for appointment as an auditor. 15

Reports to  
Minister.

(4) The Minister of Finance may from time to time require the auditors to report to him upon the adequacy of the procedure adopted by the Board to put and maintain the operations of the Board upon a sound financial basis and as to the sufficiency of the Board's procedure in auditing the affairs of the Board; and the Minister of Finance may, at his discretion, enlarge or extend the scope of the audit or direct that any other procedure be adopted or that any other examination be made by the auditors as the public interest may seem to require. 20 25

Copies to  
Minister.

(5) A copy of every report made by the auditors to the Board under this section shall be sent to the Minister of Finance by the auditors at the same time as such report is sent to the Board. 30

Fiscal year.

**17.** (1) The fiscal year of the Board shall be the calendar year.

Certified  
statements  
of accounts  
to Minister.

(2) Within six weeks after the end of each fiscal year, the Board shall transmit to the Minister of Finance a statement of its accounts for the fiscal year, signed by the Chairman and the Chief Accountant of the Board, and certified by the auditors, together with such summary or report by the Chairman as he may deem desirable or as may be required by the Minister of Finance. 35 40

Report to  
Parliament.

(3) A copy of the accounts so signed and certified and of the Chairman's report shall be forthwith published in the *Canada Gazette*, and if Parliament is then sitting, shall within fourteen days after the receipt thereof by the Minister of Finance be laid before Parliament, or if Parliament is not sitting, it shall be laid before Parliament within fourteen days after the commencement of the next ensuing session. 45





Holding  
office when  
ineligible.

**18.** Every person who holds office or continues to hold office as a member of the Board, knowing that he is not eligible for such office, is guilty of an indictable offense and liable to imprisonment for not more than three years and not less than three months.

5

False  
returns.

**19.** Every member, officer or auditor of the Board who verifies any statement, account or list required to be furnished to the Minister of Finance pursuant to the provisions of this Act, or who has to do with the sending or transmitting of the same to the Minister, knowing the same to be false in any material particular, is guilty of an indictable offense and liable to imprisonment for not more than five years and not less than six months.

10

Contra-  
vention of  
Act or  
regulations.

**20.** Any member, officer, or employee of the Board, or any other person who fails or omits to comply with any provision of this Act or of the regulations thereunder made is guilty of an offense and, unless otherwise provided by this Act, is liable on summary conviction to a fine of not less than one hundred dollars and not more than five hundred dollars.

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## C-17.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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### THE HOUSE OF COMMONS OF CANADA.

## BILL C-17.

An Act to amend the Civil Service Act.  
(Negotiation and Arbitration)

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First Reading, October 1, 1962.

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Mr. CARON.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-17.**

An Act to amend the Civil Service Act.  
(Negotiation and Arbitration)

1960-61, c. 57. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section 7 of the *Civil Service Act* is repealed and the following substituted therefor:

5

Commission to negotiate with representatives of associations.

“7. (1) The Commission, and such members of the public service as the Minister of Finance may designate shall negotiate directly with representatives of appropriate organizations and associations of employees of the Crown, with respect to pay and other terms and conditions of employment, at the request of such representatives, or wherever in the opinion of the Commission or the Minister of Finance, as the case may be, such negotiation and consultation is necessary or desirable in the interests of Civil Service or the Government. Such direct negotiation and consultation shall be initiated by either the Governor in Council, its appointees, or the appropriate staff associations and organizations noted above.

Arbitration.

(2) Where negotiation does not result in agreement, the matter under dispute shall be taken to an arbitration tribunal by either party.

Proclamation of results.

(3) The results of such negotiation and/or arbitration shall be proclaimed by a suitable instrument, where necessary subject to the approval of parliament.”

25

2. Section 11 of the said Act is repealed and the following substituted therefor:

Governor in Council to recommend.

“11. The Governor in Council, after consultation, negotiation and agreement with representatives of



## EXPLANATORY NOTES.

The purpose of this Bill is to give civil servants the right to negotiate with the Civil Service Commission with respect to pay and other terms and conditions of employment and in default of agreement to have the matter under dispute taken to an arbitration tribunal.

**1.** Section 7 of the *Civil Service Act* at present reads as follows:

"7. (1) The Minister of Finance or such members of the public service as he may designate shall from time to time consult with representatives of appropriate organizations and associations of employees with respect to remuneration, at the request of such representatives or whenever in the opinion of the Minister of Finance such consultation is necessary or desirable.

(2) The Commission and such members of the public service as the Minister of Finance may designate shall from time to time consult with representatives of appropriate organizations and associations of employees with respect to the terms and conditions of employment referred to in subsection (1) of section 68, at the request of such representatives or whenever in the opinion of the Commission and the Minister of Finance such consultation is necessary or desirable.

(3) The Commission shall from time to time consult with representatives of appropriate organizations and associations of employees with respect to such terms and conditions of employment as come within the exclusive jurisdiction of the Commission under this Act and the regulations, at the request of such representatives or whenever in the opinion of the Commission such consultation is necessary or desirable."

**2.** Section 11 of the said act at present reads as follows:

"11. The Governor in Council, after the Commission has had an opportunity of considering the matter and after considering any recommendations made by the Commission, shall

- (a) establish rates of pay for each grade; and
- (b) establish the allowances that may be paid in addition to pay."

appropriate organizations and associations of employees, shall recommend to parliament to

- (a) establish rates of pay for each grade; and
- (b) establish the allowances that shall be paid in addition to pay."

THE PARLIAMENTS OF CANADA  
 BILL C-17

The purpose of this Bill is to give civil servants the right to negotiate with the Civil Service Commission with respect to pay and other terms and conditions of employment and in default of agreement to have the matter under dispute taken to an arbitration tribunal.

Section 7 of the Civil Service Act is amended to read as follows:

7. (1) The Commission shall, in respect of the pay and other terms and conditions of employment of civil servants, have the right to negotiate with the Commission with respect to pay and other terms and conditions of employment and in default of agreement to have the matter under dispute taken to an arbitration tribunal.

(2) The Commission shall, in respect of the pay and other terms and conditions of employment of civil servants, have the right to negotiate with the Commission with respect to pay and other terms and conditions of employment and in default of agreement to have the matter under dispute taken to an arbitration tribunal.

Section 21 of the Act is amended to read as follows:

21. (1) The Commission shall, in respect of the pay and other terms and conditions of employment of civil servants, have the right to negotiate with the Commission with respect to pay and other terms and conditions of employment and in default of agreement to have the matter under dispute taken to an arbitration tribunal.



**C-18.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-18.**

An Act to amend the House of Commons Act  
(Internal Economy Autonomy).

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First Reading, October 1, 1962.

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Mr. HOWARD.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27274-0

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-18.**

An Act to amend the House of Commons Act  
(Internal Economy Autonomy).

R.S., c. 143. **H**ER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Repeal.           **1.**       Section 16 of the *House of Commons Act* is repealed. 5

Repeal.           **2.**       Section 18 of the said Act is repealed.



## EXPLANATORY NOTES.

The purpose of this Bill is to abolish statutory rule by members of the Queen's Privy Council over the internal economy of this House—the reasons for such rule no longer having validity: and thus permit the Speaker and members chosen by the House to govern the affairs of the Commons.

Section 16 of the *House of Commons Act* provides:

"16. (1) The Governor in Council shall appoint four members of the Queen's Privy Council for Canada who are also members of the House of Commons, who, with the Speaker of the House of Commons, shall be commissioners for the purposes of this section and sections 17 and 18.

"(2) The names and offices of such commissioners shall be communicated by messages from the Governor in Council to the House of Commons, in the first week of each session of Parliament.

"(3) Three of the commissioners, whereof the Speaker of the House of Commons shall be one, may carry the said provisions into execution.

"(4) In the event of the death, disability, or absence from Canada of the Speaker during any dissolution or prorogation of Parliament, any three of the commissioners may carry the said provisions into execution."

The *Audit Office Guide*, 1958, issued by the Auditor General of Canada, page 95, states:

"By way of explanation of the origin of the requirement in section 16 that the commissioners be members of the Privy Council: At the time of Confederation sessions were relatively short and transportation facilities restricted, therefore it was felt desirable that the members of the Board of Internal Economy should live close to Ottawa. A risk was that this might place the members of Parliament in the Ottawa area in a preferred position; moreover, they had a special interest in appointments. The solution was to select Ministers of departments who represented different parts of Canada but necessarily spent most of their time in Ottawa".

*Clause 1*: repeals section 16. Section 17, see s. 16(1), does not mention the commissioners and so need not be repealed.

Section 18 of the Act provides:

"18. All sums of money voted by Parliament upon such estimates or payable to members of the House of Commons under the *Senate and House of Commons Act*. are subject to the order of the commissioners, or any three of them, of whom the Speaker shall be one."

*Clause 2*: repeals section 18. Such repeal is not essential to the purpose of this bill. However, matters affecting the internal economy and procedure of the Commons should not be embodied in a statute inasmuch as the Commons is thereafter no longer master in its own House since repeal or alteration are then subject to veto, amendment, delay, consultation or approval in the other place and to assent by the Crown. *Speakers' Decisions, United Kingdom Parliamentary Debates*, (1908) 190, c. 879, and (1922) 153, c. 239.





**C-19.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-19.**

An Act respecting the Canada Court of Indian Claims.

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First Reading, October 1, 1962.

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Mr. HOWARD.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-19.

An Act respecting the Canada Court of Indian Claims.

Preamble.

WHEREAS the occupancy of British North America by the Crown has given rise to claims of divers nature and kind by the Indians of Canada; and

WHEREAS by virtue of section 91 of the *British North America Act, 1867*, the Queen in Parliament of Canada, has exclusive legislative authority over the matter of Indians and lands reserved for Indians; and

WHEREAS the Joint Committee of the Senate and House of Commons on Indian Affairs, as reconstituted by the Houses of Parliament on the 18th and 25th days of January, 1961, did, in its Second and Final Report bearing date the 8th day of July, 1961, to the Senate and House of Commons, recommend, among other things, that the British Columbia land question, the Oka land dispute, and such other matters as the Government of Canada should deem advisable, be referred to a claims commission; and

WHEREAS the recommendation of the Joint Committee that the said questions and other matters, if any, be referred to a claims commission thereby excludes a reference thereon to the judicature of Canada as presently constituted for want of jurisdiction therein and as well otherwise by reason of the inappropriateness of the practice and procedure there- to peculiar and of the rules of law, thereby applied; nor can the said questions and other matters, if any, be referred to the International Court of Justice, established by the Charter of the United Nations as the principal judicial organ of the United Nations, inasmuch as subarticle 1 of article 34 of the constitution of the said Court provides that only states may be parties in cases before the Court and the Indians of Canada are not a state or legal unit recognized in international law but have an anomalous status by reason of their aboriginal occupancy of Canada, their treaties with the Crown, and their legislative pupillage by virtue of the said section 91 of the *British North America Act, 1867*; yet



## EXPLANATORY NOTES.

The purpose of this Bill is to provide means whereby an accounting may be taken of Canada's stewardship under section 91 (24) of the B.N.A. Act of matters affecting Indians and lands reserved for Indians. This accounting will be effected by a special Court, established under the *B.N.A. Act, s. 101*, to adjudicate Indian claims. (*see Part I*).

The claims will be raised; (a) by Parliament itself with respect to the British Columbia and Oka land questions; (b) matters referred by the Governor in Council; and (c) by the Indians themselves by way of petition. (*see Clause 14*).

The Joint Committee, in recommending settlement of claims by a claims commission, referred to the American precedent. In 1935, the United States Congress authorized the Tlingit and Haida Indians of Alaska to bring suit in the United States Court of Claims; and conferred jurisdiction on that Court to hear, examine, adjudicate, and enter judgment upon any and all claims which these Indians might have or claim to have against the United States. *U.S. Act of 19 June 1935, vol. 49 Statutes, p. 388, ch. 275*. See also the claim *The Tlingit and Haida Indians of Alaska versus The United States, Report No. 47900, 7 October 1959*.

The jurisdiction of the Court is set out in Part II. Its jurisdiction is restricted to, but encompasses, all questions between the Crown and Indians that arise out of "Indians and Lands reserved for Indians". By these words, presumably, Her Imperial Majesty constituted Her Majesty in right of Canada to act *in loco parentis* (*Howell v. Fountain, Nisbet, J., 3 Ga. 176*) with respect to Indians; and by these words, incorporated the principles of the law of nations (which forms part of the law of England, *West Rand Central Gold Mining Co. Ltd. v. The King, (1905) 2 K.B. 391*) with respect to Indian aboriginal occupancy; British discovery, conquest and occupation; and tribal treaty cession where that occurred. The Canadian Parliament can, of course, legally exclude the law of nations by its domestic law (*Mortensen v. Peters, (1906) 8 Sessions Cases, Scotland, 93*) and may have done so, in greater or lesser degree, in its domestic laws on Indians and Indian reserves.

On the premise that Parliament wishes the Indian claims settled according to "the principles of international law and justice", which were the principles successfully pleaded by Great Britain in a claim by Great Britain on behalf of the Cayuga Indians in Canada before the United States-Great Britain Arbitration Tribunal, 1926, in *Great Britain (the Cayuga Indians Claim) v. United States, Nielsen's Report*, clauses 15 and 16 of this Bill so provide. Canadian



WHEREAS Canada has signed and ratified the Charter of the United Nations and, by virtue of the provisions of subarticle (3) of article 1, paragraph (c) of article 55, and article 56 of the said Charter, has undertaken to promote and encourage respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion and, to these ends, has pledged itself to take action in co-operation with the United Nations, its organs and specialized agencies, for the achievement of these purposes; and

FOR AS MUCH as the Queen in Parliament desires to carry out the undertaking and fulfil the pledge, so made to the United Nations, to the end that the claims of the Indians of Canada may be heard and finally adjudged *ex aequo et bono*; so, wanting jurisdiction in the judicature of Canada and in the International Court of Justice as hereinbefore recited, then before and by a tribunal composed of a body of judges enjoined, charged and entrusted to adjudicate the said claims in accordance with the general principles of justice and equity;

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

#### SHORT TITLE.

Short Title.      **1.**      This Act may be cited as the *Canada Court of Indian Claims Act*.

#### PART I.

##### CANADA COURT OF INDIAN CLAIMS.

Establishment of Court.      **2.**      The Canada Court of Indian Claims, herein referred to as the "Court", is hereby established and shall be constituted and shall function in accordance with the provisions of this Act.

Composition of Court.      **3.**      (1) The Court shall consist of the President, 30 Puisne Judges and deputy judges of the Exchequer Court of Canada as that Court from time to time is constituted;

Qualifications of deputy judge.      (2) A deputy judge who is specially appointed for the purposes of this Act shall be, notwithstanding anything as to qualifications for appointment in section 8 of 35 the *Exchequer Court Act*,

- (a) of a nationality other than Canadian;
- (b) of a high moral character; and either
- (c) possessed of the qualifications required in his country for appointment to the highest judicial 40 office, or



domestic law from 1867 to the present, except with and to the extent of the consent of the parties, is excluded. See Article 38(2) of the Statute of the International Court of Justice which provides for adjudication *ex aequo et bono*, "if the parties agree thereto".

Part IV provides for an appeal to the Supreme Court of Canada.

This Bill does not provide for implementation of any judgment in the event the Court upholds claims against the Crown. The relationship of the Crown to Indians and Indian lands is one of trusteeship in which Canada should carry out its trust duties *uberrima fides* and freely; and not under the obligatory and accusatory sanction of a Court order. On the same principle, the Bill excludes provinces and non-Indians as parties although there is provision that they may appear and be heard; the right of the Indian, if upheld by the Court, is against Canada as a ward of Canada for *restitutio in integrum*. If such restitution involves settlements with provinces or non-Indians then such settlements, incidental to restitution, are a burden for Canada, not the Indian, to bear.

Reference to the American Claims Court statute (*above cited*) will find a saving clause that Indians shall not be disentitled by reason of having accepted American citizenship by any law of the United States or by having severed the tribe or "band" relationship. Such a proviso is unnecessary in this Bill inasmuch as it eliminates Canadian laws except with consent; and inasmuch as it considers the Indian individually (although the Bill provides for collective claims by tribe, band or otherwise, where convenient).

*Clause 1:* Short title.

*Clause 2:* Self-explanatory.

*Clause 3:* The judges are those of the Exchequer Court. Deputy judges can be appointed by the Governor in Council when needed temporarily on the Exchequer Court (section 8 of *Exchequer Court Act*). This permits the appointment of independent judges who are qualified to sit on the International Court of Justice to adjudicate, under the President of the Exchequer Court, the Indian claims.

(d) a jurisconsult of recognized competence in international law.

Oath or  
declaration  
of office.

**4.** Every member of the Court shall, before entering upon the duties of his office as a judge of the Court, take an oath or make a solemn declaration in open court that he will exercise his powers and execute the trusts reposed in him impartially and conscientiously. 5

President.

**5.** (1) The President of the Exchequer Court of Canada shall be the President of the Court.

Registrar  
and other  
staff.

(2) The Registrar of the Exchequer Court of Canada and the other officers and the clerks, stenographers and servants thereof shall be the Registrar, other officers, clerks, stenographers and servants respectively of the Court. 10

Salaries,  
Allowances  
and expenses.

(3) The judges' salaries and travelling allowances and the administration expenses of the Court shall be judges' salaries and travelling allowances and administration expenses respectively of the Exchequer Court of Canada. 15

Court seat  
and sittings  
elsewhere.

**6.** (1) The seat of the Court shall be at the City of Ottawa but the Court may sit and exercise its functions elsewhere in Canada whenever the Court considers it desirable. 20

Sessional  
require-  
ments.

(2) The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court. 25

Sittings  
*en banc*.

**7.** (1) The full Court shall sit except when it is expressly provided otherwise in this Act.

Quorum.

(2) A quorum of five judges shall suffice to constitute the Court.

Chambers  
sittings.

**8.** (1) The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of claims. 30

Individual  
claims.

(2) The Court may at any time form a chamber for dealing with a particular claim; the number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties. 35

Consent  
chambers  
hearings.

(3) Claims shall be heard and determined by the chambers provided for in this section if the parties so request. 40

Chambers  
judgment.

**9.** A judgment given by any of the chambers provided for in sections 8 and 11 shall be considered as rendered by the Court.



Clause 4: Self-explanatory.

Clause 5: (1) The Exchequer Court President is the Indian Claims Court President; (2) The Exchequer Court officers and staff are the Indian Claims Court staff; (3) The salaries, allowances and expenses of the Court are those of the Exchequer Court and are payable out of the Exchequer Court votes.

Clause 6: Self-explanatory.

Clause 7: The Exchequer Court bench consists of the President, five puisne judges, and such deputy judges as may from time to time be appointed.

Clauses 7-11 are adapted from the *Statute of the International Court of Justice, Chapter I, "Organization of the Court"*. They provide for a full court and chambers divisions. Thus there can be the full court, various chambers to consider claims that can be dealt with conveniently in groups, a chamber to deal with a particular claim, and a chamber to deal with claims in a summary manner. The summary chamber is continuous, the others are set up as occasion requires. A chambers judgment is as final as a full court judgment. Cf. clauses 17 & 18.

Place of chambers sittings.

**10.** The chambers provided for in sections 8 and 11 may sit and exercise their functions elsewhere in Canada than at the City of Ottawa.

Summary chambers hearing by consent.

**11.** With a view to the speedy despatch of business, the Court shall form annually a chamber composed of three judges which, at the request of the parties, may hear and determine claims by summary procedure; one additional judge shall be selected for the purpose of replacing a judge who finds it impossible to sit. 5

Rules and orders of Court.

**12.** (1) The Court shall make rules and orders for carrying out its functions and, in particular, for regulating the practice, procedure and evidence of and in the Court. 10

Assessors.

(2) The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote. 15

Costs and fees.

(3) The Court shall fix by scale, tariff or otherwise, the fees and costs of the Court and the parties.

## PART II.

### COMPETENCE OF THE COURT.

Who may be parties.

**13.** (1) Except with the consent of or by direction of the Court, only Her Majesty, who shall be represented by the Attorney General of Canada, and Indians of Canada may be parties in claims before the Court. 20

Status determined by Court.

(2) The Court shall determine the status of any person who alleges a right to be a party to a claim.

Function and duties of Court.

**14.** The Court, whose function it is to decide all claims initiated by or submitted to it touching and concerning Indians or lands reserved for Indians, shall 25

(1) initiate hearings upon and determine

(a) the British Columbia land question,

(b) the Oka land dispute, and

(c) such other matters, questions, and disputes as the Governor in Council shall refer to the Court. 30

(2) hear and determine all claims submitted to the Court by petition touching and concerning Indians or lands reserved for Indians. 35

Law applied.

**15.** The Court shall decide all claims *ex aequo et bono* and in accordance with the general principles of justice and equity, and the applicable provisions of the Charter of the United Nations.



(1) Unless and to the extent the parties otherwise consent, the Court shall decide each claim without reference to the domestic or municipal laws of Canada other than the British North America Act, 1871.

(2) The Ontario Evidence Act and the Interpretation Act shall not apply to this Act.

(3) This Act shall bind the Crown.

PART III

**Clause 12:** (1) The Court makes its own rules of practice, procedure and evidence; may provide for experts to sit with and advise the Court; and may provide a scale of fees and costs. Due to the nature of the claims, the customary rules of evidence would be unsuitable; therefore the Court is empowered to draft suitable rules.

**Clauses 13-16:** These clauses are self-explanatory. They define who may be parties, the function of and the type of claim to be heard by the Court; the law to be applied and the law to be excluded. The *Canada Evidence Act* and the *Interpretation Act* are expressly excluded since they would probably apply unless expressly excluded. The *Canadian Bill of Rights* is not expressly excluded and therefore is applicable.

Law  
excluded.

**16.** (1) Unless and to the extent the parties otherwise consent, the Court shall decide each claim without reference to the domestic or municipal laws of Canada other than the *British North America Act, 1867*.

Statutes  
specifically  
excluded.

(2) The *Canada Evidence Act* and the *Inter-pretation Act* shall not apply to this Act. 5

Crown bound.

(3) This Act shall bind the Crown.

### PART III.

#### PROCEDURE OF THE COURT.

Binding  
force of  
judgment.

**17.** (1) The decision of the Court has no binding force except between the parties and in respect of that particular claim. 10

Judgment  
may be  
construed.

(2) In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Revision  
conditions.

**18.** (1) An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance of the party was not due to negligence. 15 20

(2) The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the claim open to revision, and declaring the application admissible on this ground. 25

(3) The application for revision must be made within six months of the discovery of the new fact.

(4) No application for revision may be made after one year from the date of judgment.

Notice to  
interested  
province.

**19.** (1) Where the Court is of opinion that the government of any province has any special interest in any claim, the attorney general of such province shall be notified of the hearing thereon in order that he may be heard if he thinks fit. 30

Notice to  
interested  
persons.

(2) The Court has power to direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing upon any claim, and such persons are entitled to be heard thereon. 35

Appointment  
of counsel  
by Court.

(3) The Court may, in its discretion, request any counsel to argue the claim as to any interest that is affected and as to which counsel or an agent does not appear. 40



(4) Any person or representative of a class or organization of persons may apply to the Court for payment in whole or in part of the reasonable costs or expenses of preparing and presenting a claim or an interest affected and the Court may order such expenses to be paid or in part, to be administrative expenses of the Court.

(5) A party or a provincial government or person, whose interest is affected may appear by counsel or an agent.

The Court, or any person authorized by the Court, shall have access to any records relating to a claim in the official records of Canada or of a province of Canada.

**Clause 17: Self-explanatory.**

21. The Court shall have all the powers necessary for the fulfillment of its functions as the Supreme Court of Canada which are in the like instances.

**Clause 18: A judgment may be revised on the discovery of a new fact.**

22. A copy of the report shall be delivered to the Minutes and Journals Office of the Senate and to the Senate and Journals Office of the House of Commons respectively, and such copies so delivered on any day during the existence of a Parliament shall be deemed to be for all purposes the copy of the report before Parliament.

(2) Every report of the Court shall be deemed to be made in the respective records of those

**Clause 19: This clause is similar to one in the Supreme Court Act. It ensures that all interests may be protected. The Court may, upon an application for costs and in its discretion, award costs.**

**PART IV**

23. (1) An appeal to the Supreme Court of Canada lies from a judgment of a lower court or a judgment of the Court of Appeal for Ontario, Quebec or British Columbia by the Court or any of its members.

(2) Notwithstanding that the Supreme Court of Canada shall have all the powers of the Court of Appeal for Ontario, Quebec or British Columbia and shall decide all appeals from that Court in accordance with the law as to such appeals.

Application for payment of fees, costs and expenses.

(4) Any person or representative of a class or organization of persons may apply to the Court for payment, in whole or in part, of the reasonable costs, fees, or expenses of preparing and presenting a claim or an interest affected and the Court may order such expenses, in whole or in part, to be administrative expenses of the Court. 5

Appearance.

(5) A party or a provincial government or person, whose interest is affected may appear by counsel or an agent.

Access to official records.

**20.** The Court, or any person authorized by the Court, shall have access to any material relating to a claim in the official records of Canada or of a province of Canada. 10

Status and powers of the Court.

**21.** The Court shall be a court of record and shall have all the powers necessary for the fulfilment of its functions as the Supreme Court of Canada would have in the like instance. 15

Annual Report.

**22.** (1) The President, within a year after the establishment of the Court and thereafter in each succeeding calendar year, shall make a report on the proceedings of the Court with his recommendations, if any, as to any measures that should be taken to better implement the intent and achieve the purposes of this Act and shall thereon lay such report before Parliament. 20

Now laid before Parliament.

(2) A copy of the report shall be delivered to the Minutes and Journals Office of the Senate and to the Votes and Proceedings Office of the House of Commons respectively; and such copies so delivered on any day during the existence of a Parliament shall be deemed to be for all purposes the laying of the report before Parliament. 25

Recording and custody.

(3) Upon receipt of the report, an entry shall that day be made in the respective records of these Offices and, on the day following thereon, the copies of the report shall be deposited in the Library of Parliament. 30

## PART IV.

### APPEALS.

Appeal lies to Supreme Court of Canada.

**23.** (1) An appeal to the Supreme Court of Canada lies from a judgment, a revised judgment, or a determination of the status of any person, pronounced by the Court or any of the chambers of the Court. 35

Powers of appeal court.

(2) For the purposes of this Act, the Supreme Court shall have all the powers of the Canada Court of Indian Claims and shall decide all appeals from that Court in accordance with the law to be applied therein. 40

Law applied.



THE HOUSE OF COMMONS OF CANADA.

*Clause 20:* Provides access to official papers relating to Indians or lands reserved for Indians.

*Clause 21:* Self-explanatory.

*Clause 22:* Self-explanatory. The method of laying the report before Parliament is modelled on the United Kingdom practice.

*Clause 23:* Provides for an appeal to the Supreme Court.

Rules and orders as to appeals.

(3) The Supreme Court shall make rules and orders for the effectual execution and working of this Act and for the attainment of the intentions and objects thereof with respect to appeals and the practice and procedure thereon.



**C-20.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-20.**

An Act to amend the Criminal Code  
(Trading Stamps).

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First Reading, October 1, 1962.

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Mr. HOWARD.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-20.**

An Act to amend the Criminal Code  
(Trading Stamps).

1953-54, c. 51;  
1955, cc. 2, 45;  
1956, c. 48;  
1957-58, c. 28;  
1958, c. 18;  
1959, c. 41;  
1960, c. 37.  
1960-61, cc.  
21, 42, 43, 44.

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 322 of the *Criminal Code* is repealed and the following substituted therefor:

5

“Trading  
Stamps.”

“(b) “trading stamps” includes, besides trading stamps commonly so-called, any form of cash receipt, receipt, coupon, premium ticket or other device, designed or intended to be given to the purchaser of goods by the vendor thereof or on his behalf, and to represent a discount on the price of the goods or a premium to the purchaser thereof that may be redeemed.”



EXPLANATORY NOTES.

The present section 322 of the *Criminal Code* is as follows:

"322. In this Part,

- (a) "goods" means anything that is the subject of trade or commerce; and
- (b) "trading stamps" includes any form of cash receipt, receipt, coupon, premium ticket or other device, designed or intended to be given to the purchaser of goods by the vendor thereof or on his behalf, and to represent a discount on the price of the goods or a premium to the purchaser thereof
  - (i) that may be redeemed
    - (A) by any person other than the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods,
    - (B) by the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods in cash or in goods that are not his property in whole or in part, or
    - (C) by the vendor elsewhere than in the premises where the goods are purchased; or
  - (ii) that does not show upon its face the place where it is delivered and the merchantable value thereof; or
  - (iii) that may not be redeemed upon demand at any time, but an offer, endorsed by the manufacturer upon a wrapper or container in which goods are sold, of a premium or reward for the return of that wrapper or container to the manufacturer is not a trading stamp."

*Clause 1.* The proposed amended definition restores the phrase "besides trading stamps commonly so-called", which was deleted in the 1953-54 revision of the *Code*. Further, the proposed amendment broadens the definition by removing the qualifications, in subparagraphs (i), (ii) and (iii) of paragraph (b), upon the method of redemption and respecting information upon the face of the stamp and also by removing the exception in favor of a manufacturer's premium or reward for return of a wrapper or container.





## C-21.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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### THE HOUSE OF COMMONS OF CANADA.

## BILL C-21.

An Act to amend the Canada Elections Act  
(Age of Voters).

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First Reading, October 1, 1962.

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Mr. LEWIS.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-21.**

An Act to amend the Canada Elections Act  
(Age of Voters).

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

- 1960, c. 39.      **1.**      (1) Paragraph (a) of subsection (1) of section 14 of the *Canada Elections Act*, is repealed and the following substituted therefor: 5
- Qualification of electors.      “(a) is of the full age of eighteen years or will attain such age on or before polling day at such election;”
- Subsection repealed.      (2) Subsection (3) of section 14 of the said 10 Act is repealed.
- Schedule One forms amended.      **2.**      Forms No. 15, No. 18, alternative No. 18, No. 41, No. 42, No. 45, No. 49 and No. 50 of SCHEDULE ONE to the said Act are amended by striking out the words “twenty-one years” wherever the said words appear therein 15 and by substituting therefor in each case the words “eighteen years.”
- Schedule Two and forms amended.      **3.**      (1) Subparagraph (1) of paragraph 21, subparagraph (a) of paragraph 22, subparagraphs (1) and (2) of paragraph 36 of *The Canadian Forces Voting Rules* in 20 SCHEDULE TWO to the said Act and paragraph \*5 of Form No. 7 to the said SCHEDULE and paragraph 6 of Form No. 8 to the said SCHEDULE are amended by striking out the words “twenty-one years” wherever the said words appear therein and by substituting therefor in 25 each case the words “eighteen years”; and the said subparagraph (1) of paragraph 36 is further amended by striking out the words “(except in the case referred to in



### EXPLANATORY NOTES.

The purpose of this Bill is to provide that the age of voters under the *Canada Elections Act* be eighteen years in lieu of twenty-one as at present.

*Clause 1. (2)* This subsection which allowed members of the naval, military or air forces of Canada to vote at an election although they had not attained the full age of twenty-one years is not necessary if the voting age is made eighteen in lieu of twenty-one.

*Clause 3. (2)* This subparagraph is not necessary if the voting age is made eighteen in lieu of twenty-one. (See note above to subsection (2) of section 1.)

subparagraph (2) of paragraph 21)" and the said Form No. 7 is further amended by striking out, at the end of the said Form, the words "Strike out this line if it is not applicable pursuant to paragraph 21(2) of *The Canadian Forces Voting Rules*."

Subparagraph repealed.

(2) Subparagraph (2) of paragraph 20 of the said Schedule is repealed.



**C-22.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-22.**

**An Act to amend the Agricultural Rehabilitation  
and Development Act (Indian Reserves).**

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First reading, October 1, 1962.

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**Mr. FISHER.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-22.**

An Act to amend the Agricultural Rehabilitation  
and Development Act (Indian Reserves).

1961, c. 30.

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

**1.** The *Agricultural Rehabilitation and Development Act*  
is amended by adding thereto, immediately after section 5 5  
thereof, the following section:

Act applies  
to Indian  
reserves.

**“5A.** This Act shall apply to Indian bands and  
reserves; and, for the purpose of this section, wherever  
the word “province” is used the word “reserve” or the  
word “band” shall be substituted as the context may 10  
require, and wherever the word “government” is used  
the words “council of the band” shall be substituted  
as the context may require, and any word so substituted  
shall have meaning as defined in the *Indian Act.*”



### EXPLANATORY NOTES.

The purpose of this Bill is to apply the benefits of the *Agricultural Rehabilitation and Development Act* to Indians and their reserve lands. Section 64 of the *Indian Act* provides:

"64. With the consent of the council of a band, the Minister may authorize and direct the expenditure of capital moneys of the band

(k) for any other purpose that in the opinion of the Minister is for the benefit of the band."

This Bill does not originate Federal expenditures as, under section 7(2) of the *Agricultural Rehabilitation and Development Act*, no agreement under that Act has force and effect until Parliament appropriates monies therefor. This amendment only authorizes *in posse* agreements between the Canadian Government and Indian bands.





**C-23.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-23.**

An Act to amend the Industrial Relations and  
Disputes Investigation Act.

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First Reading, October 1, 1962.

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Mr. HOWARD.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-23.**

An Act to amend the Industrial Relations and Disputes Investigation Act.

R.S. 1952,  
c. 152.

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

**1.** Paragraph (f) of subsection (1) of section 2 of the *Industrial Relations and Disputes Investigation Act* is repealed. 5

**2.** Paragraph (g) of subsection (1) of section 2 of the said Act is repealed and the following substituted therefor:

"Conciliation Officer."

"(g) "Conciliation Officer" means a person whose 10 duties include the conciliation of disputes, who is under the control and direction of the Minister, and who has been appointed in accordance with section 16; and includes two or more Conciliation Officers;" 15

**3.** Subsection (1) of section 2 of the said Act is amended by adding thereto, immediately after paragraph (l) thereof the following paragraph:

"Mediator."

"(ll) "Mediator" means a person whose duties include the mediation and conciliation of 20 disputes and who has been appointed in accordance with section 17, and includes two or more Mediators;"

**4.** Paragraph (n) of subsection (1) of section 2 of the said Act is repealed and the following substituted 25 therefor:



## EXPLANATORY NOTES.

The *Industrial Relations and Disputes Investigation Act* provides a system of collective bargaining based upon three stages:

- (a) direct negotiation between union and management; failing successful negotiation, then
- (b) the appointment of a Conciliation Officer; failing successful efforts by the Conciliator, then,
- (c) the appointment of a Conciliation Board which must make a report.

The Board's report may be accepted or rejected by either union or management; a strike or lockout may be legally declared after the report.

Among other powers, the Board has authority to summon witnesses, require them to testify and produce documents, to inspect places of work, and fix the time and place of meetings, and otherwise regulate its procedure.

This Bill proposes to improve the above system of collective bargaining in the belief that it is unduly time-consuming and that the stages of negotiation repeat themselves in certain aspects with the resultant tendency to promote industrial unrest. The method used is to eliminate the Conciliation Board and give its authority to a Conciliation Officer. The Conciliation Officer would make a report recommending settlement terms and thereafter strike or lockout proceedings might commence but subject to the appointment of a Mediator. If a Mediator is appointed, a strike or lockout cannot take place until after he has made his report.

The Bill, in recognition that one system of collective bargaining cannot be applied generally to large and small businesses and unions alike, provides that a union and an employer may agree upon and use a negotiating system different from that in the Bill if such individual system is approved by the Canada Labour Relations Board.

*Clause 1:* This definition is no longer necessary.

*Clause 2:* Required for clarification.

*Clause 3:* Required because a mediation system is established.

*Clause 4:* Cross-reference change.

"Parties."

"(n) "parties" with reference to the appointment of, or proceedings before, a Conciliation Officer or a Mediator means the parties who are engaged in the collective bargaining or the dispute in respect of which the Conciliation Officer or the Mediator is or is not to be appointed." 5

5. Section 13 of the said Act is repealed and the following substituted therefor:

Renewal or revision of current agreement or conclusion of new agreement.

"13. Either party to a collective agreement, whether entered into before or after the 1st day of 10 September, 1948, may, within the period of three months next preceding the date of expiry of the term of, or preceding termination of the agreement, by notice, require the other party to the agreement to commence collective bargaining with a view to the 15 renewal or revision of the agreement or conclusion of a new collective agreement."

6. Section 14 of the said Act is repealed and the following substituted therefor:

Time-limit for parties to meet and negotiate.

"14. Where notice to commence collective bargain- 20 ing has been given under section 12

(a) the certified bargaining agent and the employer, or an employers' organization representing the employer shall, without delay, but in any case within ten clear days after the 25 notice was given or such further time as the parties may agree, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively with one another and shall make every reason- 30 able effort to conclude a collective agreement, and

(b) the employer shall not, without consent by or on behalf of the employees affected, decrease rates of wages or alter any other term or condi- 35 tion of employment of employees in the unit for which the bargaining agent is certified until a collective agreement has been concluded or until a Mediator appointed to endeavour to bring about agreement has reported to the 40 Minister and seven days have elapsed after the report has been received by the Minister, whichever is earlier, or until the Minister has advised the parties that he has decided not to appoint a Mediator." 45

Employer not to decrease wage rates or alter conditions pending conclusion of agreement or other proceedings.



Section 15 of the said Act is amended and the following substituted therefor:

15. Where a party to a collective agreement has given notice under section 13 to the other party to the agreement, (a) the parties shall, without delay, but in any

Clause 5: Permits negotiation to start three months before expiration of collective agreement instead of two months.

10 authorized representatives on their behalf to meet and commence to bargain collectively and make every reasonable effort to conclude a mutual revision of the agreement or a new collective agreement, and (b) if a renewal or revision of the agreement or a new collective agreement has not been concluded before expiry of the term of or termination of the agreement, the employer shall not without consent by or on behalf of the em-

15 Clauses 6 and 7: (a) Reduces from 20 to 10 days the time within which negotiations start after notice. (b) Cross-reference change.

20 party of termination of the agreement or a new collective agreement has been concluded or a Mediator appointed to assist you to bring about agreement, the report to the Minister and every day have elapsed after the report has been received by the Minister, whichever is earlier, or until 30 the Minister has advised the party that he has decided not to appoint a Mediator.

Section 16 of the said Act is amended and the following substituted therefor:

16. Where a notice to bargain collectively has been given under this Act and (a) collective bargaining has not commenced within the time prescribed by this Act, or (b) collective bargaining has commenced, and either party thereto requests the Minister to do writing to appoint a Conciliation Officer to assist the parties thereto to assist them to conclude a collective agreement or a renewal or revision thereof and such request is accompanied by a statement of the difficulties

7. Section 15 of the said Act is repealed and the following substituted therefor:

“15. Where a party to a collective agreement has given notice under section 13 to the other party to the agreement 5

(a) the parties shall, without delay, but in any case within ten clear days after the notice was given or such further time as the parties may agree upon, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively and make every reasonable effort to conclude a renewal or revision of the agreement or a new collective agreement, and 10

(b) if a renewal or revision of the agreement or a new collective agreement has not been concluded before expiry of the term of, or termination of the agreement, the employer shall not, without consent by or on behalf of the employees affected, decrease rates of wages, or alter any other term or condition of employment in effect immediately prior to such expiry or termination provided for in the agreement, until a renewal or revision of the agreement or a new collective agreement has been concluded or a Mediator, appointed to endeavour to bring about agreement, has reported to the Minister and seven days have elapsed after the report has been received by the Minister, whichever is earlier, or until the Minister has advised the parties that he has decided not to appoint a Mediator.” 20 25 30

Parties to proceed without delay after notice given.

Employer not to decrease wages or alter conditions pending renewal or revision.

8. Section 16 of the said Act is repealed and the following substituted therefor:

“16. Where a notice to commence collective bargaining has been given under this Act and 35

(a) collective bargaining has not commenced with the time prescribed by this Act, or

(b) collective bargaining has commenced, and either party thereto requests the Minister in writing to appoint a Conciliation Officer to confer with the parties thereto to assist them to conclude a collective agreement or a renewal or revision thereof and such request is accompanied by a statement of the difficulties, 40

Conciliation Officer, conference with parties.





if any, that have been encountered before the commencement or in the course of the collective bargaining, or in any other case in which in the opinion of the Minister it is advisable so to do, the Minister may appoint a Conciliation Officer to confer with the parties engaged in collective bargaining." 5

9. Section 17 of the said Act is repealed and the following substituted therefor:

Conciliation  
Officer  
failing, then  
Mediator.

"17. (1) Where a Conciliation Officer fails to bring about an agreement between parties engaged in collective bargaining, or where either party to collective bargaining requests the Minister in writing to appoint a Mediator to confer with the parties thereto to assist them to conclude a collective agreement or a renewal or revision thereof and such request is accompanied by a statement of the difficulties, if any, that have been encountered before the commencement or in the course of the collective bargaining, or in any other case where, in the opinion of the Minister, a Mediator should be appointed to endeavour to bring about agreement between the parties to a dispute, the Minister may appoint a Mediator for such purpose. 15

"(2) Prior to the appointment of a Mediator, the Minister may request the parties to submit the name of a Mediator who is approved by both parties; if the parties are unable to agree upon a Mediator and, in any event, at the expiration of five days after a request so made, the Minister may appoint a Mediator without further reference to the parties." 20

10. Section 21 of the said Act is repealed and the following substituted therefor: 30

Conditions  
precedent to  
strike vote on  
renewal or  
revision of  
agreement.

"21. (1) Where a trade union on behalf of a unit of employees is entitled to require, by notice under this Act, the employer to commence collective bargaining with a view to the conclusion or renewal or revision of a collective agreement, the trade union shall not take a strike vote or authorize or participate in the taking of a strike vote of employees in the unit until (a) the bargaining agent and the employer, or representatives authorized by them in that behalf, have bargained collectively and have failed to conclude a collective agreement, and either 35 40



Clause 9: Provides for the appointment of a Mediator.

Clauses 10 and 12: (a) Strike vote may not take place until Conciliation Officer has completed his work. (b) Strike or lockout may not take place until Mediator has completed his work and is unable to effect a settlement.

- (b) a Conciliation Officer has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the Conciliation Officer was received by the Minister, or 5
- (c) either party has requested the Minister in writing to appoint a Conciliation Officer to endeavour to bring about agreement between them and seven days have elapsed since the Minister received the request so made and 10
  - (i) no notice under subsection (1) of section 27 has been given by the Minister, or
  - (ii) the Minister has notified the parties that he has decided not to appoint a Conciliation Officer. 15

“(2) Where a trade union on behalf of a unit of employees is entitled to require, by notice under this Act, their employer to commence collective bargaining with a view to the conclusion or renewal or revision of a collective agreement, the trade union 20 shall not declare or authorize a strike of the employees in the unit, and no employee of the unit shall strike, and the employer shall not declare or cause a lockout of the employees in the unit until

- (a) the provisions of paragraph (a) and, as the case 25 may be, either paragraph (b) or (c) of subsection (1) have been complied with, and either
- (b) a Mediator has been appointed to endeavour to bring about agreement between the parties and seven days have elapsed from the date on 30 which the report of the Mediator was received by the Minister, or
- (c) either party has requested the Minister in writing to appoint a Mediator to endeavour to bring about agreement between them and seven 35 days have elapsed since the Minister received the request so made and
  - (i) no notice under subsection 1 of section 27 has been given by the Minister, or
  - (ii) the Minister has notified the parties that 40 he has decided not to appoint a Mediator.”

**11.** Subsection (1) of section 22 of the said Act is amended by repealing that part of subsection (1) immediately preceding paragraph (a) thereof and by substituting therefor: 45

“(1) Except in respect of a dispute that is subject to the provisions of subsection (2) or subsection (3)”.

Conditions precedent to strike or lockout on renewal or revision of agreement.

No strikes and lockouts while agreement in force.



12.1. Paragraph (2) of section 11 of the said Act is repealed and the following substituted therefor:

(1) Where a collective agreement is in force and any dispute arises between the parties thereto with reference to the provision of a provision of the agreement that by the provision of the agreement a particular provision relating to the terms of the agreement shall be binding on the party or parties who are a party or parties to the agreement, the party or parties shall not take a strike vote or authorize or participate in the taking of a strike vote or the employer or employers shall not take a strike vote or authorize or participate in the taking of a strike vote if the collective agreement has been entered into with the following provisions:

(a) the bargaining agent of such employer and the employer or employers have entered into an agreement on 15 or more days before the date of the strike or lock-out and have failed to conclude an agreement on 15 or more days before the date of the strike and either the employer or employers has been appointed by the Commission (either has been appointed by the Commission to bring about agreement between them and every day since the date of the Commission's order was received by the Minister or

(b) either party has requested the Minister to order to appoint a Conciliation Officer to bring about agreement between them and every day since the date of the Minister's order was received by the Minister or

(c) either party has requested the Minister to order to appoint a Conciliation Officer to bring about agreement between them and every day since the date of the Minister's order was received by the Minister or

(d) the Minister has notified the parties that he has decided not to appoint a Conciliation Officer.

(2) Where a collective agreement is in force and any dispute arises between the parties thereto with reference to the provision of a provision of the agreement that by the provision of the agreement a particular provision relating to the terms of the agreement shall be binding on the party or parties who are a party or parties to the agreement, the party or parties shall not take a strike vote or authorize or participate in the taking of a strike vote or the employer or employers shall not take a strike vote or authorize or participate in the taking of a strike vote if the collective agreement has been entered into with the following provisions:

(a) the bargaining agent of such employer and the employer or employers have entered into an agreement on 15 or more days before the date of the strike or lock-out and have failed to conclude an agreement on 15 or more days before the date of the strike and either the employer or employers has been appointed by the Commission (either has been appointed by the Commission to bring about agreement between them and every day since the date of the Commission's order was received by the Minister or

(b) either party has requested the Minister to order to appoint a Conciliation Officer to bring about agreement between them and every day since the date of the Minister's order was received by the Minister or

(c) either party has requested the Minister to order to appoint a Conciliation Officer to bring about agreement between them and every day since the date of the Minister's order was received by the Minister or

(d) the Minister has notified the parties that he has decided not to appoint a Conciliation Officer.

12.1. Paragraph (2) of section 11 of the said Act is repealed and the following substituted therefor:

12.1. Paragraph (2) of section 11 of the said Act is repealed and the following substituted therefor:

**Clauses 11 and 13: Cross-reference changes.**

**12.** Subsection (2) of section 22 of the said Act is repealed and the following substituted therefor:

Conditions precedent to strike vote on revision of provision in agreement.

“(2) Where a collective agreement is in force and any dispute arises between the parties thereto with reference to the revision of a provision of the agreement that by the provisions of the agreement is subject to revision during the term of the agreement, a bargaining agent bound thereby or who is a party thereto shall not take a strike vote or authorize or participate in the taking of a strike vote of the employees on whose behalf the collective agreement has been entered into until

- (a) the bargaining agent of such employees and the employer or representatives authorized by them on their behalf have bargained collectively and have failed to conclude an agreement on the matters in dispute, and either
- (b) a Conciliation Officer has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the Conciliation Officer was received by the Minister, or
- (c) either party has requested the Minister in writing to appoint a Conciliation Officer to endeavour to bring about agreement between them and seven days have elapsed since the Minister received the request so made and
  - (i) no notice under subsection (1) of section 27 has been given by the Minister, or
  - (ii) the Minister has notified the parties that he has decided not to appoint a Conciliation Officer.

Conditions precedent to strike or lockout on revision of provision in agreement.

“(3) Where a collective agreement is in force and any dispute arises between the parties thereto with reference to the revision of a provision of the agreement that by the provisions of the agreement is subject to revision during the term of the agreement, the employer bound thereby or who is a party thereto shall not declare or cause a lockout with respect to any employee bound thereby or on whose behalf the collective agreement has been entered into, and no such employee shall strike and no bargaining agent that is a party to the agreement shall declare or authorize a strike of any such employee until

- (a) the provisions of paragraph (a) and, as the case may be, either paragraph (b) or (c) of subsection (2) have been complied with, and either



- (b) a Mediator has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the Mediator was received by the Minister, or
- (c) either party has requested the Minister in writing to appoint a Mediator to endeavour to bring about agreement between them and seven days have elapsed since the Minister received the request so made and
- (d) no notice under subsection (1) of section 27 has been given by the Minister, or
- (ii) the Minister has notified the parties that he has decided not to appoint a Mediator."

Section 27 of the said Act is repealed and the following substituted therefor:

27. (1) When a Conciliation Officer or a Mediator has been appointed, the Minister shall forthwith notify the parties setting out the name and address of the Conciliation Officer or Mediator.
- (2) Where the Minister has given notice to parties that a Conciliation Officer or a Mediator has been appointed under this Act, it shall be conclusively presumed that the Conciliation Officer or the Mediator described in the notice so given has been appointed in accordance with the provisions of this Act, and an order shall be made or process entered or proceedings taken in any court to question the appointing of, or refusal to appoint, a Conciliation Officer or Mediator, or to review, rescind or restrain appointment of, that Conciliation Officer or that Mediator or any proceedings before them.
- (3) No person
- (a) who has any pecuniary interest in the matter referred to a Conciliation Officer or a Mediator, or
- (b) who is acting or has within a period of six months preceding the date of his appointment acted in the capacity of solicitor, legal adviser, agent or paid agent of either of the parties, shall act as a Conciliation Officer or a Mediator."

Amendment  
to  
Section 27  
of the  
Act

- (b) a Mediator has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the Mediator was received by the Minister, or 5
- (c) either party has requested the Minister in writing to appoint a Mediator to endeavour to bring about agreement between them and seven days have elapsed since the Minister received the request so made and 10
- (i) no notice under subsection (1) of section 27 has been given by the Minister, or
- (ii) the Minister has notified the parties that he has decided not to appoint a Mediator.”

**13.** Section 27 of the said Act is repealed and the 15 following substituted therefor:

Appointment  
of Con-  
ciliation  
Officer or  
Mediator.

“**27.** (1) When a Conciliation Officer or a Mediator has been appointed, the Minister shall forthwith notify the parties setting out the name and address of the Conciliation Officer or Mediator. 20

(2) Where the Minister has given notice to parties that a Conciliation Officer or a Mediator has been appointed under this Act, it shall be conclusively presumed that the Conciliation Officer or the Mediator described in the notice so given has been appointed in 25 accordance with the provisions of this Act, and no order shall be made or process entered or proceedings taken in any court to question the appointing of, or refusal to appoint, a Conciliation Officer or Mediator, or to review, prohibit or restrain appointment of 30 that Conciliation Officer or that Mediator or any proceedings before them.

(3) No person

(a) who has any pecuniary interest in the matters referred to a Conciliation Officer or a Mediator, 35 or

(b) who is acting or has within a period of six months preceding the date of his appointment acted in the capacity of solicitor, legal advisor, counsel or paid agent of either of the parties, 40 shall act as a Conciliation Officer or a Mediator.”



...the following information...

1. The Commission Officer or a Member shall... before sitting as such...

2. It is solemnly sworn (affirm) that I will faithfully... and impartially in the discharge of my duties...

3. Section 22 of the Act is repealed and the following substituted therefor...

4. (1) Upon receiving a Commission Officer or a Member... the Minister will forthwith deliver to the Commission Officer or Member a statement of the nature of the case...

(2) After a Commission Officer or a Member has given a report... the Minister may direct the Commission Officer or Member to transmit and certify to the Minister a copy of the report...

(3) The Commission Officer or the Member shall send to the Minister a copy of the report...

5. (1) A Commission Officer or a Member shall... after appointment... in relation to the business of the Commission...

(2) A Commission Officer or a Member may... in his own proceedings... and may refer to all cases to be heard...

**14.** Section 28 of the said Act is repealed and the following substituted therefor:

Oath of office.

“**28.** A Conciliation Officer or a Mediator shall, before acting as such, take and subscribe before a person authorized to administer an oath or affirmation, and file with the Minister, an oath or affirmation in the following form: 5

I do solemnly swear (affirm) that I will faithfully, truly and impartially to the best of my knowledge, skill and ability, execute and perform the office of Conciliation Officer (Mediator) appointed to.....and will not, except in the discharge of my duties, disclose to any person any of the evidence or other matter brought before me. So help me God.” 15

**15.** Section 29 of the said Act is repealed and the following substituted therefor:

Statement of matters of reference.

“**29.** (1) Upon appointing a Conciliation Officer or a Mediator, the Minister shall forthwith deliver to the Conciliation Officer or Mediator a statement of the matters of reference, and may, either before or after the Conciliation Officer or Mediator makes a report, amend or add to such statement. 20

Reconsideration of report.

(2) After a Conciliation Officer or a Mediator has made a report the Minister may direct the Conciliation Officer or the Mediator to reconsider and clarify or amplify the report or any part thereof or to consider and report on any new matter added to the amended statement of matters of reference and the report of the Conciliation Officer or the Mediator shall not be deemed to be received by the Minister until such reconsidered report is received.” 30

**16.** Section 30 of the said Act is repealed and the following substituted therefor:

Duties of Conciliation Officer or Mediator.

“**30.** (1) A Conciliation Officer or a Mediator shall, immediately after appointment, endeavour to bring about agreement between the parties in relation to the matters of reference; 35

(2) Except as otherwise provided in this Act, a Conciliation Officer or a Mediator may determine his own procedure but shall give full opportunity to all parties to present evidence and make representations; 40



**Clause 14:** Repeals the authority to appoint a Conciliation Board and provides for a cross-reference change.

**Clause 15:** Cross-reference change.

**Clauses 16-18:** Provide for a Conciliation Officer to have the powers formerly held by a Conciliation Board; also contain a cross-reference change.

(3) A Conciliation Officer or a Mediator may fix the time and place of sittings and shall notify the parties as to the time and place so fixed."

**17.** Section 31 of the said Act is repealed and the following substituted therefor:

Witnesses  
and  
documents.

**31.** (1) A Conciliation Officer or a Mediator has the power of summoning before him any witnesses and of requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as the Conciliation Officer or the Mediator deems requisite to the full investigation and consideration of the matters of reference, but the information so obtained from such documents shall not, except as the Minister deems expedient, be made public; 15

(2) A Conciliation Officer or a Mediator has the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases;

(3) A Conciliation Officer or a Mediator may administer an oath and may receive and accept such evidence on oath, affidavit or otherwise as in his discretion he may deem fit and proper whether admissible in evidence in a court of law or not." 20

**18.** Section 32 of the said Act is repealed and the following substituted therefor:

Entry and  
inspection.

**32.** A Conciliation Officer or a Mediator or any person who has been authorized for such purpose in writing by a Conciliation Officer or a Mediator may, without any warrant than this section, at any time, enter a building, ship, vessel, factory, workshop, place, or premises of any kind wherein work is being or has been done or commenced by employees or in which an employer carries on business or any matter or thing is taking place or has taken place, concerning the matters of reference, and may inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such place, matter or thing hereinbefore mentioned; and no person shall hinder or obstruct the Conciliation Officer or the Mediator or any person authorized as aforesaid in the exercise of a power conferred by this section or refuse to answer an interrogation made as aforesaid." 35 40



Section 23 of the said Act is repealed and the following substituted therefor, to read as follows:

23. A Commission Officer shall, within thirty days after the appointment or within such longer period as may be agreed upon by the parties or as may from time to time be allowed by the Minister, make a report to the Minister setting out

(a) the matter, if any, upon which the parties have agreed,

(b) the matter, if any, upon which the parties cannot agree,

(c) his findings and recommendations as to the provisions to be contained in the collective agreement, and

(d) a detailed certified statement of the findings and of the persons and witnesses present at each sitting.

Section 23  
Minister  
Commissioner  
Officer

Section 24 of the said Act is repealed and the following substituted therefor, to read as follows:

24. A Minister shall, within fourteen days after his appointment or within such longer period as may be agreed upon by the parties, or as may from time to time be allowed by the Minister, make a report to the Minister setting out

(a) the matter, if any, upon which the parties have agreed,

(b) the matter, if any, upon which the parties cannot agree,

(c) his findings and recommendations as to the provisions to be contained in the collective agreement, and

(d) a detailed certified statement of the findings and of the persons and witnesses present at each sitting.

Section 24  
Minister  
Commissioner  
Officer

Section 25 of the said Act is repealed and the following substituted therefor, to read as follows:

25. (1) The Minister shall, within thirty days after the appointment or within such longer period as may be agreed upon by the parties, or as may from time to time be allowed by the Minister, make a report to the Minister setting out

(a) the matter, if any, upon which the parties have agreed,

(b) the matter, if any, upon which the parties cannot agree,

(c) his findings and recommendations as to the provisions to be contained in the collective agreement, and

(d) a detailed certified statement of the findings and of the persons and witnesses present at each sitting.

Section 25  
Minister  
Commissioner  
Officer

Section 26  
Minister  
Commissioner  
Officer

**19.** Section 33 of the said Act is repealed and the following substituted therefor:

Report to  
Minister by  
Conciliation  
Officer.

“**33.** A Conciliation Officer shall, within thirty days after his appointment, or within such longer period as may be agreed upon by the parties, or as may from 5 time to time be allowed by the Minister, make a report to the Minister setting out

- (a) the matters, if any, upon which the parties have agreed,
- (b) the matters, if any, upon which the parties 10 cannot agree,
- (c) his findings and recommendations as to the provisions to be contained in the collective agreement, and
- (d) a detailed certified statement of the sittings 15 and of the persons and witnesses present at each sitting.”

**20.** Section 34 of the said Act is repealed and the following substituted therefor:

Report to  
Minister by  
Mediator.

“**34.** A Mediator shall, within fourteen days after 20 his appointment, or within such longer period as may be agreed upon by the parties, or as may from time to time be allowed by the Minister, make a report to the Minister setting out

- (a) the matters, if any, upon which the parties 25 have agreed,
- (b) the matters, if any, upon which the parties cannot agree,
- (c) his findings and recommendations as to the provisions to be contained in the collective 30 agreement, and
- (d) a detailed certified statement of the sittings and of the persons and witnesses present at each sitting.”

**21.** Section 35 of the said Act is repealed and 35 the following substituted therefor:

Parties to  
receive  
report.

“**35.** (1) Upon receipt of the report of a Conciliation Officer or of a Mediator, the Minister shall forthwith cause a copy thereof to be sent to the parties by registered mail and he may cause the report to be 40 published in such manner as he sees fit;

Duty of  
parties.

(2) The parties shall severally, within twenty-one days after the receipt of a report of a Conciliation Officer, notify the Minister and the other party whether the party, so notifying, accepts or rejects the report 45 and whether that party wishes a Mediator appointed.”



Clause 19: Gives the Conciliation Officer 30 days to effect a settlement; the Conciliation Board is limited to 10 days.

Clause 20: Gives the Mediator an initial period of 14 days within which to effect a settlement.

Clause 21: (a) Cross-reference change; (b) provides that the negotiating parties shall decide whether to accept or reject a Conciliation Officer's report within 21 days.

**22.** Section 36 of the said Act is repealed and the following substituted therefor:

Report not  
admissible  
except on  
perjury  
action.

“**36.** A report, or any part thereof, of a Conciliation Officer or of a Mediator or the testimony or proceedings, or any part thereof, before a Conciliator or Mediator shall not be admissible in evidence in any court except in the case of a prosecution for perjury.” 5

**23.** Section 37 of the said Act is repealed and the following substituted therefor:

Agreement  
by parties.

“**37.** Where a Conciliation Officer or a Mediator has been appointed and, at any time before or after the Conciliation Officer or the Mediator has made his report the parties so agree in writing, the recommendation of the Conciliation Officer or the Mediator is binding on the parties and they shall give effect thereto.” 10 15

**24.** Section 38 of the said Act is repealed and the following substituted therefor:

System of  
collective  
bargaining  
agreed upon.

“**38.** Where a certified bargaining agent and an employer, or representatives authorized by them in that behalf, have agreed to a system of collective bargaining and that system of collective bargaining has been filed with and approved by the Canada Labour Relations Board, then, notwithstanding sections 21 to 37, that system of collective bargaining shall be the system that obtains with that certified bargaining agent and that employer.” 20 25

**25.** Section 50 of the said Act is repealed and the following substituted therefor:

Failure to  
report within  
time limited.

“**50.** Failure of a Conciliation Officer or a Mediator to report to the Minister within the time provided in this Act does not invalidate the proceedings of the Conciliation Officer or the Mediator or terminate the authority of the Conciliation Officer or the Mediator.” 30 35

**26.** Subsection (5) of section 56 of the said Act is repealed and the following substituted therefor:

Constitution  
of Com-  
mission.

“(5) An Industrial Inquiry Commission shall consist of one or more members appointed by the Minister and the provisions of sections 31 and 32 apply, *mutatis mutandis*, as though enacted in respect of that Commission and the Commission may determine its own procedure but shall give full opportunity to all parties to present evidence and make representations.” 40

**27.** Section 64 of the said Act is repealed. 45



*Clauses 22 and 23: Cross-reference changes.*

*Clause 24: Permits a union and employer to adopt and use a mutually agreed upon system that is outside the provisions of this Act if the system is approved by the Canada Labour Relations Board.*

*Clauses 25 and 26: Cross-reference changes.*

*Clause 27: The authority to pay Conciliation Board members is no longer required.*

**28.** Section 65 of the said Act is repealed and the following substituted therefor:

Witness fees.

“**65.** Every person who is summoned by the Board or an Industrial Inquiry Commission and duly attends as a witness is entitled to an allowance for expenses determined in accordance with the scale for the time being in force with respect to witnesses in civil suits in the superior court in the province where the inquiry is being conducted and, in any event, he is entitled to not less than four dollars for each day he so attends.”

5

10

**29.** Section 66 of the said Act is repealed and the following substituted therefor:

Staff.

“**66.** The Minister may provide an Industrial Inquiry Commission with a secretary, stenographer, and such clerical or other assistance as to the Minister seems necessary for the performance of its duties and fix their remuneration.”

15

Transitional.

**30.** This Act shall not apply to collective bargaining negotiations that have commenced prior to the day this Act becomes effective.

20



*Clauses 28 and 29: Cross-reference changes.*

THE HOUSE OF COMMONS OF CANADA

BILL C-34

*Clause 30: Transitional clause.*

Mr. Knowles





**C-24.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-24.**

**An Act to amend the Senate and House of Commons Act.**

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First reading, October 1, 1962.

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**MR. KNOWLES.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27409-2

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-24.

An Act to amend the Senate and House of Commons Act.

R.S., cc. 249,  
310, s.5; 1953-  
54, cc. 10, 13,  
s.18.

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

Directors of  
companies  
not to be  
Ministers of  
the Crown.

1. Section 14 of the *Senate and House of Commons Act*, chapter 249 of the Revised Statutes of Canada, 1952, is amended by adding thereto the following subsection: 5

“(2) No person who is a director of a company incorporated under the *Companies Act* or under any other Public General Act of Canada, or incorporated by a Local or Private Act of Canada, shall be eligible 10 to be a member of the Queen’s Privy Council for Canada and a Minister of the Crown.”

Mr. Knowles



First Session, Twenty-Fifth Parliament, 1925

THE HOUSE OF COMMONS OF CANADA

BILL C-25

EXPLANATORY NOTE.

The purpose of this Bill is to amend section 14 of the *Senate and House of Commons Act* by adding thereto a new subsection providing that no directors of Canadian companies shall be eligible as Ministers of the Crown.

The effect of this Bill is to establish by law what is now recognized in practice.

First Reading, October 1, 1925

1925





**C-25.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-25.**

An Act to amend the Merchant Seamen  
Compensation Act.

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First Reading, October 1, 1962.

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**Mr. CARTER.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27310-2

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

## BILL C-25.

An Act to amend the Merchant Seamen  
Compensation Act.

R.S., c. 178; 1  
1952-53, c. 16; HER Majesty, by and with the advice and consent of  
1957, c. 9. the Senate and House of Commons of Canada, enacts  
as follows:

1. Subsection (2) of section 30 of the *Merchant Seamen Compensation Act* is repealed and the following 5 substituted therefor:

Where no  
widow.

“(2) Where a seaman leaves no widow or the widow  
subsequently dies and the seaman or widow, at time of  
death, maintained a domestic establishment for his  
child or children entitled to compensation, and a 10  
daughter or other person is competent to assume and  
does assume, as foster-mother, the maintenance and  
care of such child or children, to the Board’s satisfac-  
tion, such daughter or other person while so doing is  
entitled to receive the same monthly payments of 15  
compensation for herself and the child or children as  
if she were the seaman’s widow; in such case each child’s  
part of such payment shall be in lieu of the monthly  
payment the child would otherwise be entitled to  
receive.” 20



### EXPLANATORY NOTES.

The purpose of this Bill is to widen the discretion of the Merchant Seamen Compensation Board to make an allowance to a person who undertakes the care and maintenance of those orphans of a merchant seaman who are entitled to compensation under the *Merchant Seamen Compensation Act*. Under the present wording, the allowance is paid only if the person moves into the household of the deceased seaman or deceased seaman's widow. This Bill would permit the allowance to be paid, in the discretion of the Board, when the orphans are cared for and maintained elsewhere than in the former household by the person in a manner satisfactory to the Board. Compare subsections (9), (10) and (10a) of section 26 of the *Pension Act* as substituted by Chapter 10 of the 1960-61 Session.

The present section 30(2) of the *Merchant Seamen Compensation Act* is as follows:

*"Where the seaman leaves no widow or the widow subsequently dies, and it seems desirable to continue the existing household, and an aunt, sister, or other suitable person acts as foster-mother in keeping up such household and maintaining and taking care of the children entitled to compensation in a manner that the Board deems satisfactory, such foster-mother while so doing is entitled to receive the same monthly payments of compensation for herself and the children as if she were the widow of the deceased, and in such case the children's part of such payments shall be in lieu of the monthly payments which they would otherwise have been entitled to receive."*

The costs of administration of the *Merchant Seamen Compensation Act* and the compensation payable thereunder are chargeable to the employers and not against the Consolidated Revenue Fund.





C-26.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-26.**

An Act to amend the Railway Act  
(Responsibility for Dislocation Costs).

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First reading, October 1, 1962.

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Mr. FISHER.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27396-1

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-26.

An Act to amend the Railway Act  
(Responsibility for Dislocation Costs).

R.S., c. 234;  
1955, cc. 41,  
55; 1958, c. 40;  
1960, c. 35;  
1960-61, c. 54.

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

1. Section 182 of the *Railway Act* is repealed and the following substituted therefor: 5

Unauthorized  
changes  
forbidden.

“182. The company shall not, at any time, make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of section 181 are fully complied with, nor remove, close, or abandon any station, divisional point, freight office, or express office nor create a new divisional point that would involve the removal of employees or the loss of employment on the railway by an employee, without leave of the Board; and where any such change is made the company shall compensate its employees as the Board deems proper for any financial loss caused to them by change of residence or loss of employment necessitated thereby.” 15

Compensation.



BILL C-27

EXPLANATORY NOTES.

The purpose of this amendment is to provide that railway employees, who lose their employment as a result of changes beneficial to a railway, shall be compensated by that railway for the cost of rehabilitating themselves with new skills that are saleable in the labor market; for the cost of removal expenses to a new job; pension compensation for early retirement, if that is the better plan; or such other compensation as the Board deems best for the restitution of the discharged employee.

A secondary amendment widens the changes contemplated by the section to include freight or express offices.

THE HONOURABLE MEMBERS OF PARLIAMENT

OF CANADA

**BILL C-26**

AN ACT TO AMEND THE RAILWAY ACT  
AND TO AMEND THE RAILWAY REGULATIONS

EXPLANATORY NOTES

The purpose of this amendment is to provide that railway employees who lose their employment as a result of a change in the railway, shall be compensated by the railway for the cost of retraining or education, with few exceptions. It also provides for the cost of removal expenses to a new job, reason compensation for early retirement, if that is the better plan, or other compensation as the Board deems best for the retention of the railway employee.

A secondary amendment widens the classes covered by the section to include freight or express conductors and other employees who are transferred from one railway to another. It also provides for the cost of removal expenses to a new job, reason compensation for early retirement, if that is the better plan, or other compensation as the Board deems best for the retention of the railway employee.



C-27.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

BILL C-27.

**BILL C-27.**

An Act to amend the Criminal Code (Nuisance).

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First Reading, October 1, 1962.

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Mr. HERRIDGE.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-27.

An Act to amend the Criminal Code (Nuisance).

1953-54, c. 51;  
1955, cc. 2, 45;  
1956, c. 48;  
1957-58, c. 28;  
1958, c. 18;  
1959, cc. 40,  
41; 1960,  
cc. 37, 45,  
1960-61, cc. 21,  
42, 43, 44.

Discharging  
noxious  
matter into  
interprovin-  
cial water.

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

1. The *Criminal Code* is amended by adding thereto, immediately after section 165 thereof, the following section:— 5

“165A. Every owner, lessee, or person operating any industrial plant, oil refinery, chemical works, saw-mill or other plant or works, or any other person, who discharges or throws or allows to be discharged or thrown any noxious waste product, raw sewage, oil, sawdust, chemical or other matter or thing into a river, stream or other water any part of which is inter-provincial or which flows into any interprovincial water, which has the effect of endangering the lives, safety, health or comfort of the public is guilty of 15

- (a) an indictable offence and is liable to a fine of twenty-five thousand dollars for a first offence and of fifty thousand dollars for a second offence, or  
(b) an offence punishable on summary conviction. 20



First Reading, November 12, 1922.

THE HOUSE OF COMMONS OF CANADA

EXPLANATORY NOTE.

The purpose of this Bill is to make it an offence for the owners of industrial plants and oil refineries or other persons to discharge noxious matter into an interprovincial water thus endangering the lives, safety, health or comfort of the public.

First Reading, November 12, 1922.

Bill 127, 1922.





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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-28.**

An Act to provide for Copyright in Canada.

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First Reading, October 1, 1962.

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Miss LAMARSH.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

# COPYRIGHT ACT, 1962

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1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-28.

An Act to provide for Copyright in Canada.

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 *Copyright Act, 1962*.

INTERPRETATION.

- 2.** (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—
- Interpreta-      (a) “adaptation”, in relation to a literary, dramatic or      5  
tion.                      musical work, has the meaning assigned to it by  
                                    subsection (6) of section 5;      10
- “Adapta-                (b) “artistic work” has the meaning assigned to it by  
tion.”                      subsection (1) of section 6;      10
- “Artistic                (c) “building” includes any structure;      15  
work.”                      (d) “construction” includes erection, and references to  
                                    reconstruction, shall be construed accordingly;      15
- “Building.”             (e) “dramatic work” includes a choreographic work or  
                                    entertainment in dumb show if reduced to writing  
                                    in the form in which the work or entertainment is  
                                    to be presented, but does not include a motion  
                                    picture film, as distinct from a scenario or script      20
- “Construc-             (f) “engraving” includes any etching, lithograph, wood-  
tion.”                      cut, print or similar work, not being a photograph;      20
- “Dramatic             (g) “future copyright” and “prospective owner” have  
Work.”                      the meanings assigned to them by subsection (4)      25  
                                    of section 30;
- “Engraving.”            (g) “future copyright” and “prospective owner” have  
                                    the meanings assigned to them by subsection (4)      25  
                                    of section 30;
- “Future                (g) “future copyright” and “prospective owner” have  
copyright.”                the meanings assigned to them by subsection (4)      25  
                                    of section 30;





- “Judicial proceedings.” (h) “judicial proceedings” means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath;
- “Literary Work.” (i) “literary work” includes any written table or compilation; 5
- “Manuscript.” (j) “manuscript”, in relation to a work, means the original document embodying the work, whether written by hand or not;
- “Motion picture film.” (k) “motion picture film” has the meaning assigned to it by subsection (9) of section 18; 10
- “Performance.” (l) “performance” includes delivery, in relation to lectures, addresses, speeches and sermons, and in general, subject to the provisions of subsection (3) of this section, includes any mode of visual or acoustic presentation, including any such presentation by the operation of wireless telegraphy apparatus, or by the exhibition of a motion picture film, or by the use of a record, or by any other means, and references to performing a work or an adaptation of a work shall be construed accordingly; 15
- “Photograph.” (m) “photograph” means any product of photography or of any process akin to photography, other than a part of a motion picture film, and “author”, in relation to a photograph, means the person who, at the time when the photograph is taken, is the owner of the material on which it is taken; 20
- “Qualified person.” (n) “qualified person” has the meaning assigned to it by subsection (5) of section 4;
- “Record.” (o) “record” means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable (with or without the aid of some other instrument) of being automatically reproduced therefrom, and references to a record of a work or other subject-matter are references to a record (as herein defined) by means of which it can be performed; 25
- “Reproduction.” (p) “reproduction”, in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a motion picture film, and, in the case of an artistic work, includes a version produced by converting the work into a three-dimensional form, or, if it is in three dimensions, by converting it into a two-dimensional form, and references to reproducing a work shall be construed accordingly; 30
- “Sculpture.” (q) “sculpture” includes any cast or model made for purposes of sculpture; 35
- “Sound recording.” (r) “sound recording” has the meaning assigned to it by subsection (6) of section 17; 40
- “Sufficient acknowledgment.” (s) “sufficient acknowledgment” has the meaning assigned to it by subsection (9) of section 8; 45



- (b) "writing" includes any form of notation, whether by hand or by printing, typewriting or any similar process.
- (c) "work of joint authorship" has the meaning assigned to it by subsection (7) in section 14.
- (d) "television broadcast" and "sound broadcast" have the meanings assigned to them by section 19.

"writing"  
"work of joint authorship"  
"television broadcast"  
"sound broadcast"

(2) References in this Act to the transmission of a work or other subject-matter to subscribers to a diffusion service are references to the transmission thereof to the extent of a service of distributing broadcast programmes or other programmes (whether provided by the person operating the service or other persons) over wires or other paths provided by a material substance to the premises of subscribers to the service; and for the purposes of this Act, where a work is transmitted to a person who is not a subscriber to the service, the person operating the service (that is to say, the person who in the agreement with subscribers to the service undertakes to provide them with the service) shall be taken to be the person operating the service, whether or not the person who transmits the work or other subject-matter to be so transmitted, and

References

(3) No person other than the person operating the service shall be taken to be transmitting it to be so transmitted, notwithstanding that he provides any facilities for the transmission of the programme, provided that for the purposes of this subsection and in relation to which this subsection applies no account shall be taken of a service of distributing programmes or other programmes, where the service is only incidental to a business of keeping or letting premises where persons receive or send, and is operated as part of the business provided exclusively or mainly for subscribers or intended therein.

Transmit

(4) For the purposes of this Act, broadcasting or the transmission of a work or other subject-matter to be transmitted to subscribers to a diffusion service shall not be taken to constitute performance or to constitute causing visual images or sounds to be seen or heard.

Broadcasting  
the transmission

(5) In determining for the purposes of any provision of this Act—

- (a) whether a work or other subject-matter has been published, or
- (b) whether a publication is a work or other subject-matter, or
- (c) whether a work or other subject-matter was published or otherwise dealt with in the making of a person,

the question  
has  
been  
published  
or  
not  
published

no account shall be taken of any unpublished publication or of the doing of any other unpublished act.

40

"Television broadcast."

"Work of joint authorship."

"Writing."

- (t) "television broadcast" and "sound broadcast" have the meanings assigned to them by section 19;
- (u) "work of joint authorship" has the meaning assigned to it by subsection (7) of section 16;
- (v) "writing" includes any form of notation, whether by hand or by printing, typewriting or any similar process. 5

References.

(2) References in this Act to the transmission of a work or other subject-matter to subscribers to a diffusion service are references to the transmission thereof in the course of a service of distributing broadcast programmes, or other programmes (whether provided by the person operating the service or other persons), over wires, or other paths provided by a material substance, to the premises of subscribers to the service; and for the purposes of this Act, where a work or other subject-matter is so transmitted,— 15

- (a) the person operating the service (that is to say, the person who, in the agreements with subscribers to the service, undertakes to provide them with the service, whether he is the person who transmits the programmes or not) shall be taken to be the person causing the work or other subject-matter to be so transmitted, and 20
- (b) no person, other than the person operating the service, shall be taken to be causing it to be so transmitted, notwithstanding that he provides any facilities for the transmission of the programmes: 25

Proviso.

Provided that, for the purposes of this subsection, and of references to which this subsection applies, no account shall be taken of a service of distributing broadcast or other programmes, where the service is only incidental to a business of keeping or letting premises where persons reside or sleep, and is operated as part of the amenities provided exclusively or mainly for residents or inmates therein. 30

Broadcasting not performance.

(3) For the purposes of this Act, broadcasting, or the causing of a work or other subject-matter to be transmitted to subscribers to a diffusion service, shall not be taken to constitute performance, or to constitute causing visual images or sounds to be seen or heard. 35

Supplementary provisions as to interpretation.

3. (1) In determining for the purposes of any provision of this Act— 40

- (a) whether a work or other subject-matter has been published, or
- (b) whether a publication of a work or other subject-matter was the first publication thereof, or 45
- (c) whether a work or other subject-matter was published or otherwise dealt with in the lifetime of a person, 45

no account shall be taken of any unauthorized publication or of the doing of any other unauthorized act. 50



Provided that nothing in this subsection shall affect any provisions of this Act or to the same restricted by way copyright or as to any constituting infringement of copyright or any provisions of section 29.

(2) Reference in this Act to the time at which, or the period during which, a literary, dramatic or musical work was made and references to the time or period at or during which it was first reduced to writing or some other material form.

PART I

COPYRIGHT IN ORIGINAL WORKS

4. (1) In this Act "copyright" in relation to a work (except where the context otherwise requires) means the exclusive right by virtue and subject to the provisions of this Act, to do, and to authorize other persons to do, certain acts in relation to that work in Canada.

The said acts in relation to a work of any description are those acts which, in the relevant provision of this Act, are designated as the acts restricted by the copyright in a work of that description.

(2) In accordance with the preceding subsection, but subject to the following provisions of this Act, the copyright in a work is assigned by any person who, not being the owner of the copyright, and without the licence of the owner thereof, does or authorizes another person to do any of the said acts in relation to the work in Canada.

(3) In the preceding subsection reference to the relevant provision of this Act, in relation to a work of any description, are references to the provision of this Act whereby it is provided that (subject to compliance with the conditions specified therein) copyright shall subsist in works of that description.

(4) The preceding provisions of this section shall apply in relation to any subject-matter (other than a work) of a description to which any provision of Part II relates, as they apply in relation to a work.

(5) For the purpose of any provision of this Act which specifies the conditions under which copyright may subsist in any description of work as other subject-matter, "qualified persons" means:

(a) in the case of an individual, a person who is a Canadian citizen, or who is domiciled, or resident, in Canada;

(b) in the case of a body corporate, a body incorporated under the laws of Canada, or of any Province thereof;

Reference to the time

Meaning of copyright

Assignment of copyright

Reference

Application of provisions to subject-matter

Qualified persons

Provided that nothing in this subsection shall affect any provisions of this Act as to the acts restricted by any copyright or as to acts constituting infringements of copyrights, or any provisions of section 29.

Reference  
to the time.

(2) Reference in this Act to the time at which, or the period during which, a literary, dramatic or musical work was made are references to the time or period at or during which it was first reduced to writing or some other material form. 5

## PART I

### COPYRIGHT IN ORIGINAL WORKS.

Nature of  
copyright  
under this  
Act.

4. (1) In this Act "copyright" in relation to a work (except where the context otherwise requires) means the exclusive right, by virtue and subject to the provisions of this Act, to do, and to authorize other persons to do, certain acts in relation to that work in Canada. 10

The said acts, in relation to a work of any description, are those acts which, in the relevant provision of this Act, are designated as the acts restricted by the copyright in a work of that description. 15

When copy-  
right  
infringed.

(2) In accordance with the preceding subsection, but subject to the following provisions of this Act, the copyright in a work is infringed by any person who, not being the owner of the copyright, and without the license of the owner thereof, does, or authorizes another person to do, any of the said acts in relation to the work in Canada. 20

References.

(3) In the preceding subsections references to the relevant provision of this Act, in relation to a work of any description, are references to the provision of this Act whereby it is provided that (subject to compliance with the conditions specified therein) copyright shall subsist in works of that description. 25 30

Applications  
of certain  
provisions.

(4) The preceding provisions of this section shall apply, in relation to any subject-matter (other than a work) of a description to which any provision of Part II relates, as they apply in relation to a work.

"Qualified  
person."

(5) For the purposes of any provision of this Act which specifies the conditions under which copyright may subsist in any description of work or other subject-matter, "qualified persons" means: 35

(a) in the case of an individual, a person who is a Canadian citizen, or who is domiciled, or resident, in Canada, 40

(b) in the case of a body corporate, a body incorporated under the laws of Canada, or of any Province thereof, and



(c) any class of persons to whom the provisions of this Act are extended by the Governor in Council.

(d) For the purposes of this Act "publication" in relation to any literary, dramatic, musical or artistic work means the issue of copies of the work to the public but the following shall not be regarded as publication:

(i) the exhibition of an artistic work, the construction of a work of architecture, or the issue of photographs or engravings of a work of architecture or of a sculpture;

(ii) except in so far as it may constitute an infringement of copyright, a publication which is merely incidental and not intended to satisfy the reasonable requirements of the public.

(3) (a) After the expiration of twenty-five years from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the copyright owner or his agent notice in writing of his intention to reproduce the work, and that he has paid to the copyright owner, or for the benefit of the owner of the copyright, royalties in respect of all copies of the work sold by him, calculated at the rate of ten per cent on the price at which he publishes the work.

(b) For the purposes of this section, the Governor in Council may make regulations prescribing the mode in which notice is to be given, and the particulars to be given in such notice, and the mode, time and manner of the payment of royalties, including the manner in which the royalties are to be advanced or otherwise secured, the payment of royalties.

Copyright in Literary, Dramatic or Musical Works.

2. (1) Copyright shall subsist in the following classes of literary, dramatic, musical or artistic works which are original and in which the author was a qualified person at the time when the work was made, or if the author of the work resided in a country to which this Act applies at the time when the work was made, or if the author of the work was a qualified person for a substantial part of that period:

(a) literary, dramatic, musical or artistic works which have been published, that is to say, the provisions of this Act shall apply to the work as if it were published.

Copyright

Copyright

Copyright

Copyright

"Publica-  
tion."

(c) any class of persons to whom the provisions of this Act are extended by the Governor in Council.

(6) For the purposes of this Act, "publication" in reference to any literary, dramatic, musical or artistic work, means the issue of copies of the work to the public, but the following shall not be regarded as publication: 5

(a) the exhibition of an artistic work, the construction of a work of architecture, or the issue of photographs or engravings of a work of architecture or of a sculpture; 10

(b) except in so far as it may constitute an infringement of copyright, a publication which is merely colourable and not intended to satisfy the reasonable requirements of the public.

Notice of  
intention to  
reproduce  
after twenty-  
five years.

(7) (a) After the expiration of twenty-five years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright, royalties in respect of all copies of the work sold by him, calculated at the rate of ten per cent on the price at which he publishes the work. 15 20 25

(b) for the purposes of this section, the Governor in Council may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time and frequency of the payment of royalties, including, if he thinks, fit, regulations requiring payment in advance or otherwise securing the payment of royalties. 30

#### COPYRIGHT IN LITERARY, DRAMATIC OR MUSICAL WORKS.

Copyright in  
literary,  
dramatic or  
musical  
works.

5. (1) Copyright shall subsist, subject to the provisions of this Act, in every original literary, dramatic or musical work which is unpublished, and of which the author was a qualified person at the time when the work was made, or, if the making of the work extended over a period, was a qualified person for a substantial part of that period. 35 40

Conditions  
for copyright  
to subsist.

(2) Where an original literary, dramatic or musical work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work (or, if copyright



in the work published immediately before its first publication shall continue to subsist, if, but only if—  
(a) the first publication of the work took place in Canada;

(b) the author of the work was a qualified person at the time when the work was first published; or  
(c) the author had died before that time, but was a qualified person immediately before his death.

Provided that a work shall be deemed to be first published in Canada notwithstanding that it has been published simultaneously in some other place; and a work shall be deemed to be published simultaneously in two places, if the time between the publication in one such place and the other place does not exceed thirty days.

(3) Subject to the last preceding subsection, copyright in a work by virtue of this Act shall, except as otherwise expressly provided by this Act, for a period expiring at the end of fifty-six years from the first day of January next following the date of publication, or at the death of the author, whichever is later, and shall then expire.

Provided that if before the death of the author none of the following acts had been done, that is to say—  
(a) the publication of the work;

(b) the performance of the work;  
the copyright shall continue to subsist until the end of the period of seventy-five years after the author's death, or one hundred years after the work was made, whichever is later, and shall then expire.

(4) In the last preceding subsection reference to the doing of any act in relation to a work includes reference to the doing of that act in relation to an adaptation of the work.

(5) The acts mentioned by the copyright in a literary, dramatic or musical work are—

- (a) reproducing the work in any material form;
- (b) publishing the work;
- (c) performing the work in public;
- (d) broadcasting the work;
- (e) causing the work to be transmitted to subscribers to a diffusion service;
- (f) making any adaptation of the work;
- (g) doing in relation to an adaptation of the work any of the acts specified in relation to the work in paragraphs (a) to (e) of this subsection.
- (6) In this Act "adaptation"—  
(a) in relation to a literary or dramatic work, means any of the following, that is to say—

Proviso

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Proviso

in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if,—

(a) the first publication of the work took place in Canada,  
or

(b) the author of the work was a qualified person at 5  
the time when the work was first published, or

(c) the author had died before that time, but was a  
qualified person immediately before his death.

Proviso.

Provided that a work shall be deemed to be first published in Canada notwithstanding that it has been published 10  
simultaneously in some other place; and a work shall be deemed to be published simultaneously in two places, if the time between the publication in one such place and the other place does not exceed thirty days.

Duration.

(3) Subject to the last preceding subsection, copyright 15  
subsisting in a work by virtue of this Act, shall, except as otherwise expressly provided by this Act, be for a period expiring at the end of fifty-six years from the first day of January next following the time of publication, or at the death of the author, whichever is later, and shall then 20  
expire.

Proviso.

Provided that if before the death of the author none of the following acts had been done, that is to say,—

(a) the publication of the work,

(b) the broadcasting of the work,

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the copyright shall continue to subsist until the end of the period of seventy-five years after the author's death, or one hundred years after the work was made, whichever is later, and shall then expire.

(4) In the last preceding subsection reference to the 30  
doing of any act in relation to a work includes references to the doing of that act in relation to an adaptation of the work.

Restrictions.

(5) The acts restricted by the copyright in a literary, 35  
dramatic or musical work are—

(a) reproducing the work in any material form;

(b) publishing the work;

(c) performing the work in public;

(d) broadcasting the work;

(e) causing the work to be transmitted to subscribers to 40  
a diffusion service;

(f) making any adaptation of the work;

(g) doing, in relation to an adaptation of the work, any of the acts specified in relation to the work in paragraphs (a) to (e) of this subsection. 45

“Adaptation.”

(6) In this Act, “adaptation”—

(a) in relation to a literary or dramatic work, means any of the following, that is to say,—



- (i) in the case of a non-dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a dramatic work;
  - (ii) in the case of a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a non-dramatic work;
  - (iii) a translation of the work;
  - (iv) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures; and
  - (v) in relation to a musical work, means an arrangement of the work;
- no however that the meaning of any matter in this definition of "adaptation" shall not affect the generality of the words "representing the work in any material form".

CONSTRUCTION IN ARTISTIC WORKS

- 30. (1) In this Act "artistic work" means a work of any of the following descriptions, that is to say:—
  - (a) the following, irrespective of artistic quality, namely:—
    - (i) paintings, engravings, drawings, engravings and photographs;
    - (ii) works of architecture, being either buildings or models for buildings;
    - (iii) works of artistic craftsmanship, not falling within sub-section (1) of the preceding paragraph;
  - (2) Engravings shall, subject to the provisions of this Act in every original artistic work which is unpublished, and of which the author was a qualified person at the time when the work was made, or if the making of the work was extended over a period, was a qualified person for a substantial part of that period.
  - (3) Where an original artistic work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work, but if copyright in the work subsisted immediately before its publication, shall continue to subsist, if not only:—
    - (a) the first publication of the work took place in a country to which this Act applies;
    - (b) the author of the work was a qualified person at the time when the work was first published; or
    - (c) the author had died before that time, but was a qualified person immediately before his death.

Copyright in artistic works

Engraving

- (i) in the case of a non-dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a dramatic work;
  - (ii) in the case of a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a non-dramatic work;
  - (iii) a translation of the work;
  - (iv) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures; and
- (b) in relation to a musical work, means an arrangement of the work;
- so however that the mention of any matter in this definition of "adaptation" shall not affect the generality of the words "reproducing the work in any material form".

#### COPYRIGHTS IN ARTISTIC WORKS.

Copyright in  
artistic  
works.

- 6.** (1) In this Act, "artistic work" means a work of any of the following descriptions, that is to say,—
- (a) the following, irrespective of artistic quality, namely paintings, sculptures, drawings, engravings and photographs;
  - (b) works of architecture, being either buildings or models for buildings;
  - (c) works of artistic craftsmanship, not falling within either of the preceding paragraphs.

(2) Copyright shall subsist, subject to the provisions of this Act, in every original artistic work which is unpublished, and of which the author was a qualified person at the time when the work was made, or if the making of the work extended over a period, was a qualified person for a substantial part of that period.

Duration.

(3) Where an original artistic work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if—

- (a) the first publication of the work took place in Canada, or
- (b) the author of the work was a qualified person at the time when the work was first published, or
- (c) the author had died before that time, but was a qualified person immediately before his death.



(4) Subject to the last preceding subsection, copyright in a work by virtue of this section shall continue to subsist for a period expiring at the end of fifty years from the first day of January next following the author's death, and shall then expire.

Provided that—  
(a) in the case of an engraving, if before the death of the author the engraving had not been published, the copyright shall continue to subsist until the end of the period of twenty-five years after the author's death, or ten hundred years after the engraving was made, whichever is later, and shall then expire;

(b) in the case of an engraving where there has been publication within a period of seventy-five years after the author's death, or within one hundred years after the engraving was made, the copyright shall continue to subsist for a period expiring at the end of fifteen years from the first day of January next following the publication, and shall then expire;

(c) the copyright in a photograph shall continue to subsist for a period expiring at the end of forty years from the first day of January next following the date upon which the photograph was taken.

- The Act restricted by the copyright in an artistic work as—  
(a) reproducing the work in any material form;  
(b) publishing the work.

Ownership in Copyright in Literary, Dramatic and Musical Works.

7. (1) Subject to the provisions of this section, the author of a work shall be entitled to any copyright subsisting in the work by virtue of this Part.

(2) Where a literary, dramatic, musical or artistic work is made by the author in the course of his employment by another person, under a contract of service or apprenticeship, and that other person shall be entitled to any copyright subsisting in the work by virtue of this Part.

(3) Where a person commissions the taking of a photograph, or a painting or a drawing, or the making of an engraving, and pays for it in money or money's worth, and the work is made in pursuance of that commission, the person who so commissioned the work shall be entitled to any copyright subsisting in the work by virtue of this Part.

Copyright  
in literary,  
dramatic and  
musical  
works.

Section  
entitled to  
copyright in  
artistic  
works.

Idem.

(4) Subject to the last preceding subsection, copyright subsisting in a work by virtue of this section shall continue to subsist for a period expiring at the end of fifty-six years from the first day of January next following the author's death, and shall then expire:

5

Provided that—

Proviso.

(a) in the case of an engraving, if before the death of the author the engraving had not been published, the copyright shall continue to subsist until the end of the period of seventy-five years after the author's death, or one hundred years after the engraving was made, whichever is later, and shall then expire, and

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(b) in the case of an engraving where there has been publication within a period of seventy-five years after the author's death, or within one hundred years after the engraving was made, the copyright shall continue to subsist for a period expiring at the end of fifty-six years from the first day of January next following the publication, and shall then expire, and

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(c) the copyright in a photograph shall continue to subsist for a period expiring at the end of forty years from the first day of January next following the date upon which the photograph was taken.

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(5) The acts restricted by the copyright in an artistic work are—

- (a) reproducing the work in any material form;
- (b) publishing the work.

#### OWNERSHIP OF COPYRIGHT IN LITERARY, MUSICAL AND ARTISTIC WORKS.

Ownership  
of copyright  
in literary,  
musical and  
artistic  
works.

7. (1) Subject to the provisions of this section, the author of a work shall be entitled to any copyright subsisting in the work by virtue of this Part.

30

(2) Where a literary, dramatic, musical or artistic work is made by the author in the course of his employment by another person, under a contract of service or apprenticeship, that other person shall be entitled to any copyright subsisting in the work by virtue of this Part.

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Person  
entitled to  
copyright in  
certain cases.

(3) Where a person commissions the taking of a photograph, or a painting or a drawing, or the making or an engraving, and pays for it in money or money's worth, and the work is made in pursuance of that commission, the person who so commissioned the work shall be entitled to any copyright subsisting in the work by virtue of this Part.

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- Proviso. Provided that, where a person commissions a painting or a drawing (not a portrait) for a particular purpose communicated to the author before the work was made, and pays or agrees to pay for it in money's worth, and the work is made in pursuance of that commission, the author shall be entitled to any copyright subsisting in the work by virtue of this Part for any other than that particular purpose for which the work was commissioned. 5
- Idem. (4) Where, in a case not falling within the two last preceding subsections, a work is made in the course of the author's employment by another person under a contract of service or apprenticeship, that other person shall be entitled to any copyright subsisting in the work by virtue of this Part. 10
- Proviso. Provided that where a person commissions a work for a particular purpose communicated to the author before the work was made and pays or agrees to pay for it in money's worth, and the work is made in pursuance of that commission, the author shall be entitled to any copyright subsisting in the work by virtue of this Part for any other than that particular purpose for which the work was commissioned. 20
- Agreement to govern. (5) Each of the three last preceding subsections shall have effect, subject, in any particular case, to any agreement excluding the operation thereof in that case. 25
- Effect of subsections. (6) The preceding provisions of this section shall all have effect subject to the provisions of Part VI.

GENERAL EXCEPTION FROM PROTECTION OF  
LITERARY, DRAMATIC AND MUSICAL WORKS.

- General exceptions from protection of literary, dramatic and musical works. 8. (1) No fair dealing with a literary, dramatic or musical work for purposes of research or private study shall constitute an infringement of the copyright in the work. 30
- (2) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgment. 35
- Fair dealing. (3) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for the purpose of reporting current events—  
 (a) in a newspaper, magazine or similar periodical, or  
 (b) by means of broadcasting, or in a motion picture film, 40  
 and, in a case falling within paragraph (a) of this subsection, is accompanied by a sufficient acknowledgment.





**Proviso.** Provided that for the purposes of this subsection, and not to the generality thereof, "a literary work" shall include a speech, lecture, sermon or other address, delivered in public, whether or not from notes, provided the same is, simultaneously with delivery, reduced to writing or some other material form. 5

**Saving.** (4) The copyright in a literary, dramatic or musical work is not infringed by reproducing it for the purpose of a judicial, or quasi-judicial proceeding, or for the purposes of a report of such a proceeding. 10

**Idem.** (5) The reading or recitation in public by one person of any reasonable extract from a published literary or dramatic work, if accompanied by a sufficient acknowledgment, shall not constitute an infringement of the copyright in the work: 15

**Proviso.** Provided that this subsection shall not apply to anything done for the purposes of broadcasting.

**Idem.** (6) The copyright in a published literary or dramatic work is not infringed by the inclusion of a short passage therefrom in a collection intended for the use of schools, 20 if—

- (a) the collection is described in its title, and in any advertisements thereof issued by or on behalf of the publisher, as being so intended, and
- (b) the work in question was not published for the use 25 of schools, and
- (c) the inclusion of the passage is accompanied by a sufficient acknowledgement;

**Proviso.** Provided that this subsection shall not apply in relation to the copyright in a work if, in addition to the passage 30 in question, two or more other excerpts from works by the author thereof or by the author in collaboration or jointly with one or more authors (being works in which copyright subsists at the time when the collection is published) are contained in that collection, or are contained in that collec- 35 tion taken together with every similar collection (if any) published by the same publisher within the period of five years immediately preceding the publication of that collection.

**Idem.** (7) Where a person is authorized to broadcast a literary, 40 dramatic or musical work, but (apart from this subsection) would not be entitled to make reproductions of it in the form of a record or of a motion picture film, the copyright in the work is not infringed by his making such a reproduction of the work solely for the purpose of broadcasting 45 the work;



Provided that such reproduction shall be made solely for the purpose of the author's presentation within a period of thirty days after the day when it or a copy of it was first prepared and thereafter for no purpose other than research or study.

(8) The foregoing provisions of this section shall apply to the doing of any act in relation to an adaptation of a work as they apply in relation to the doing of that act in relation to the work itself.

(9) In this act "sufficient acknowledgment" means in relation to the work in question the work is acknowledged by its title or other description and, unless the work is anonymous or the author has previously agreed or required that no acknowledgment of his name should be made, the following the author.

(10) (1) The copyright in an article contained in a periodical publication is not infringed by the making or supplying of a copy of the article if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Governor in Council, and the conditions prescribed by those regulations are complied with.

(2) In making any regulation for the purpose of the preceding subsection the Governor in Council shall make such provision as he may consider appropriate for securing—

(a) that the libraries to which the regulations apply are not established or conducted for profit;

(b) that the copies in question are supplied only to persons occupying the librarian, or a person acting on his behalf, that they require them for purposes of research or private study and will not use them for any other purpose;

(c) that no payment is furnished under the regulations with two or more copies of the same article; and

(d) that no copy extends to more than one article or to a greater number of articles than one.

(3) The copyright in a published history, dramatic or musical work other than an article contained in a periodical publication is not infringed by the making or supplying of a copy of text of the work if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Governor in Council, and the conditions prescribed by those regulations are complied with.

Proviso.

Provided that such reproduction shall be used solely for the purpose of the authorized broadcasting within a period of thirty days after the day when it or a copy of it was first broadcast and thereafter for no purpose other than research or study.

Application.

(8) The preceding provisions of this section shall apply to the doing of any act in relation to an adaptation of a work as they apply in relation to the doing of that act in relation to the work itself.

"Sufficient acknowledgment."

(9) In this act "sufficient acknowledgment" means an acknowledgment identifying the work in question by its title or other description and, unless the work is anonymous or the author has previously agreed or required that no acknowledgment of his name should be made, also identifying the author.

Special exceptions as respects libraries and archives.

9. (1) The copyright in an article contained in a periodical publication is not infringed by the making or supplying of a copy of the article, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Governor in Council, and the conditions prescribed by those regulations are complied with.

Regulations.

(2) In making any regulations for the purpose of the preceding subsection the Governor in Council shall make such provision as it may consider appropriate for securing—

- (a) that the libraries to which the regulations apply are not established nor conducted for profit;
- (b) that the copies in question are supplied only to persons satisfying the librarian, or a person acting on his behalf, that they require them for purposes of research or private study and will not use them for any other purpose;
- (c) that no person is furnished under the regulation with two or more copies of the same article; and
- (d) that no copy extends to more than one article, or if to more than one, then only to articles relating to the same subject matter,

and may impose such other requirements (if any) as may appear to the Governor in Council to be expedient.

Saving.

(3) The copyright in a published literary, dramatic or musical work, other than an article contained in a periodical publication, is not infringed by the making or supplying of a copy of part of the work, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Governor in Council, and the conditions prescribed by those regulations are complied with.



(3) The provision of subsection (2) of this section shall apply for the purposes of the last preceding subsection. Provided that any reference made under the last preceding subsection shall include such provision as the Governor in Council may consider appropriate for securing that no copy to which the regulations apply extends to any form a reasonable proportion of the work in question.

(4) The copyright in a published literary, dramatic or musical work is not infringed by the making or supplying of a copy of the work or of a part of it, by or on behalf of the Governor of a library of a class prescribed by regulations made under the section by the Governor in Council, if—

(a) the copy is supplied to the librarian of any library of a class so prescribed;

(b) at the time when the copy is made the librarian by or on whose behalf it is supplied does not know the name and address of any person entitled to authorise the making of the copy, and could not do so by reasonable enquiry; and

(c) any other conditions prescribed by the regulations are complied with.

Provided that the condition specified in paragraph (b) of this section shall not apply in the case of an article contained in a periodical publication.

(5) In relation to an article or other work which is accompanied by one or more artistic works provided for explanation or illustration in the subsection referred to in subsection (1) the preceding provisions of this section shall apply as if—

(a) wherever that provision that the copyright in the article or work is not infringed the reference to any copy that copyright included a reference to any copy of any of the illustrations;

(b) in subsection (1) and (2) reference to a copy of the article included reference to a copy of the illustrations as they appear with a copy of the illustrations as they appear and

(c) in subsections (3) to (5) reference to a copy of the work included reference to a copy of the work together with a copy of the illustrations or any of them, and reference to a copy of part of the work included reference to a copy of that part of the work together with a copy of the illustrations or any of them provided for explaining or illustrating that part.

(6) In this section "article" includes an item of any description.

Section 17  
Copyright

Section 18

Section 19

Section 20  
Copyright

Section 21

Application  
of ss. (2).

(4) The provision of subsection (2) of this section shall apply for the purposes of the last preceding subsection:

Proviso.

Provided that any regulations made under the last preceding subsection shall include such provision as the Governor in Council may consider appropriate for securing that no copy to which the regulations apply extends to more than a reasonable proportion of the work in question. 5

Saving.

(5) The copyright in a published literary, dramatic or musical work is not infringed by the making or supplying of a copy of the work, or of a part of it, by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Governor in Council, if— 10

- (a) the copy is supplied to the librarian of any library of a class so prescribed; 15
- (b) at the time when the copy is made, the librarian by or on whose behalf it is supplied does not know the name and address of any person entitled to authorize the making of the copy, and could not by reasonable enquiry ascertain the name and address of such a person; and 20
- (c) any other conditions prescribed by the regulations are complied with:

Proviso.

Provided that the condition specified in paragraph (b) of this subsection shall not apply in the case of an article contained in a periodical publication. 25

In case of  
"illustrations."

(6) In relation to an article or other work which is accompanied by one or more artistic works provided for explaining or illustrating it (in this subsection referred to as "illustrations"), the preceding provisions of this section shall apply as if— 30

- (a) wherever they provide that the copyright in the article or work is not infringed, the reference to that copyright included a reference to any copyright in any of the illustrations; 35
- (b) in subsections (1) and (2), references to a copy of the article included references to a copy of the article together with a copy of the illustrations or any of them; and
- (c) in subsections (3) to (5), references to a copy of the work included references to a copy of the work together with a copy of the illustrations or any of them, and references to a copy of part of the work included references to a copy of that part of the work together with a copy of any of the illustrations which were provided for explaining or illustrating that part. 40 45

"Article."

(7) In this section "article" includes an item of any description.



Exposition

18. The copyright in a published musical work is not infringed by its public performance at any agricultural, industrial, or commercial exhibition or fair which receives a grant or is held under Dominion, Provincial or Municipal authority:

Exposition  
of agriculture  
and industry  
at fairs

19. Provided that this subsection shall not apply if such works are performed in a place or to advertise or attract persons to a place, (or for admission to which are charged, other than a fee (if any) charged for admission to such fair or exhibition.

Exposition

19. The copyright in a published musical work is not infringed by its public performance in furtherance of a religious, educational or charitable object, which is authorized by a church, college, school or religious, charitable or fraternal organization.

Religious  
educational  
charitable  
fraternal  
organization

20. (1) The copyright in a literary, dramatic or musical work is not infringed by a person (in this section referred to as "the manufacturer") who makes a record of the work or of an adaptation of the work in Canada if--

Special  
provisions  
relating  
to records

(a) records of the work or, as the case may be, of a similar adaptation of the work have previously been made for the purpose of sale or hire by or with the consent or acquiescence of the owner of the copyright in the work; and

(b) before making the record the manufacturer gave notice to the owner of the copyright the prescribed notice of his intention to make it; and

(c) the manufacturer intends to sell the record or let it for hire or to supply it for the purpose of its being sold or let for hire by another person or intends to use it for making other records which are to be sold or let for hire; and

(d) in the case of a record which is sold or let for hire the manufacturer pays to the owner of the copyright in the prescribed manner and at the prescribed time a royalty of an amount ascertained as set out in the following table:

"Owner of  
copyright"

(2) "The owner of the copyright" as used in paragraph (d) of subsection (1) of this section means the owner of the copyright for the country in which the records previously made were first:

(3) The royalties referred to in this section shall be determined as follows:

For  
records  
manufactured  
in Canada

## EXCEPTION.

Exceptions of performance at exhibitions or fairs.

**10.** The copyright in a published musical work is not infringed by its public performance at any agricultural, agricultural-industrial exhibition or fair which receives a grant or is held under Dominion, Provincial or Municipal authority:

5

Proviso.

Provided that this subsection shall not apply if such works are performed in a place, or to advertise or attract persons to a place, fees for admission to which are charged, other than a fee (if any) charged for admission to such fair or exhibition.

10

Special exceptions in performance in religious, educational or charitable objects.

**11.** The copyright in a published musical work is not infringed by its public performance in furtherance of a religious, educational or charitable object, which is authorized by a church, college, school or religious, charitable or fraternal organization.

15

Special exceptions—records.

**12.** (1) The copyright in a literary, dramatic or musical work is not infringed by a person (in this section referred to as "the manufacturer") who makes a record of the work or of an adaptation of the work in Canada if—

- (a) records of the work or, as the case may be, of a 20 similar adaptation of the work have previously been made for the purpose of sale or hire by or with the consent or acquiescence of the owner of the copyright in the work; and
- (b) before making the record the manufacturer gave 25 to the owner of the copyright the prescribed notice of his intention to make it; and
- (c) the manufacturer intends to sell the record or let it for hire or to supply it for the purposes of its being sold or let for hire by another person or intends 30 to use it for making other records which are to be sold or let for hire; and
- (d) in the case of a record which is sold or let for hire the manufacturer pays to the owner of the copyright in the prescribed manner and at the prescribed 35 time a royalty of an amount ascertained as set out below.

"Owner of copyright."

(2) "The owner of the copyright" as used in paragraph (a) of subsection (1) of this section means the owner of the copyright for the country in which the records previously 40 made were made.

Royalties, how determined.

(3) The royalties referred to in this section shall be determined as follows:





- (a) for records, wire or tape recordings, or other devices reproducing a musical work, for each copy one-half cent per minute of playing time, but not less than four cents for any single work;
- (b) a medley of more than one musical work, the total playing time of which does not exceed four minutes, shall be considered a single musical work; 5
- (c) for new arrangements of musical works otherwise in the public domain, for each copy one-quarter cent per minute of playing time, but not less than two cents for any single arrangement; 10
- (d) for commercial transcriptions and for records intended to be sold or let on hire, royalties as set out above, but not less than four dollars per copy;
- (e) where more than one copyright exists in a recording, not more than one royalty computed under this section shall be payable but the royalty shall be apportioned between copyright owners as they may agree, or in default of agreement, as may be determined by a Judge of the Exchequer Court; 15 20
- (f) where a recording consists of both copyright and non-copyright material, the royalty shall be computed on the playing time of the copyright material only at the rates herein above set out;
- (g) where for the purposes of paragraph (a) of subsection (1) of this section, a manufacturer makes enquiry of the owner of the copyright as to his consent or acquiescence in the previous recording of the work and the owner of the copyright defaults in replying thereto for a period of six months after the said enquiry, the previous records shall be deemed to have been made with the consent or acquiescence of the owner of the copyright. 25 30

Application  
of section.

(4) The provisions of this section shall apply to recordings of part of a work or adaptation as they apply to recordings of the whole of it. 35

Provided that subsection (1) of this section shall not apply to a record of the whole of a work or adaptation unless the previous records referred to in paragraph (a) of subsection (1) were records of the whole of the work or of a similar adaptation unless those previous records were records of or comprising that part of the work or of a similar adaptation. 40

Saving.

(5) The copyright in a musical, literary or dramatic work is not infringed by a person who imports a record made outside of Canada which might be manufactured in Canada under subsection (1) of this section if he gives the notice and pays the royalties as though he were a manufacturer under subsection (1). 45



(6) The Government in Council is empowered to make regulations for the purposes of this section.

(7) In this section "word" and "recording" includes any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable (with or without the aid of some other instrument) of being automatically reproduced therefrom.

recording  
and  
"word"

10 (1) No fair dealing with an artistic work for purposes of research or private study shall constitute an infringement of the copyright in the work.

(2) No fair dealing with an artistic work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgment.

research  
private study  
of the  
copyright  
in the  
work

15 (3) The copyright in a work to which this subsection applies is permanently abridged in a public place or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work or the inclusion of the work in a motion picture.

This subsection applies to sculptures and to such work of artistic craftsmanship as are mentioned in subsection (1) of section 6.

20 (4) The copyright in a work of architecture is not infringed by the making of a painting, drawing, engraving or photograph of the work or the inclusion of the work in a motion picture.

25 Without prejudice to the two last preceding subsections, the copyright in an artistic work is not infringed by the inclusion of the work in a motion picture if its inclusion therein is only by way of background or is otherwise incidental to the principal matter represented in the film.

30 (5) The copyright in an artistic work is not infringed by the inclusion of a motion picture, drawing, engraving or photograph of the work or the inclusion of the work in a motion picture if it is by virtue of any of the provisions mentioned in subsection (4) of this section.

40 (6) Copyright in an artistic work is not infringed by the inclusion of the work in a motion picture, drawing, engraving or photograph if the purpose of a report of such a picture is to illustrate the work.

- Regulations. (6) The Governor in Council is empowered to make regulations for the purposes of this section.
- "Record" and "recording." (7) In this section, "record" and "recording" includes any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable (with or without the aid of some other instrument) of being automatically reproduced therefrom. 5
- General exceptions from protection of artistic works. **13.** (1) No fair dealing with an artistic work for purposes of research or private study shall constitute an infringement of the copyright in the work. 10
- (2) No fair dealing with an artistic work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgment. 15
- (3) The copyright in a work to which this subsection applies which is permanently situated in a public place, or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a motion picture film. 20
- This subsection applies to sculptures, and to such work of artistic craftsmanship as are mentioned in subsection (1) of section 6.
- (4) The copyright in a work of architecture is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a motion picture. 25
- (5) Without prejudice to the two last preceding subsections, the copyright in an artistic work is not infringed by the inclusion of the work in a motion picture film if its inclusion therein is only by way of background or is otherwise only incidental to the principal matters represented in the film. 30
- (6) The copyright in an artistic work is not infringed by the publication of a painting, drawing, engraving, photograph or motion picture film, if by virtue of any of the three last preceding subsections the making of that painting, drawing, engraving, photograph or film did not constitute an infringement of the copyright. 35
- (7) Copyright in an artistic work is not infringed by reproducing it for the purpose of a judicial, or a quasi-judicial proceeding, or for the purposes of a report of such a proceeding. 40



(8) The making of an object in any description which is in those circumstances shall not be taken to infringe the copyright in an artistic work in two dimensions if the object would not appear to persons who are not experts in relation to objects of that description to be a reproduction of the artistic work.

(9) The copyright in an artistic work is not infringed by the making of a subsequent artistic work by the same author, notwithstanding that part of the earlier work—

- (a) is reproduced in the subsequent work; and
- (b) is so reproduced by the use of a mould, cast, stamp, plan, model or study made for the purposes of the earlier work.

If in making the subsequent work the author does not repeat or imitate the main design of the earlier work.

(10) Where copyright subsists in a building as a work of architecture, the copyright is not infringed by any reconstruction of that building; and where a building has been constructed in accordance with architectural drawings or plans in which copyright subsists and has been so constructed by or with the licence of the owner of that copyright, any subsequent reconstruction of the building by reference to those drawings or plans shall not constitute an infringement of that copyright.

1.4. (1) Where copyright subsists in an artistic work and a corresponding design is registered under the Patents, Designs and Inventions Act in this section referred to as "the Industrial Designs Act", it shall not be an infringement of the copyright in the work—

- (a) to do anything during the subsistence of the copyright in the registered design under the Industrial Designs Act which is within the scope of the copyright in the design; or
- (b) to do anything after the copyright in the registered design has come to an end, which if it had been subsisting would have been within the scope of that copyright as extended to all associated designs and articles.

(2) Where copyright subsists in an artistic work, and a corresponding design is applied industrially by or with a licence of the owner of the copyright in the work and

- (a) articles to which the design has been so applied are sold for hire or offered for sale or hire, and
  - (b) at the time when those articles are sold, let for hire or offered for sale or hire, they are not articles in respect of which design has been registered under the Industrial Designs Act.
- It shall not be an infringement of the copyright in the work to

Patents, Designs and Inventions Act, 1949

(8) The making of an object of any description which is in three dimensions shall not be taken to infringe the copyright in an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work. 5

(9) The copyright in an artistic work is not infringed by the making of a subsequent artistic work by the same author, notwithstanding that part of the earlier work—

(a) is reproduced in the subsequent work, and 10

(b) is so reproduced by the use of a mould, cast, sketch, plan, model or study made for the purposes of the earlier work,

if in making the subsequent work the author does not repeat or imitate the main design of the earlier work. 15

(10) Where copyright subsists in a building as a work of architecture, the copyright is not infringed by any reconstruction of that building; and where a building has been constructed in accordance with architectural drawings or plans in which copyright subsists, and has been so constructed by, or with the licence of, the owner of that copyright, any subsequent reconstruction of the building by reference to those drawings or plans shall not constitute an infringement of that copyright. 20

Special  
exceptions  
in respect  
of industrial  
designs.

14. (1) Where copyright subsists in an artistic work, 25 and a corresponding design is registered under the *Industrial Design and Union Label Act* (in this section referred to as "*The Industrial Design Act*"), it shall not be an infringement of the copyright in the work—

(a) to do anything, during the subsistence of the copyright in the registered design under the *Industrial Design Act*, which is within the scope of the copyright in the design, or 30

(b) to do anything, after the copyright in the registered design has come to an end, which, if it had been done while the copyright in the design subsisted, would have been within the scope of that copyright as extended to all associated designs and articles. 35

(2) Where copyright subsists in an artistic work, and—

(a) a corresponding design is applied industrially by or with a license of the owner of the copyright in the work, and 40

(b) articles to which the design has been so applied are sold, let for hire, or offered for sale or hire, and

(c) at the time when those articles are sold, let for hire, or offered for sale or hire, they are not articles in respect of which design has been registered under the *Industrial Design Act*, 45

it shall not be an infringement of the copyright in the work to



do anything which at the time it is done, would if the design had been registered immediately before that time have been within the scope of the copyright in the design as extended to all associated designs and articles.

8. In this section, references to the aggregate of things which, by virtue of the Federal Design Act, the registered proprietor of the design has exclusive right to do, and references to the scope of the copyright in a registered design as extended to all associated designs and articles are references to the aggregate of the things which, by virtue of that section, the registered proprietor would have had the exclusive right to do if—

(a) when that design was registered, there had at the same time been registered every possible design consisting of that design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, and the said proprietor had been registered as the proprietor of every such design, and  
(b) the design in question, and every other design such as it mentioned in the preceding paragraph, had been registered in respect of all the articles to which it was capable of being applied.

(5) In this section "corresponding design," in relation to an artistic work, means a design which, when applied to an article results in a reproduction of that work.

Artistic  
work  
design

Artistic  
work  
reproduction

10. (1) Where the first subsection (a) of a literary, dramatic or musical work, of which there has been no previous performance in public, other than one to the public of records or broadcasts, is an engraving, or (b) in the author's lifetime, of any other artistic work (other than a photograph),

is engraving or reproduction, any copyright subsisting in the work by virtue of this Act shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was first published, and that that option.

(2) Subsection (1) shall not apply where, at any time before the end of the fifty-year period mentioned, it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable enquiry.

(3) A reproduction of a work under two or more names shall not be deemed to be reproductions unless all the names are reproductions.

do anything which, at the time when it is done, would, if the design had been registered immediately before that time, have been within the scope of the copyright in the design as extended to all associated designs and articles.

(3) In this section, references to the scope of the copy- 5  
right in a registered design are references to the aggregate of the things, which, by virtue of the *Industrial Design Act*, the registered proprietor of the design has exclusive right to do, and references to the scope of the copyright in a registered design as extended to all associated designs and 10  
articles are references to the aggregate of the things which by virtue of that section, the registered proprietor would have had the exclusive right to do if—

(a) when that design was registered, there had at the same time been registered every possible design 15  
consisting of that design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, and the said proprietor had been registered as the proprietor of every such design, and 20

(b) the design in question, and every other design such as is mentioned in the preceding paragraph, had been registered in respect of all the articles to which it was capable of being applied.

(7) In this section “corresponding design”, in relation 25  
to an artistic work, means a design which, when applied to an article, results in a reproduction of that work.

“Corres-  
ponding  
design.”

Anonymous  
and  
pseudony-  
mous works.

**15.** (1) Where the first publication

(a) of a literary, dramatic or musical work, of which there has been no previous performance in public, 30  
offer for sale to the public of records, or broadcast;

(b) of an engraving, or

(c) in the author’s lifetime, of any other artistic work  
(other than a photograph)

is anonymous or pseudonymous, any copyright subsisting 35  
in the work by virtue of this Act shall continue to subsist until the end of the period of fifty-six years from the end of the calendar year in which the work was first published, and shall then expire.

(2) Subsection (1) shall not apply where, if at any time 40  
before the end of the fifty-six year period mentioned, it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable enquiry.

(3) A publication of a work under two or more names shall 45  
not be deemed to be pseudonymous unless all the names are pseudonymous.





Works of  
joint  
authorship.

**16.** (1) Copyright shall subsist in a work of joint authorship if, and only if, at least one of the joint authors is an eligible author.

(2) Where, in the cause of joint authorship of a work, one or more of the authors are not eligible authors, the other author or authors shall be entitled to copyright in the work. 5

(3) Unless otherwise provided, any reference to an author of a work shall be constituted in relation to a work of joint authorship, by a reference to all the authors of the work.

(4) Copyright in a work of joint authorship shall continue to subsist until the end of the period of fifty-six years from the end of the calendar year in which the work was first published, publicly performed, offered for sale of records to the public, or broadcasts, or until the death of the last surviving eligible author (whichever is latest), and shall then expire. 10 15

(5) For the purposes of this Act, where necessary to ascertain the author's death for purposes of computing time, the date shall be the date of death of the last surviving author. 20

(6) Where, in a published work of joint authorship, the work was first published under two or more names and either

(a) one or more of the names (but not all) were pseudonymous, or

(b) all of the names were pseudonymous but it is possible for a person without previous knowledge of the facts to ascertain the identity of any one or more (but not all) of the authors by reasonable enquiry. 25

"Date of  
death of  
author."

"The date of death of the author" means the date of the death of the last surviving eligible author who did not publish under a pseudonym or whose identity a person without previous knowledge of the facts could, within fifty-six years of the first publication of the work, have ascertained by reasonable enquiry. 30

"Work of  
joint author-  
ship."

(7) For the purpose of this section, 35

"work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of each author is not separate from the contribution of the other author or authors; "eligible author" means an author who, if he had been the sole author of the work, would have been entitled to the copyright in it. 40

"Eligible  
author."





## PART II

COPYRIGHT IN SOUND RECORDINGS,  
MOTION PICTURE FILMS,  
BROADCASTS, ETC.Copyright  
in sound  
recordings.

**17.** (1) Copyright shall subsist, subject to the provisions of this Act, in every sound recording of which the maker was a qualified person when the recording was made.

(2) Without prejudice to the preceding subsection, copyright shall subsist, subject to the provisions of this Act, in every sound recording which has been published, if the first publication of the recording took place in Canada. 5

(3) Copyright subsisting in a sound recording by virtue of this section shall continue to subsist until the end of the period of forty years from first publication of the recording, and shall then expire. 10

(4) Subject to the provisions of this Act, the maker of a sound recording shall be entitled to any copyright subsisting in the recording by virtue of this section:

Proviso.

Provided that where a person commissions the making of a sound recording, and pays or agrees to pay for it in money or money's worth, and the recording is made in pursuance of that commission, that person, in the absence of any agreement to the contrary, shall, subject to the provisions of this Part, be entitled to any copyright subsisting in the recording by virtue of this section. 15 20

(5) The act restricted by the copyright in a sound recording is the making of a record embodying the recording.

"Sound-  
recording."

(6) In this Act "sound recording" means the aggregate of the sounds embodied in, and capable of being reproduced by means of, a record of any description, other than a sound-track associated with a motion picture film and "publication", in relation to a sound recording, means the issue to the public of records embodying the recording or any part of it. 25 30

"Publica-  
tion."Copyright  
in motion  
picture  
films.

**18.** (1) Copyright shall subsist, subject to the provisions of this Act, in every motion picture film of which the maker was a qualified person for the whole or a substantial part of the period during which the film was made.

(2) Without prejudice to the preceding subsection, copyright shall subsist in every motion picture film which has been published, if the first publication of the film took place in Canada. 35

(3) Copyright subsisting in a motion picture film by virtue of this section shall continue to subsist from the time it is made until the film is first exhibited in public and thereafter until the end of the period of forty years, and shall then expire. 40





(4) Subject to the provisions of Part VI, the maker of a motion picture film shall be entitled to any copyright subsisting in the film by virtue of this section.

(5) The acts restricted by the copyright in a motion picture film are—

- (a) making a copy of the film; 5
  - (b) causing the film, insofar as it consists of visual images, to be seen in public, or, in so far as it consists of sounds, to be heard in public; 10
  - (c) broadcasting the film; 10
  - (d) causing the film to be transmitted to subscribers to a diffusion service. 10
- (6) (a) The copyright in a motion picture film is not infringed by a person who receives a broadcast, a diffusion or a rediffusion of a film and causes it to be heard or seen in public as and when it is broadcast, diffused or rediffused, as the case may be. 15

Proviso.

Provided that this subsection shall not apply if the broadcast, the diffusion, or the broadcast rediffused, was not authorized by the owner of the copyright in the film, and any causing to be heard or seen in public such motion picture film by a person receiving it, shall be considered in assessing damages in any proceeding against the broadcaster of person diffusing as the case may be, in respect of that copyright, in so far as that copyright was infringed by him in making the broadcast or diffusion. 20 25

- (b) The copyright in a motion picture film is not infringed by a person who receives a broadcast, a diffusion or a rediffusion of a film and rediffuses it as and when it is broadcast, diffused or rediffused, as the case may be. 30

Proviso.

Provided that this subsection shall not apply if the broadcast, the diffusion, or the broadcast rediffused was not authorized by the owner of the copyright in the film, and any rediffusion of such motion picture film by a person receiving it, shall be considered in assessing damages in any proceeding against the broadcaster or person rediffusing, as the case may be, in respect of that copyright, in so far as that copyright was infringed by him in making such rediffusion. 35 40

(7) The copyright in a motion picture film is not infringed by making a copy of it for the purposes of a judicial or quasi-judicial proceeding, or by causing it to be seen or heard in public for the purposes of such a proceeding.

(8) Where by virtue of this section copyright has subsisted in a motion picture film, a person who, after that copyright has expired, makes a copy of the film, or causes it to be seen or to be seen and heard in public, or broadcasts 45



it, or cause it to be transmitted in a substance to a diffusion service does not thereby infringe any copyright subsisting in a literary, dramatic, musical or artistic work.

(9) In this Act—

(a) "motion picture film" means any sequence of visual images recorded on material of any description (whether translucent or not) so as to be capable, by the use of that material—

(i) of being shown as a moving picture, or

(ii) of being recorded on other material (whether translucent or not) by the use of which it can be shown.

(b) "publication", in relation to a motion picture film, means the sale, letting on hire, or offer for sale or hire, of copies of the film to the public;

(c) "copy", in relation to a motion picture film, means any print, negative, tape or other article on which the film or part of it is recorded.

For the purposes of this Act, a motion picture film shall be taken to include the sounds embodied in any sound-track associated with the film and referred to a copy of a motion picture film shall be construed accordingly.

13. (1) Copyright shall subsist, subject to the provisions of this Act—

(a) in every television broadcast made in Canada, and

(b) in every sound broadcast made in Canada.

(2) Copyright subsisting in a television or sound broadcast by virtue of this section shall continue to subsist until the end of the period of forty years from the day when the broadcast was made, and shall then expire.

(3) Subject to the provisions of this Act, the proprietor, or if a body corporate, the broadcasting body, shall be entitled to any copyright subsisting in the television or sound broadcast by virtue of this section.

(4) The acts restricted by the copyright in a television broadcast or sound broadcast are—

(a) the recording by a film, record or any other device, of the images or the sounds of the broadcast, or both;

(b) the use of such a recording for broadcasting or otherwise;

(c) the use of such a recording for causing the broadcast to be seen or heard in public;

(d) simultaneous use of the broadcast.

Provided that paragraph (c) of this section shall not apply to the mere recording of a broadcast when it is effected for private purposes only or the image or body

entirely to recording it.

Definitions  
"Motion picture film"

"Publication"

"Copy"

Copyright  
in television  
and sound  
broadcasts

Proviso

it, or causes it to be transmitted to a subscriber to a diffusion service, does not thereby infringe any copyright subsisting in a literary, dramatic, musical or artistic work.

## Definitions.

"Motion picture film."

(9) In this Act—

(a) "motion picture film" means any sequence of visual images recorded on material of any description (whether translucent or not) so as to be capable, by the use of that material—

- (i) of being shown as a moving picture, or
- (ii) of being recorded on other material (whether translucent or not) by the use of which it can be shown.

"Publication."

(b) "publication", in relation to a motion picture film, means the sale, letting on hire, or offer for sale or hire, of copies of the film to the public;

"Copy."

(c) "copy", in relation to a motion picture film, means any print, negative, tape or other article on which the film or part of it is recorded.

For the purposes of this Act, a motion picture film shall be taken to include the sounds embodied in any sound-track associated with the film, and references to a copy of a motion picture film shall be construed accordingly.

Copyright in television and sound broadcasts.

**19.** (1) Copyright shall subsist, subject to the provisions of this Act—

(a) in every television broadcast made in Canada, and

(b) in every sound broadcast made in Canada.

(2) Copyright subsisting in a television or sound broadcast by virtue of this section shall continue to subsist until the end of the period of forty years from the time when the broadcast was made, and shall then expire.

(3) Subject to the provisions of this Act, the broadcasting person, or if a body corporate, the broadcasting body shall be entitled to any copyright subsisting in the television or sound broadcast by virtue of this section.

(4) The acts restricted by the copyright in a television broadcast or sound broadcast are—

- (a) the recording by a film, record or any other device, of the images or the sounds of the broadcast, or both;
- (b) the use of such a recording for broadcasting or diffusing;
- (c) the use of such a recording for causing the broadcast to be seen or heard in public;
- (d) rebroadcasting the broadcast.

Proviso.

Provided that paragraph (a) of this subsection shall not apply to the mere recording of a broadcast when it is effected for private purposes only of the person or body corporate so recording it.





(5) The copyright in a television broadcast or sound broadcast is not infringed by anything done in relation to the broadcast for the purposes of a judicial or quasi-judicial proceeding.

## PART III

## INFRINGEMENT OF COPYRIGHT.

Infringement  
by import,  
sales, etc.

**20.** (1) Copyright in a work shall be deemed to be 5  
infringed by any person who, without the consent of the  
owner of the copyright, does anything, the sole right to do  
which is, by this Act, conferred on the owner of the copy-  
right.

Proviso.

(2) The copyright in a literary, dramatic, musical or 10  
artistic work, and in a sound recording, motion picture  
film, television broadcast and sound broadcast, is infringed  
by any person who, without the license of the owner of the  
copyright, imports an article (otherwise than for his private  
use) into Canada, if to his knowledge the making of that 15  
article constituted an infringement of that copyright, or  
would have constituted such an infringement if the article  
had been made in Canada, provided however that it shall  
not be an infringement to import any article for the use of  
an institution of learning if the article was not imported 20  
for sale or hire either to students or others, or to import  
any article for the use of a public library if the article was  
not imported for sale, but this proviso in so far as it applies  
to public libraries, shall apply only to those of a class pre- 25  
scribed by regulations made by the Governor in Council, 25  
which shall secure that the libraries to which the regulations  
apply are not conducted for profit.

(3) The copyright in a literary, dramatic, musical or  
artistic work, and in a sound recording, motion picture film,  
television broadcast and sound broadcast, is infringed by 30  
any person who, in Canada, and without the license of the  
owner of the copyright—

- (a) sells, lets for hire, or by way of trade, offers or  
exposes for sale or hire any article, or
- (b) by way of trade, exhibits any article in public, if 35  
to his knowledge, the making of the article con-  
stituted an infringement of the copyright or (in the  
case of an imported article) would have constituted  
an infringement of that copyright if the article had  
been made in Canada. 40

(4) The last preceding subsection shall apply in relation  
to the distribution of any articles either—

- (a) for the purposes of trade, or



(3) for other purposes, but to such an extent as to affect... just as it applies in relation to the sale of an article, but... distribution of an imported article by an institution of... learning and not by way of sale or hire or by a public library... of the class prescribed by regulations issued by the... Government in Council, and not by way of sale, shall not be... an infringement.

PART IV

Remedies for Infringement of Copyright

21. (1) Subject to the provisions of this Act, the... of copyright shall be actionable at the suit of the... owner of the copyright; and in any action for such an... infringement all such relief, by way of damages, injunction... accounts or otherwise, shall be available to the plaintiff as... is available in any corresponding proceedings in respect of... infringements of other proprietary rights;

15 Provided that no action for infringement of copyright... shall be begun after the end of the period of three years... beginning with the date on which the infringement occurred... (2) Where in an action for infringement of copyright it... is proved or admitted—

20 (a) that an infringement was committed but... (b) that at the time of the infringement the defendant... was not aware, and had no reasonable grounds for... supposing that it was an infringement of copyright... the plaintiff shall not be entitled under this section to any... remedy other than an injunction;... (3) Where in an action under this section an infringe-... ment of copyright is proved or admitted, and the court... orders relief in addition to all other material remedies—

25 (a) the remedy of the injunction, and... (b) any remedy shown to have accrued to the defendant... by reason of the infringement... is entitled to the benefit of the court in awarding damages... available in the case; the court in awarding damages... for the infringement shall have power to award such... additional damages by virtue of the subsection as the court... may think appropriate in the circumstances, and... damages to be not less than the benefit shown to have... accrued to the defendant by reason of the infringement.

Action by  
owner of  
copyright for  
infringement  
  
Infringement

(b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question, just as it applies in relation to the sale of an article, but distribution of an imported article by an institution of learning, and not by way of sale or hire, or by a public library of the class prescribed by regulations enacted by the Governor in Council, and not by way of sale, shall not be an infringement. 5

## PART IV

## REMEDIES FOR INFRINGEMENT OF COPYRIGHT

Action by  
owner of  
copyright for  
infringement.

**21.** (1) Subject to the provisions of this Act, infringement of copyright shall be actionable at the suit of the owner of the copyright; and in any action for such an infringement all such relief, by way of damages, injunction, accounts or otherwise, shall be available to the plaintiff as is available in any corresponding proceedings in respect of infringements of other proprietary rights; 10 15

Proviso.

Provided that no action for infringement of copyright shall be begun after the end of the period of three years beginning with the date on which the infringement occurred.

(2) Where in an action for infringement of copyright it is proved or admitted— 20

(a) that an infringement was committed, but

(b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds for supposing that it was an infringement of copyright, the plaintiff shall not be entitled under this section to any pecuniary remedy against the defendant in respect of the infringement. 25

(3) Where, in an action under this section, an infringement of copyright is proved or admitted, and the court, having regard (in addition to all other material considerations) to— 30

(a) the flagrancy of the infringement, and

(b) any benefit shown to have accrued to the defendant by reason of the infringement, is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringement, shall have power to award such additional damages by virtue of this subsection as the court may consider appropriate in the circumstances, such damages to be not less than the benefit shown to have accrued to the defendant by reason of the infringement. 35 40





(4) Where, in an action under this section, an infringement of copyright is proved or admitted, the court shall have power to order the defendant to deliver up to the plaintiff all infringing copies and plates used or intended to be used for making infringing copies, and in assessing 5  
exemplary damages under the last preceding subsection, the court shall have power to take into account the value of infringing copies and plates ordered to be delivered up.

In an action for infringement of copyright in respect of the construction of a building, no injunction or other order 10  
shall be made—

- (a) after the construction of the building has been begun, so as to prevent it from being completed, or
- (b) so as to require the building, insofar as it has been constructed, to be demolished. 15

“Action.”

(5) In this part of this Act “action” includes a counter-claim, and references to the plaintiff and to the defendant in an action shall be construed accordingly.

Rights of owners of copyright in respect of infringing copies, etc.

**22.** (1) In this part of this Act “infringing copy”—

- (a) in relation to a literary, dramatic, musical or artistic 20  
work means a reproduction otherwise than in the form of a motion picture film,
- (b) in relation to a sound recording, means a record embodying that recording,
- (c) in relation to a motion picture film, means a copy 25  
of that film, and
- (d) in relation to a television broadcast or a sound broadcast means a copy of a motion picture film of it or a record embodying a sound recording of it, being (in any such case) an article, the making of which 30  
constituted an infringement of the copyright in the work, edition, recording, film or broadcast, or, in the case of an imported article, would have constituted an infringement of that copyright if the article had been made in Canada; and “plate” includes any stereotype, stone, block, mould, 35  
matrix, transfer, negative or other appliance.

“Plate.”

(2) Subject to the provision of this section, where a person has in his possession infringing copies or infringing plates, he shall be liable to deliver up to the owner of the copyright all such copies or plates used, or intended to be 40  
used for the making of infringing copies or plates, without compensation and shall be liable in damages to the owner for failure to make such delivery upon notice of infringement.

(3) Where a person who has in his possession infringing copies and plates establishes that at the time such infringing 45  
copies and plates came into his possession, he was not aware and had no reasonable grounds for supposing that they were



including copies or plates, the owner of the copyright may give notice to the person in possession—

- (c) demanding the delivery up of such infringing copies or plates, upon payment of the cost thereof to the person in possession of such infringing copies or plates; who shall, upon such payment, forthwith deliver up all infringing copies and plates used or intended to be used for the making of infringing copies and plates; or alternatively
  - (d) demanding an accounting of the profits accounted for from the issue of such copies to the person in possession from the infringer.
- and whether the person who possesses the infringing copies and plates shall comply with such notice forthwith.

25. (1) The provision of this section shall have effect as if to proceedings in the case of any copyright in respect of which an exclusive licence has been granted and in force at the time of the events to which the proceedings relate.

(2) Subject to the following provisions of this section—  
(a) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action and be entitled to the same remedies under section 24 as if the licence had been an assignment, and those rights and remedies shall be commensurate with the rights and remedies of the owner of the copyright under that section.

(3) The exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, by virtue of the last preceding section, as if the licence had been an assignment; and  
(4) the owner of the copyright shall not have any right of action or be entitled to any remedy by virtue of the last preceding section if the licence had been an assignment.

(5) Where an action is brought, either by the owner of the copyright or by the exclusive licensee, and the action, in so far as it is brought under section 21, relates (wholly or partly) to an infringement in respect of which they have common law rights of action under that section, the owner or licensee as the case may be shall not be entitled, except with the leave of the court, to proceed with the action in so far as it is brought under that section and relates to that infringement, unless the other party is either joined as a party in the action or added as a defendant.

Provided that this subsection shall not affect the granting of an interlocutory injunction or the appointment of a receiver of the property of the defendant.

Copyright  
in cases of  
assignment  
subject to  
provisions  
of this  
section

25

infringing copies or plates, the owner of the copyright may—  
give notice to the person in possession—

- (a) demanding the delivery up of such infringing copies or plates, upon payment of the cost thereof, to the person in possession of such infringing copies or plates; who shall, upon such payment, forthwith deliver up all infringing copies and plates used or intended to be used for the making of infringing copies and plates; or alternatively 5
  - (b) demanding an accounting of the profits accruing from the time of such notice to the person in possession from the infringement. 10
- and thereafter the person who possesses the infringing copies and plates shall comply with such notice forthwith.

Proceedings  
in case of  
copyright  
subject to  
exclusive  
license.

**23.** (1) The provisions of this section shall have effect as to proceedings in the case of any copyright in respect of which an exclusive licence has been granted and is in force at the time of the events to which the proceedings relate. 15

(2) Subject to the following provisions of this section—

- (a) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, under section 21 as if the license had been an assignment, and those rights and remedies shall be concurrent with the rights and remedies of the owner of the copyright under that section; 20 25
- (b) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, by virtue of the last preceding section, as if the license had been an assignment; and 30
- (c) the owner of the copyright shall not have any rights of action, or be entitled to any remedies, by virtue of the last preceding section which he would not have had or been entitled to if the license had been an assignment. 35

(3) Where an action is brought, either by the owner of the copyright or by the exclusive licensee, and the action, in so far as it is brought under section 21, related (wholly or partly) to an infringement in respect of which they have concurrent rights of action under that section, the owner or licensee, as the case may be, shall not be entitled, except with the leave of the court, to proceed with the action, in so far as it is brought under that section and relates to that infringement, unless the other party is either joined as a plaintiff in the action or added as a defendant: 40 45

Proviso.

Provided that this subsection shall not affect the granting of an interlocutory injunction on the application of either of them.





(4) In an action brought by the exclusive licensee by virtue of this section, any defence which would have been available to a defendant in the action, if this section had not been enacted and the action had been brought by the owner of the copyright, shall be available to that defendant as against the exclusive licensee. 5

(5) Where an action is brought in the circumstances mentioned in subsection (3) of this section, and the owner of the copyright and the exclusive licensee are not both plaintiffs in the action, the court, in assessing damages in respect of any such infringement as is mentioned in that subsection,— 10

(a) if the plaintiff is the exclusive licensee, shall take into account any liabilities (in respect of royalties or otherwise) to which the license is subject, and 15

(b) whether the plaintiff is the owner of the copyright or the exclusive licensee, shall take into account any pecuniary remedy already awarded to the other party under section 21 in respect of that infringement, or, as the case may require, any right of action exercisable by the other party under that section in respect thereof. 20

(6) Where an action, in so far as it is brought under section 22, relates (wholly or partly) to an infringement in respect of which the owner of the copyright and the exclusive licensee have concurrent rights of action under that section, and in that action (whether they are both parties to it or not) an account of profits is directed to be taken in respect of that infringement, then, subject to any agreement of which the court is aware, whereby the application of those profits is determined as between the owner of the copyright and the exclusive licensee, the court shall apportion the profits between them as the court may consider just, and shall give such directions as the court may consider appropriate for giving effect to that apportionment. 30 35

(7) In an action brought either by the owner of the copyright or by the exclusive licensee,—

(a) no judgment or order for the payment of damages in respect of an infringement of copyright shall be given or made under section 21, if a final judgment or order has been given awarding an account of profits to the other party under that section in respect of the same infringement; and 40

(b) no judgment or order for an account of profits in respect of an infringement of copyright shall be given or made under that section, if a final judgment or order has been given or made awarding either damages or an account of profits to the other party under that section in respect of the same infringement. 45 50





(8) Where, in an action brought in the circumstances mentioned in subsection (3) of this section, whether by the owner of the copyright or by the exclusive licensee, the other party is not joined as a plaintiff (either at the commencement of the action or subsequently), but is added as a defendant, he shall not be liable for any costs in the action unless he enters an appearance and takes part in the proceedings. 5

“Exclusive licensee.”

(9) In this section “exclusive license” means a license in writing, signed by or on behalf of an owner or prospective owner of copyright, authorizing the licensee, to the exclusion of all other persons, including the grantor of the license, to exercise a right which, by virtue of this Act, would (apart from the license) be exercisable exclusively by the owner of the copyright, and “exclusive licensee” shall be construed accordingly; “the other party”, in relation to the owner of the copyright, means the exclusive licensee, and, in relation to the exclusive licensee, means the owner of the copyright; and “if the license had been an assignment” means if, instead of the license, there had been granted (subject to terms and conditions corresponding as nearly as may be with those subjects to which the license was granted) an assignment of the copyright in respect of its application to the doing, at the places and times authorized by the license, of the acts so authorized. 25

“Exclusive licensee.”

“Other party.”

Proof of facts in copyright actions.

- 24.** (1) In any action brought by virtue of this Part—
- (a) copyright shall be presumed to subsist in the work or other subject-matter to which the action relates, if the defendant does not put in issue the question whether copyright subsists therein, and 30
- (b) where the subsistence of the copyright is proved or admitted, or is presumed in pursuance of the preceding paragraph, the plaintiff shall be presumed to be the owner of the copyright if he claims to be the owner of the copyright and if the defendant does not put in issue the question of his ownership thereof. 35

(2) Subject to the preceding subsection, where in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author appeared on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appeared (if it was his true name or a name by which he was commonly known) shall, in any action brought by virtue of this Part, be presumed, unless the contrary is proved,— 45

- (a) to be the author of the work, and
- (b) to have made the work in circumstances not falling within sections 5, 6 or 7.



(3) In the case of a work alleged to be a work of joint authorship, the last preceding subsection shall apply in relation to each person alleged to be one of the authors of the work, as if reference in that subsection to the author were reference to one of the authors.

(4) Where in an action brought by virtue of this Part, with respect to a literary, dramatic, musical or artistic work, subsection (2) of this section does not apply, but it is established—

(a) that the work was first published in Canada, and 10 was so published within the period of fifty-six years ending with the beginning of the calendar year in which the action was brought; and

(b) that the cause purporting to be that of the publisher appeared on the cover of the work as first published, 15 then, unless the contrary is shown, copyright shall be presumed to subsist in the work and the person whose name is expressed thereon to be presumed to have been the owner of that copyright at the time of the publication.

20 As the purpose of this subsection is to be taken to be established if it is proved or admitted, or if it is proved in pursuance of the following provisions of this section.

(5) Where in an action brought by virtue of this Part, with respect to a literary, dramatic, musical or artistic 25 work it is proved or admitted that the author of the work is dead—

(a) the work shall be presumed to be an original work unless the contrary is proved; and

(b) if it is alleged by the plaintiff that a publication 30 occurred in the country in which the work was first published, and it took place in a country and in a year specified, and a copy of the work is produced to the court which bears an identification that the copy was published in the country and in the year 35 so specified, and bears no indication that the work had not been published in some previous year, the publication alleged shall be presumed unless the contrary is proved, to have been the first publication of the work and to have taken place in the country 40 and year alleged.

(6) Paragraphs (5) and (6) of the last preceding subsection shall apply where a work has been published, and— 45 (a) the publisher was anonymous or was under a name alleged by the plaintiff to have been a pseudonym; and

(b) it is not shown that the work has ever been published under the true name of the author, or under a name by which he was commonly known, or that it is

(3) In the case of a work alleged to be a work of joint authorship, the last preceding subsection shall apply in relation to each person alleged to be one of the authors of the work, as if reference in that subsection to the author were references to one of the authors. 5

(4) Where in an action brought by virtue of this Part, with respect to a literary, dramatic, musical or artistic work, subsection (2) of this section does not apply, but it is established—

(a) that the work was first published in Canada, and 10  
was so published within the period of fifty-six years ending with the beginning of the calendar year in which the action was brought, and

(b) that the name purporting to be that of the publisher appeared on copies of the work as first published, 15  
then, unless the contrary is shown, copyright shall be presumed to subsist in the work and the person whose name so appeared shall be presumed to have been the owner of that copyright at the time of the publication.

For the purposes of this subsection a fact shall be taken 20  
to be established if it is proved or admitted, or if it is presumed in pursuance of the following provisions of this section.

(5) Where in an action brought by virtue of this Part, with respect to a literary, dramatic, musical or artistic 25  
work it is proved or admitted that the author of the work is dead—

(a) the work shall be presumed to be an original work unless the contrary is proved, and

(b) if it is alleged by the plaintiff that a publication 30  
specified in the allegation was the first publication of the work, and it took place in a country and in a year specified, and a copy of the work is produced to the court which bears an identification that the copy was published in the country and in the year 35  
so specified, and bears no indication that the work had first been published in some previous year, the publication alleged shall be presumed, unless the contrary is proved, to have been the first publication of the work and to have taken place in the country 40  
and year alleged.

(6) Paragraphs (a) and (b) of the last preceding subsection shall apply where a work has been published, and—

(a) the publication was anonymous, or was under a name alleged by the plaintiff to have been a pseudonym, 45  
and

(b) it is not shown that the work has ever been published under the true name of the author, or under a name by which he was commonly known, or that it is



possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry.  
as those paragraphs apply in a case where it is proved that the author is dead.

(7) In any action brought by virtue of this Part with respect to copyright in a sound recording, if records are kept of sales or copies of that record have been issued to the public and at the time when those records were so issued, they have a label or other mark containing any one or more of the following statements, that is to say—

- (a) that a person named on the label or mark was the maker of the sound recording;
  - (b) that the recording was first published in a year specified on the label or mark;
  - (c) that the recording was first published in a country specified on the label or mark;
- that label or mark shall be sufficient evidence of the facts so stated except in so far as the contrary is proved.

2.5. (1) Subject to the provisions of section 9, any person who at the time when copyright subsists in a work—

- (a) makes for sale or hire, or
- (b) sells or lets for hire, or by way of trade offers or exposes for sale or hire, or
- (c) by way of trade exhibits in public, or
- (d) imports into the United Kingdom, otherwise than for his private use, any article which he knows to be an infringing copy of the work, shall be guilty of an offence under this subsection.

(2) Subject to the provisions of section 9, any person who at the time when the copyright subsists in a work distributes it—

- (a) in pursuance of trade or
- (b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright, shall be guilty of an offence under this subsection, if he knows to be infringing copies of the work, and he distributes them under this subsection.

(3) Any person who at the time when copyright subsists in a work, imports or has in his possession a plate, knowing that it is an infringing copy of the work, shall be guilty of an offence under this subsection.

(4) The provisions of subsections (1) and (2) apply in relation to copyright subsisting in any other matter by virtue of Part II, as they apply in relation to copyright subsisting by virtue of Part I.

(5) Any person who causes a literary, dramatic or musical work to be performed in public, knowing that copyright subsists in the work and that the performance constitutes an infringement of the copyright, shall be guilty of an offence under this subsection.

Copyright  
Act  
1956  
Section  
10  
Copyright  
Act  
1956  
Section  
10

possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry,  
as those paragraphs apply in a case where it is proved that the author is dead. 5

(7) In any action brought by virtue of this Part, with respect to copyright in a sound recording, if records embodying that recording or part thereof have been issued to the public, and at the time when those records were so issued, they bore a label or other mark comprising any one 10 or more of the following statements, that is to say—

- (a) that a person named on the label or mark was the maker of the sound recording;
- (b) that the recording was first published in a year specified on the label or mark; 15
- (c) that the recording was first published in a country specified on the label or mark;

that label or mark shall be sufficient evidence of the facts so stated except in so far as the contrary is proved.

Penalties  
and  
summary  
proceedings  
in respect of  
dealings  
which  
infringe  
copyright.

**25.** (1) Subject to the provisions of section 9, any 20 person who, at the time when copyright subsists in a work,—

- (a) makes for sale or hire, or
- (b) sells or lets for hire, or by way of trade offers or exposes for sale or hire, or
- (c) by way of trade exhibits in public, or 25
- (d) imports into Canada, otherwise than for his private use, any article which he knows to be an infringing copy of the work, shall be guilty of an offence under this subsection.

(2) Subject to the provisions of section 9, any person 30 who, at the time when the copyright subsists in a work, distributes, either—

- (a) for purposes of trade, or
  - (b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright, 35
- articles which he knows to be infringing copies of the work, shall be guilty of an offence under this subsection.

(3) Any person who, at the time when copyright subsists in a work, makes or has in his possession a plate, knowing that it is to be used for making infringing copies of the 40 work, shall be guilty of an offence under this subsection.

(4) The preceding subsections shall apply in relation to copyright subsisting in any subject-matter by virtue of Part II, as they apply in relation to copyright subsisting 45 by virtue of Part I.

(5) Any person who causes a literary, dramatic or musical work to be performed in public, knowing that copyright subsists in the work and that the performance constitutes an infringement of the copyright, shall be 50 guilty of an offence under this subsection.





(6) A person guilty of an offence under subsection (1) or subsection (2) of this section shall on summary conviction—

(a) if it is his first conviction of an offence under this section, be liable to a fine not exceeding \$10.00 for each article to which the offence relates; 5

(b) in any other case, be liable to such a fine, or to imprisonment for a term not exceeding two months;

Proviso.

Provided that a fine imposed by virtue of this subsection shall not exceed \$200.00 in respect of articles comprised in the same transaction. 10

(7) A person guilty of an offence under subsection (3) or subsection (5) of this section shall on summary conviction—

(a) if it is his first conviction of an offence under this section be liable to a fine not exceeding \$200.00;

(b) in any other case, be liable to such a fine, or to imprisonment for a term not exceeding two months. 15

(8) The court by which a person is convicted under this section may order that any article in his possession which appears to the court to be an infringing copy or to be a plate used, or intended to be used, for making infringing copies shall be delivered up to the owner of the copyright in question, or otherwise dealt with as the court may think fit. 20

(9) An appeal shall lie as if from a conviction from any order made under the last preceding subsection by a court of summary jurisdiction; and where such an order is made there shall be a like right of appeal against the order as if it were a conviction. 25

Provision for restricting importation of printed copies.

Minister.

**26.** (1) The owner, or his authorized agent, of the copyright in any published literary, dramatic or musical work may give notice in writing, supported by a statutory declaration of verification, to the Minister of National Revenue (in this section referred to as "the Minister")— 30

(a) that he is the owner, or the agent (as the case may be) of the owner, of the copyright in the work, and 35

(b) that he requests the Minister, during the period specified in the notice, to treat as prohibited goods, copies of the work to which this section applies:

Proviso.

Provided that the period specified in a notice under this subsection shall not exceed five years and shall not extend beyond the end of the period for which the copyright is to subsist; and provided that such notice shall not be renewable. 40

(2) This section applies, in the case of a work, to any printed copy made outside Canada which, if it had been made in Canada, would be an infringing copy of the work. 45



(3) Where a notice has been given under this section in respect of a work and has not been withdrawn, the importation into Canada, at a time before the end of the period specified in the notice, or any copy of the work to which this section applies shall, subject to the following provisions of this section, be prohibited:

Provided that the subsection shall not apply to the importation of any article by a person for his private use or by an institution of learning if not imported for sale or for either to students or others, or by a public library of a class prescribed by regulations under this Act made by the Governor in Council, if not imported for sale.

(4) The Minister may make regulations prescribing the form in which notices are to be given under this section, and requiring the person giving such notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Minister with such evidence, and to comply with such other conditions (if any) as may be specified in the regulations; and any such regulations may include such incidental provisions and supplementary provisions as the Minister considers expedient for the purposes of this section.

(5) Any person making a false statement, whether knowingly or not, under subsection (1) of this section, shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding \$500.00.

### PART V

#### RESTRICTION ON IMPORTATION OR EXPORTATION OF ARTS

27. (1) The Governor in Council may, by Order in Council, make provision for applying any of the provisions of this Act specified in the Order, in the case of a country to which these provisions do not extend, in any one or more of the following ways, that is to say, so as to secure that these provisions—

- (a) apply in relation to literary, dramatic, musical or artistic works, sound recordings, motion pictures, films or records first published in that country as if they apply in relation to literary, dramatic, musical or artistic works, sound recordings, motion pictures, films or records first published in Canada;
- (b) apply in relation to persons who, at a material time, are citizens or subjects of that country as they apply to Canadians;

(3) Where a notice has been given under this section in respect of a work, and has not been withdrawn, the importation into Canada, at a time before the end of the period specified in the notice, or any copy of the work to which this section applies shall, subject to the following provisions of this section, be prohibited: 5

Proviso.

Provided that this subsection shall not apply to the importation of any article by a person for his private use, or by an institution of learning if not imported for sale or hire either to students or others, or by a public library of a class prescribed by regulations under this Act made by the Governor in Council, if not imported for sale. 10

(4) The Minister may make regulations prescribing the form in which notices are to be given under this section, and requiring the person giving such notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Minister with such evidence, and to comply with such other conditions (if any) as may be specified in the regulations; and any such regulations may include such incidental and supplementary provisions as the Minister considers expedient for the purposes of this section. 15 20

(5) Any person making a false statement, whether knowingly or not, under subsection (1) of this section, shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding \$500.00 25

## PART V

### EXTENSION OR RESTRICTION OF OPERATION OF ACT.

Extension  
by Order  
in Council.

**27.** (1) The Governor in Council may by Order in Council make provision for applying any of the provisions of this Act specified in the Order, in the case of a country to which those provisions do not extend, in any one or more of the following ways, that is to say, so as to secure that those provisions— 30

- (a) apply in relation to literary, dramatic, musical or artistic works, sound recordings, motion picture films or editions first published in that country as they apply in relation to literary, dramatic, musical or artistic works, sound recordings, motion picture films or editions first published in Canada; 35
- (b) apply in relation to persons who, at a material time, are citizens or subjects of that country as they apply in relation to persons who, at such a time, are Canadian; 40



(e) apply in relation to persons who, at a particular time, are domiciled or resident in that country as they apply in relation to persons who, at such a time, are domiciled or resident in Canada;

(f) apply in relation to bodies incorporated under the laws of that country, as they apply in relation to bodies incorporated under the laws of Canada or any Province of Canada;

(g) apply in relation to foreign broadcast and sound broadcasts made from places in that country, by one or more organizations constituted in, or under, the laws of that country, as they apply in relation to foreign broadcast and sound broadcasts made from places in Canada.

(2) An Order in Council under this section—

(a) may apply the provisions in question as mentioned in the preceding subsection but subject to exceptions or modifications specified in the Order;

(b) may direct that the provisions in question shall apply, either generally or in relation to such classes of works or other matters in cases as may be specified in the Order;

(3) The Governor in Council shall not make an order in Council under this section applying any of the provisions of this Act in the case of a country other than a country which is a party to a Convention relating to Copyright in which Canada is also a party, unless the Governor in Council is satisfied that, in respect of the class of works or other matters in question, the provisions in question have been or will be made under the laws of that country, and that adequate protection will be given to owners of copyright under this Act.

22. (1) If it appears to the Governor in Council that the law of a country fail to give adequate protection in relation to works to which this section applies or fail to give such protection in the case of one or more classes of such works (whether the lack of protection relates to the nature of the work or the identity of its author or both), the Governor in Council may make an Order in Council designating that country and making such provision in relation thereto as is mentioned in the following provisions of this section.

(2) An Order in Council under this section shall provide that either generally or in such classes of cases as are specified in the Order, copyright under this Act shall not subsist in works to which this section applies which were first published after a date specified in the Order if at the time of their first publication the authors thereof were—

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at Ottawa  
1954

- (c) apply in relation to persons who, at a material time, are domiciled or resident in that country as they apply in relation to persons who, at such a time, are domiciled or resident in Canada;
- (d) apply in relation to bodies incorporated under the laws of that country as they apply in relation to bodies incorporated under the laws of Canada or any Province of Canada; 5
- (e) apply in relation to television broadcasts and sound broadcasts made from places in that country, by one or more organizations constituted in, or under the laws of, that country, as they apply in relation to television broadcasts and sound broadcasts made from places in Canada. 10
- (2) An Order in Council under this section— 15
- (a) may apply the provisions in question as mentioned in the preceding subsection, but subject to exceptions or modifications specified in the Order;
- (b) may direct that the provisions in question shall so apply either generally or in relation to such classes of works, or other classes of cases, as may be specified in the Order. 20
- (3) The Governor in Council shall not make an order in Council under this section applying any of the provisions of this Act in the case of a country, other than a country which is a party to a Convention relating to Copyright to which Canada is also a party, unless the Governor in Council is satisfied that, in respect of the class of works or other subject-matter to which those provisions relate, provision has been or will be made under the laws of that country whereby adequate protection will be given to owners of copyright under this Act. 25 30

Denial of  
copyright to  
citizens  
of other  
countries  
not giving  
adequate  
protection  
to Canadian  
works.

**28.** (1) If it appears to the Governor in Council that the laws of a country fail to give adequate protection to Canadian works to which this section applies, or fail to give such protection in the case of one or more classes of such works (whether the lack of protection relates to the nature of the work or the country of its author or both), the Governor in Council may make an Order in Council designating that country and making such provision in relation thereto as is mentioned in the following provisions of this section. 35 40

(2) An Order in Council under this section shall provide that, either generally or in such classes of cases as are specified in the Order, copyright under this Act shall not subsist in works to which this section applies which were first published after a date specified in the Order, if at the time of their first publication the authors thereof were— 45



- (a) citizens or subjects of the country designated by the Order, not being at that time persons domiciled or resident in Canada or in another country to which the relevant provision of this Act extends or
- (b) bodies incorporated under the laws of the country designated by the Order.
- (3) In making an Order in Council under this section the Governor in Council shall have regard to the nature and extent of the lack of protection for Canadian works in consequence of which the Order is made.
- (4) This section applies to the following works, that is to say, literary, dramatic, musical and artistic works, sound recordings and motion picture films.
- (5) In this section—
  - "Canadian work" means a work of which the author, at the time when the work was made, was a Canadian person for the purposes of the relevant provision of the Act;
  - "author", in relation to a sound recording or a motion picture film, means the maker of the recording or film;
  - the "relevant provision of this Act", in relation to literary, dramatic and musical works means section 7, in relation to artistic works means section 11, in relation to sound recordings means section 18, and in relation to motion picture films means section 19.

"Canadian work"  
 "author"  
 "relevant provision of this Act"

PART VI

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

- 29. (1) Subject to the provisions of this section, copyright shall be transferred by assignment, by testamentary disposition or by operation of law, as personal or movable property.
- (2) An assignment of copyright may be limited in any of the following ways, or in any combination of two or more of those ways, that is to say—
  - (a) so as to apply to one or more, but not all, of the classes of acts which by virtue of this Act the owner of the copyright has the exclusive right to do (including any one or more classes of acts not separately designated in this Act as being restricted by the copyright, but falling within any of the classes of acts designated);
  - (b) so as to apply to any one or more, but not all, of the countries in relation to which the owner of the copyright has by virtue of this Act that exclusive right.

"personal or movable property"

- (a) citizens or subjects of the country designated by the Order, not being at that time persons domiciled or resident in Canada or in another country to which the relevant provision of this Act extends, or
- (b) bodies incorporated under the laws of the country designated by the Order. 5

(3) In making an Order in Council under this section, the Governor in Council shall have regard to the nature and extent of the lack of protection for Canadian works in consequence of which the Order is made. 10

(4) This section applies to the following works, that is to say, literary, dramatic, musical and artistic works, sound recordings and motion picture films.

(5) In this section—

Definition.  
"Canadian  
work."

"Canadian work" means a work of which the author, 15  
at the time when the work was made, was a qualified person for the purposes of the relevant provision of this act;

"Author."

"author", in relation to a sound recording or a motion picture film, means the maker of the recording or 20  
film;

"Relevant  
provision of  
this Act."

the "relevant provision of this Act", in relation to literary, dramatic and musical works means section 6, in relation to artistic work means section 7, in relation to sound recordings means section 18, and 25  
in relation to motion picture films means section 19.

## PART VI.

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS.

Assignments  
and licenses  
in respect of  
copyright.

**29.** (1) Subject to the provisions of this section, copy-  
right shall be transmissible by assignment, by testamentary  
disposition, or by operation of law, as personal or moveable  
property. 30

(2) An assignment of copyright may be limited in any of  
the following ways, or in any combination of two or more of  
those ways, that is to say,—

(a) so as to apply to one or more, but not all, of the  
classes of acts which by virtue of this Act the owner 35  
of the copyright has the exclusive right to do (includ-  
ing any one or more classes of acts not separately  
designated in this Act as being restricted by the  
copyright, but falling within any of the classes  
of acts designated); 40

(b) so as to apply to any one or more, but not all, of  
the countries in relation to which the owner of the  
copyright has by virtue of this Act that exclusive  
right;



(c) so as to apply to part, but not the whole, of the period for which the copyright is to subsist; and reference in this Act to a partial assignment are references to an assignment so limited.

(3) No assignment of copyright (whether total or partial) shall have effect unless it is in writing signed by or on behalf of the assignor.

(4) A license granted in respect of any copyright by the person who in relation to the matters to which the license relates, is the owner of the copyright shall be binding upon every successor in title to his interest in the copyright; and reference in this Act in relation to any copyright to the date of its issue with, or as the case may be without, the date of the issue of the copyright shall be construed accordingly.

30. (1) Where by an agreement made in relation to any future copyright and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (wholly or partially) to another person (in this subsection referred to as "the assignee"), then if, on the coming into existence of the copyright, the assignee or a person claiming under him would, apart from this subsection, be entitled as against all other persons to require the copyright to be vested in him (wholly or partially, as the case may be), the copyright shall, on its coming into existence, vest in the assignor or his executor in like manner by virtue of this subsection and without further assent.

(2) Where at the time when any copyright comes into existence, the person who, if he were then living, would be entitled to the copyright is dead, the copyright shall devolve as if it had expired immediately before his death and as if it had been then the owner of the copyright.

(3) Subsection (1) of the last preceding section shall apply in relation to a license granted by a prospective owner of any copyright as it applies in relation to a license granted by the owner of a subsisting copyright, as if any reference in that subsection to the owner's interest in the copyright included a reference to the prospective interest therein.

(4) In this Act "future copyright" means copyright which will or may come into existence in respect of any literary work or class of works or other subject-matter or the coming into existence of any provisions of this Act as in any other future event, and "prospective owner" shall be construed accordingly; and in relation to any such copyright, it includes a person prospectively entitled thereto by virtue of such an agreement as is mentioned in subsection (1) of this section.

Prospective  
owner  
of copyright

"Future  
copyright"

"Prospective  
owner"

(c) so as to apply to part, but not the whole, of the period for which the copyright is to subsist; and references in this Act to a partial assignment are references to an assignment so limited.

(3) No assignment of copyright (whether total or partial) shall have effect unless it is in writing signed by or on behalf of the assignor. 5

(4) A license granted in respect of any copyright by the person who, in relation to the matters to which the license relates, is the owner of the copyright shall be binding upon every successor in title to his interest in the copyright; and references in this Act, in relation to any copyright, to the doing of anything with, or (as the case may be) without, the license of the owner of the copyright shall be construed accordingly. 10 15

Prospective  
ownership  
of copyright.

**30.** (1) Where by an agreement made in relation to any future copyright, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (wholly or partially) to another person (in this subsection referred to as "the assignee"), then if, on the coming into existence of the copyright, the assignee or a person claiming under him would, apart from this subsection, be entitled as against all other persons to require the copyright to be vested in him (wholly or partially, as the case may be), the copyright shall, on its coming into existence, vest in the assignee or his successor in title accordingly by virtue of this subsection and without further assurance. 20 25

(2) Where, at the time when any copyright comes into existence, the person who, if he were then living, would be entitled to the copyright is dead, the copyright shall devolve as if it had subsisted immediately before his death and he had then been the owner of the copyright. 30

(3) Subsection (4) of the last preceding section shall apply in relation to a license granted by a prospective owner of any copyright as it applies in relation to a license granted by the owner of a subsisting copyright, as if any reference in that subsection to the owner's interest in the copyright included a reference to his prospective interest therein. 35 40

"Future  
copyright."

"Prospective  
owner."

(4) In this Act "future copyright" means copyright which will or may come into existence in respect of any future work or class of works or other subject-matter, or on the coming into operation of any provisions of this Act, or in any other future event, and "prospective owner" shall be construed accordingly and, in relation to any such copyright, includes a person prospectively entitled thereto by virtue of such an agreement as is mentioned in subsection (1) of this section. 45



Copyright  
in  
literary  
works  
and  
artistic  
works

81. Where under a bequest (whether specified or general) a person is entitled, beneficially or otherwise, to the manuscript of a literary, dramatic or musical work or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless a contrary intention is indicated in the testator's will or a codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

Transfer  
of  
copyright  
in  
literary  
works  
and  
artistic  
works

82. (1) When any literary, dramatic, musical or artistic work or any sound recording or motion picture has been made by or under the direction or control of Her Majesty in right of Canada or any Department of Government, Her Majesty shall, subject to any agreement with the author, be entitled to the copyright.

(2) The provisions of this Act with respect to term of copyright in each class of work shall apply to Her Majesty under this section.

(3) Where Her Majesty in right of Canada or any Department of Government does any act in relation to any work in copyright or in relation to any sound recording, motion picture film or broadcast in copyright which, if done by any other person would be an infringement, Her Majesty shall be liable to the copyright owner for payment of compensation, which in the absence of agreement, shall be fixed by a Judge of the Exchequer Court.

Term  
of  
copyright  
in  
literary  
works  
and  
artistic  
works

83. (1) The restrictions imposed by this section shall have effect in relation to literary, dramatic, musical or artistic works; and any reference in this section to a work shall be construed as a reference to such a work.

(2) A person (in this subsection referred to as the "offender") contravenes these restrictions as respects another person if, without the license of that other person, he does any of the following acts in Canada, that is to say, he—

(a) inserts or alters that other person's name in or on a work of which that person is not the author or in or on a reproduction of such a work, in such a way as to imply that the other person is the author of the work; or

(b) publishes or sells or lets for hire or by way of trade offers or exposes for sale or hire or by way of trade exhibits in public a work in or on which the other person's name has been so inserted or affixed, if to the offender's knowledge that person is not the author of the work; or

"Offender"

Copyright  
to pass  
under will  
with  
unpublished  
work.

**31.** Where, under a bequest (whether specified or general) a person is entitled, beneficially or otherwise, to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless a contrary intention is indicated in the testator's will or a codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death. 5

Provisions  
as to Crown  
and  
Government  
Depart-  
ments.

**32.** (1) When any literary, dramatic, musical or artistic work or any sound recording or motion picture film is, or has been, made by or under the direction or control of Her Majesty in right of Canada or any Department of Government, Her Majesty shall, subject to any agreement with the author, be entitled to the copyright. 10 15

(2) The provisions of this Act with respect to term of copyright in each class of work shall apply to Her Majesty under this section.

(3) Where Her Majesty in right of Canada or any Department of Government does any act in relation to any work in copyright or in relation to any sound recording, motion picture film or broadcast in copyright which, if done by any other person would be an infringement, Her Majesty shall be liable to the copyright owner for payment of compensation, which in the absence of agreement, shall be fixed by a Judge of the Exchequer Court. 20 25

False  
attribution  
of author-  
ship.

**33.** (1) The restrictions imposed by this section shall have effect in relation to literary, dramatic, musical or artistic works; and any reference in this section to a work shall be construed as a reference to such a work. 30

"Offender."

(2) A person (in this subsection referred to as the "offender") contravenes those restrictions as respects another person if, without the license of that other person, he does any of the following acts in Canada, that is to say, he—

(a) inserts or affixes that other person's name in or on a work of which that person is not the author, or in or on a reproduction of such a work, in such a way as to imply that the other person is the author of the work, or 35

(b) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, a work in or on which the other person's name has been so inserted or affixed, if to the offender's knowledge that person is not the author of the work, or 40 45



(7) does any of the acts mentioned in the last preceding paragraph in relation to, or distribution, reproduction of a work, being reproductions in or on which the other person's name has been so inserted or added, if to the offender's knowledge that person is not the author of the work, or

(b) performs in public or broadcasts a work in which the other person is not the author, as being a work in which he is the author, if to the offender's knowledge that person is not the author of the work.

(2) The last preceding subsection shall apply where, contrary to the fact, a work is represented as being an adaptation of the work of another person as it appears where a work is so represented as being the work of another person.

(4) In the case of a work which has been altered after the author parted with the possession of it, the subsections are not deemed, in relation to the author, by a person in Canada, without the licence of the author, —

(a) published, sold or lent for hire, or by way of trade, others or exposed for sale or hire the work as so altered, or

(b) publishes, sells or lets for hire, or by way of trade, others or exposes for sale or hire a reproduction of the work as so altered, as being a reproduction of the original work of the author.

If to his knowledge it is not the original work, or, as the case may be, a reproduction of the original work, of the author, and if any such act is prohibited to the person or person of the author.

(5) The above last preceding subsection shall not apply with respect to anything done with respect to another person after that person's death.

(6) In the case of an artistic work in which copyright subsists, the said subsections are also deemed, in relation to the author of the work, by a person who is a licensee.

(a) publishes, sells or lets for hire, or by way of trade, others or exposes for sale or hire, or by way of trade, others in public, a reproduction of the work, as so being a reproduction made by the author of the work, or

(b) distributes reproductions of the work as being reproductions made by the author of the work.

If in any such case the reproduction or reproductions made of the work to his knowledge not made by the author.

(7) The preceding provisions of this section shall apply (with the necessary modifications) with respect to acts done in relation to two or more persons in connection with the same work.

- (c) does any of the acts mentioned in the last preceding paragraph in relation to, or distributes, reproductions of a work, being reproductions in or on which the other person's name has been so inserted or affixed, if to the offender's knowledge that person is not the author of the work, or 5
- (d) performs in public, or broadcasts, a work of which the other person is not the author, as being a work of which he is the author, if to the offender's knowledge that person is not the author of the work. 10
- (3) The last preceding subsection shall apply where, contrary to the fact, a work is represented as being an adaptation of the work of another person as it applies where a work is so represented as being the work of another person. 15
- (4) In the case of a work which has been altered after the author parted with the possession of it, the said restrictions are contravened, in relation to the author, by a person in Canada, without the license of the author,—
- (a) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire the work as so altered, as being the unaltered work of the author, or 20
- (b) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire a reproduction of the work as so altered, as being a reproduction of the unaltered work of the author, 25
- if to his knowledge it is not the unaltered work, or, as the case may be, a reproduction of the unaltered work, of the author, and if any such act is prejudicial to the honour or reputation of the author. 30
- (5) The three last preceding subsections shall not apply with respect to anything done with respect to another person after that person's death.
- (6) In the case of an artistic work in which copyright subsists, the said restrictions are also contravened, in relation to the author of the work, by a person who in Canada— 35
- (a) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, a reproduction of the work, as being a reproduction made by the author of the work, or 40
- (b) distributes reproductions of the work as being reproductions made by the author of the work,
- if (in any such case) the reproduction or reproductions was if or were to his knowledge not made by the author. 45
- (7) The preceding provisions of this section shall apply (with the necessary modifications) with respect to acts done in relation to two or more persons in connection with the same work. 50



(8) The restrictions imposed by this section shall not be enforceable by any criminal proceedings, but any contravention of those restrictions in relation to a person shall be actionable at his suit, or if he is dead, at the suit of his personal representatives, as a breach of statutory duty.

(9) Any damages recovered under this section by personal representatives in respect of a contravention committed in relation to a person after his death shall devolve as part of his estate as if the right of action had subsisted and had been vested in him immediately before his death.

(10) Nothing in this section shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than by virtue of this section:

Provided that this subsection shall not be construed as requiring any damages recovered by virtue of this section to be disregarded in assessing damages in any proceedings instituted otherwise than by virtue of this section and arising out of the same transaction.

(11) In this section "crime" includes offences of a minor character.

GENERAL

27. No copyright or right in the nature of copyright shall subsist otherwise than by virtue of this Act or some other enactment in that behalf.

Provided that neither this provision nor anything in this Act shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

28. The publisher of every book published in Canada within three months after the publication thereof shall deliver or cause to be delivered, at his own expense, to the Librarian of Parliament who shall give a written receipt therefor, two copies of the first edition and two copies of each subsequent edition if such subsequent edition contains additions or alterations other than the letter press or the mere prints or other engravings thereto belonging.

29. The Copyright Act is repealed.

Proviso  
"Crime"  
Crime for  
Librarian  
R. S. 1922  
s. 20  
repealed

(8) The restrictions imposed by this section shall not be enforceable by any criminal proceedings; but any contravention of those restrictions, in relation to a person, shall be actionable at his suit, or, if he is dead, at the suit of his personal representatives, as a breach of statutory duty. 5

(9) Any damages recovered under this section by personal representatives, in respect of a contravention committed in relation to a person after his death, shall devolve as part of his estate, as if the right of action had subsisted and had been vested in him immediately before his death. 10

(10) Nothing in this section shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than by virtue of this section:

Proviso. Provided that this subsection shall not be construed as requiring any damages recovered by virtue of this section to be disregarded in assessing damages in any proceedings instituted otherwise than by virtue of this section and arising out of the same transaction. 15

"Name." (11) In this section "name" includes initials or a monogram. 20

#### GENERAL

General. **34.** No copyright or right in the nature of copyright shall subsist otherwise than by virtue of this Act or some other enactment in that behalf:

Proviso. Provided that neither this provision nor anything in this Act shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence. 25

Copies for Library of Parliament. **35.** The publisher of every book published in Canada, within three months after the publication thereof, shall deliver or cause to be delivered, at his own expense, to the Librarian of Parliament, who shall give a written receipt therefor, two copies of the first edition and two copies of each subsequent edition if such subsequent edition contains additions or alterations either in the letter press or in the maps, prints or other engravings thereto belonging. 30 35

R.S., 1952,  
c. 55 is  
repealed.

**36.** The *Copyright Act* is repealed.



C-29.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

BILL C-29.

An Act respecting the Sovereignty of Canada.

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First Reading, October 1, 1962.

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Mr. BOURBONNAIS.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-29.**

An Act respecting the Sovereignty of Canada.

Preamble.

**W**HEREAS since the 11th of December, 1931 Canada is a sovereign nation, among the members of the Commonwealth of Nations, with them united by a common allegiance to the Crown, equal in status and in no way subordinate to the United Kingdom;

5

**W**HEREAS the Sovereignty of Canada should be made evident by the adoption of a distinctive National Flag, the designation of a distinctive National Anthem and the observance of a legal holiday on the 11th day of December in each and every year;

10

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

Short title.

**1.** This Act may be cited as the *National Sovereignty Act*.

15

Canada a sovereign nation.

**2.** Canada is hereby declared to be a sovereign nation.

A distinctive national flag.

**3.** It shall be the duty of the Canada Council to prepare or have prepared, after competition or otherwise, a design for a suitable distinctive national flag free of the emblem or emblems of any other country and to submit the same to the Senate and the House of Commons of Canada within one year of the coming into force of this Act.

20

Approval and issuance of Royal Proclamation.

**4.** Notwithstanding any royal prerogative and anything contained in any Act of the Parliament of the United Kingdom such design for a national flag, after it has been approved by a joint resolution of the Senate and House of Commons, shall be submitted for approval to Her Majesty

25



### EXPLANATORY NOTE.

The healthy instinct of independence of a nation is anchored in the hearts of its people. Although certain historical traditions may, for a time, restrict that instinct it cannot be expected that it will be dormant eternally.

Any nation with pride in its achievements in peace and war and conscious of its own sovereignty will insist that its status be recognized by other independent nations.

A distinctive national flag, a distinctive national anthem and a national independence day constitute external signs of sovereignty and it is the purpose of this Bill to provide these attributes for our country: Canada.

the Queen and for the issuance of a Royal Proclamation under the Great Seal of Canada respecting such ensign, armorial flags and banners as Her Majesty shall be pleased to appoint.

A distinctive  
National  
Anthem.

**5.** It shall be the duty of the Canada Council to select after competition a distinctive National Anthem for Canada and to submit the same to the Senate and House of Commons of Canada within one year from the coming into force of this Act. 5

Approval.

**6.** The anthem mentioned in the previous section shall become the National Anthem for Canada after it has been approved by a joint resolution of the Senate and House of Commons of Canada. 10

Canadian  
Independence  
Day.

**7.** Throughout Canada, in each and every year, the eleventh day of December (not being a Sunday), being the anniversary of the day the Statute of Westminster, 1931 was assented to, shall be a legal holiday and shall be kept and observed as such, under the name of Canadian Independence Day. 15

When 11th of  
December is  
a Sunday.

**8.** When the eleventh day of December is a Sunday, the twelfth day of December shall be, in lieu thereof, throughout Canada, a legal holiday, and shall be kept and observed as such under the same name. 20



**C-30.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-30.**

An Act to establish the Office of Parliamentary Proctor  
and to regulate Taxation of Costs.

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First Reading, October 1, 1962.

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Mr. PETERS.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

BILL C-30.

An Act to establish the Office of Parliamentary Proctor and to regulate Taxation of Costs.

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 *Parliamentary Proctor and Costs Taxation Act*. 5

Office of Parliamentary Proctor. Administration.

**2.** (1) There shall be an Office of the Parliament of Canada titled the Office of the Parliamentary Proctor.

(2) The Office of the Parliamentary Proctor shall be under the joint direction and control of the Speaker of the Senate and the Speaker of the House of Commons, 10 assisted, during the session, by a joint committee appointed by the Senate and the House of Commons.

Parliamentary Proctor.

(3) The Speakers of the two Houses and the joint committee shall appoint a Parliamentary Proctor to carry out the functions of the Office and shall fix the salary, 15 duties, and terms of employment of the Parliamentary Proctor.

Proctor's responsibilities.

**3.** The Parliamentary Proctor is responsible for the faithful discharge of his duties in carrying out the functions of the Office as those duties and functions are defined 20 by regulations agreed upon by the Speakers of the two Houses and concurred in by the joint committee.

Costs and expenses of Office: how paid.

**4.** The costs and expenses of the Office of the Parliamentary Proctor shall be paid out of a fund into which shall be paid fees for the purpose, assessed by the Speakers 25 of the two Houses and the joint committee and paid by the petitioner, upon every petition for relief by way of an Act for dissolution or annulment of marriage.



## EXPLANATORY NOTES.

The first purpose of this Bill is to provide for a proctor to act in parliamentary divorce proceedings. The need for, and value of, such an official is best voiced and appraised by Mr. Justice Middleton, of the Ontario Supreme Court, in *Newson v. Newson*, (1936) 1 D.L.R. 696 at 705:

"In this review of the cases the prominent and useful part played in the administration of justice by the King's Proctor is made apparent. A perusal of the cases will show how useful, I may say indispensable, the services of that official have been found in England. Here, there is no King's Proctor, but the duties cast upon the King's Proctor are to be performed by the Attorney-General. From the introduction of the divorce law into this Province to the present time it has been the consistent policy of the Attorneys-General who have held office from time to time to ignore divorce suits, and so heavy duty has been placed upon the Court. It has been made the sole guardian of public interests but the Court labours under a distinct handicap. It has no means of investigation. It can only be very careful to avoid being the victim of collusion and perjury. In this it has the assistance of honest solicitors, but the solicitor's primary duty is to his client, and the Court is placed in a false position when called upon to exercise not only the judicial function but to care for the public interest."

Since Justice Middleton's protest, Ontario has supplied the remedy by the appointment of a Queen's Proctor.

The Proctor's task, then, is to represent and protect public interest and morality in divorce proceedings. This Bill's purpose is to provide that representation and protection.

*Clauses 2, 3 & 4* establish the office and provide for the Proctor's appointment and responsibilities. The expense is borne by the private parties—not the public. The Office is under the control of the Speakers and a joint committee of both Houses.

Having acted to prevent abuses and contempts of the Parliamentary process and to protect the public interest, the Bill's second purpose is to protect the petitioner financially from excessive legal and other expenses and to prevent disputes thereon. The Bill therefore adopts the system, used by all common law courts, of regulating costs and fees that the price of the Queen's justice may not be excessive. Since 1825 and 1827, the United Kingdom Commons and Lords respectively have regulated the taxation of costs on private bills. Tariffs of charges define the maximum fees that parliamentary agents, solicitors and others may charge for the various services usually rendered by them. Lists of charges are printed and distributed to all applicants. The client, solicitor, parliamentary agent or other person may apply to the taxing officer of the appropriate House to have his costs taxed. *House of Commons Costs Taxation Act 1847, 1879; House of Lords Costs Taxation Act 1849; Parliamentary Costs Act 1865.*

Tariff of costs, etc. of parties and agents.

5. (1) The Speakers of the two Houses and the joint committee shall, from time to time, make general rules and orders for fixing the costs, fees, and disbursements to be taxed and allowed to, and received and taken by, a party, person, solicitor, attorney, or parliamentary agent, of and incidental to all proceedings on a petition for relief by way of an Act for dissolution or annulment of marriage, and shall have full power to determine by whom and to what extent such costs, fees and disbursements shall be paid.

5

Taxing master.

(2) In every necessary instance, the Parliamentary Proctor shall tax such costs, fees, and disbursements according to such general rules and regulations.

10



Clause 5 directs the Speakers and the joint committee to establish rules for charges and fees on divorce bills and appoints the Parliamentary Proctor to be taxing master.

In the result, the Bill should reduce the overall expenses of the private petitioner, increase the protection of the public interest and morality without expense to the public, and remove the investigative responsibility from members of the Senate and House of Commons.

THE HOUSE OF COMMONS OF CANADA

BILL C-31

An Act to amend the Income Tax  
Act

First Reading, October 1, 1968

By Command

APPROVED AND PASSED IN SENATE  
AND IN HOUSE OF COMMONS





**C-31.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-31.**

An Act to amend the Indian Act  
(Liquor Rights).

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First Reading, October 1, 1962.

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**Mr. BARNETT.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-31.

An Act to amend the Indian Act  
(Liquor Rights).

R.S., c. 149;  
1952-53, c. 41;  
1956, c. 40;  
1958, c. 19;  
1960, c. 8;  
1960-61, c. 9.

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

1. Section 93 of the *Indian Act* is repealed and the following substituted therefor:

5

Intoxicants  
on a reserve.

“93. A person who, on a reserve,  
(a) has intoxicants in his possession, or  
(b) is intoxicated, or  
(c) directly or indirectly by himself or by any other person on his behalf knowingly  
(i) sells, barter, supplies or gives an intoxicant to any person, or  
(ii) opens or keeps or causes to be opened or kept a dwelling house, building, tent, or place in which intoxicants are sold, supplied or given to any person, or  
(iii) makes or manufactures intoxicants,

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Offence.

is guilty of an offence and is liable on summary conviction, for a violation under paragraphs (a) or (b) to a fine of not less than ten dollars and not more than fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment and, for a violation under paragraph (c) to a fine of not less than fifty dollars and not more than three hundred dollars or to imprisonment for a term of not less than one month and not more than six months, with or without hard labour, or to both fine and imprisonment.”

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## EXPLANATORY NOTES.

The Joint Committee of the Senate and the House of Commons on Indian Affairs, in its Second and Final Report presented on the 8th July, 1961, under paragraph (b) of heading VII, recommended as follows:

"Liquor

- (b) In view of the fact that the possession and consumption of intoxicants OFF RESERVES by Indians is dependent on a request by the province, your Committee recommends that all existing liquor restrictions in the *Indian Act* be deleted; and that the same rights extended to non-Indian citizens of the various provinces be applicable to Indians, except that the right of possession and consumption ON THE RESERVE be granted only after the approval by a majority vote of the band."

The purpose of this Bill is to implement the recommendation of the Joint Committee in order that the present inequities may be removed as soon as possible.

The *Interpretation Act*, section 19, continues the effectiveness of Proclamations issued under the sections repealed.

**2.** Section 94 of the said Act is repealed and the following substituted therefor:

Exception to offences.

**"94.** (1) An offence is not committed under paragraph (a) or subparagraph (i) of paragraph (c) of section 93 if intoxicants are had in possession or sold by any person in accordance with the law of the province in which the reserve is. 5

Coming into or ceasing to be in force.

(2) Subsection (1) shall come into force, or cease to be in force, if a proclamation declaring it to be in force, or to cease to be in force, as the case may be, 10 is issued by the Governor in Council.

When proclamation may issue.

(3) A proclamation shall not be issued under subsection (2)

(a) unless the council of the band has transmitted to the Minister a resolution of the council requesting that subsection (1) be in force or cease to be in force, as the case may be; and 15

(b) the wish of the band has been expressed by a majority of the electors who voted at a referendum thereon. 20

Regulations.

(4) The Governor in Council may make regulations

(a) respecting the taking of votes and the holding of referendums for the purposes of this section; and 25

(b) defining a reserve for the purposes of subsection (2) to consist of one or more reserves or any part thereof."

Repeal.

**3.** Sections 95, 96 and 96A of the said Act are repealed. 30



**C-32.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-32.**

**An Act to amend the Civil Service Act  
(Collective Bargaining and Arbitration).**

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First reading, October 1, 1962.

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**Mr. PRITTIE.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

BILL C-32.

An Act to amend the Civil Service Act  
(Collective Bargaining and Arbitration).

1960-61, c. 57.

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

1. Section 7 of the *Civil Service Act* is repealed and the following substituted therefor:

Negotiation  
and  
consultation.

“7. (1) The Commission, and such members of the public service as the Minister of Finance may designate, shall negotiate and consult directly with representatives of appropriate organizations and associations of employees, with respect to remuneration and other terms and conditions of employment, at the request of such representatives, or whenever in the opinion of the Commission or the Minister of Finance, as the case may be, negotiation and consultation is necessary or desirable in the interest of the public service or the Crown; such direct negotiation and consultation shall be initiated by either the Governor in Council, its appointees, or the appropriate organizations and associations of employees.

Arbitration.

(2) When negotiation and consultation does not result in agreement, the matter in dispute shall be taken by either party to a Board of Arbitration.

(3) (a) The party desiring to take the matter to a Board of Arbitration shall so notify the other party by registered mail and shall give the name and address of the member of the Board appointed as its nominee;

(b) Within seven days of the date of such notification, the other party shall appoint a member to the Board as its nominee and notify the first party by registered mail of the name and address of such member;



### EXPLANATORY NOTES.

The purpose of this Bill is to provide a method of collective bargaining and arbitration for the use of the Crown and its employees. The Crown is bound by both an agreement reached by negotiation and consultation and by a decision of an arbitration board, as are the employees; but both agreement and arbitration board decision are subject to approval by the House of Commons.

All costs of arbitration are assumed by the employees of the Crown unless the Crown and House of Commons agree otherwise. No extra benefits are payable to employees unless the House of Commons consents.

- (c) In the event the party first notified fails to appoint a member within the time and in the manner prescribed, the Supreme Court of Canada shall, within five days of application made thereto, appoint such a member and he shall be deemed to have been appointed by the party first notified; 5
- (d) The two members so appointed shall, within five days after the day upon which the second member is appointed, appoint a third person who shall be a member and chairman of the Board; 10
- (e) If the two members first appointed fail to appoint a third member within the time limited, the Supreme Court of Canada shall, within five days of application made thereto, appoint a person who shall be a member and chairman of the Board; 15
- (f) Except upon the grounds set out in paragraph (g), no process shall be entered or proceedings taken in any court to question the constitution of a Board or the qualifications of a member thereof, or to review, prohibit, or restrain the constitution of the Board or any of its proceedings, procedure, or actions; 20 25
- (g) No person who has any pecuniary interest in the matter before the Board, or who is acting, or has acted within six months preceding the date of his appointment, as solicitor, legal adviser, counsel, or paid agent of either of the parties, shall act as chairman of a Board; 30
- (h) Upon a person ceasing to be a member of a Board or being unable to perform the duties of his office for a period longer than thirty days, another person shall be appointed in his place in manner prescribed for an original appointment. 35

(4) Each member of a Board shall, before acting in office, take and subscribe before a person authorized to administer an oath or affirmation, and file with the Minister, an oath or affirmation as the case may be, in the following form:

“I do solemnly swear (affirm) that I will faithfully, truly and impartially to the best of my knowledge, skill and ability, execute and perform the office of member of the Board of Arbitration appointed to..... and will not, except in the discharge of my duties, disclose to any person any of the evidence or other matter brought before the said Board. So help me God.” 45 50



(2) The Board shall, from time to time, determine the manner in which the parties may exercise upon the matter referred to it;

(3) The Board shall determine its own procedure and shall give full opportunity to each party to present evidence and to make representations in relation to the subject of the application;

(4) The findings and the decision of the Board shall be in the English and French languages;

(5) The decision of the majority of the members shall be the decision of the Board;

(6) For the purpose of this section, a Board of Arbitration shall have the powers of a superior court of a province and the powers of a court of the House of Commons shall as often as may be referred to the Board and have the powers of a court of the House of Commons;

(7) A Board shall, within sixty days after the expiration of the term of its appointment or within such longer period as may be agreed upon by the parties, make its findings and its decision. The Crown shall be bound by the provisions of this section and, subject to the approval of the House of Commons, shall be bound by its decision. The decision of a Board of Arbitration as the case may be.

(8) All costs, expenses and fees incident to and arising out of the constitution of a Board of Arbitration shall, unless the Crown and the House of Commons otherwise consent, be assessed and paid by those organs and members of employees who are parties to the arbitration proceedings.

Mr. ...

- (5) (a) The Board shall, from time to time before decision given, endeavour to bring the parties into agreement upon the matter referred to it;
- (b) The Board shall determine its own procedure and shall give full opportunity to each party to present evidence and to make representations either in the English or French language; 5
- (c) The findings and the decision of the Board shall be in the English and French languages; 10
- (d) The decision of the majority of the members shall be the decision of the Board;
- (e) For the purposes of this section, a Board of Arbitration shall have the powers of a superior court of a province and the Sergeant-at-Arms 15 of the House of Commons shall *ex officio* be sheriff to the Board and have the powers of a sheriff throughout Canada;
- (f) A Board shall, within sixty days after the appointment of the chairman or within such 20 longer period as may be agreed upon by the parties, make its findings and file its decision.

(6) The Crown shall be bound by the provisions of this section and, subject to the approval of the House of Commons, shall be bound by an agree- 25 ment arrived at by negotiation and consultation or by the decision of a Board of Arbitration, as the case may be.

(7) All costs, expenses and fees incident to and arising out of the constitution of a Board of Arbitration 30 shall, unless the Crown and the House of Commons otherwise consent, be assumed and paid by those organizations and associations of employees who are parties to the arbitration proceedings."



**C-33.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-33.**

An Act to amend the Coastal Fisheries Protection Act  
(Twelve Mile Fishing Zone).

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First Reading, October 1, 1962.

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**Mr. MATHER.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-33.**

An Act to amend the Coastal Fisheries Protection Act  
(Twelve Mile Fishing Zone).

1952-53, c.  
15;  
1960-61, c.  
14.

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 2 of the *Coastal Fisheries Protection Act* is repealed and the following substituted therefor: 5

"Canadian territorial waters."

"(b) 'Canadian territorial waters' means a fishing zone extending seaward to a limit twelve nautical miles from the baseline from which the breadth of the territorial seas of Canada are measured, 10 and includes inland waters of Canada;"

Coming into force.

2. This Act shall come into force on the first day of July, 1964.



## EXPLANATORY NOTE.

This Bill's intent is that it be a declaration by the Queen in Parliament that Canada within those twelve marine miles seaward of her coasts has, to the sole use and benefit of her nationals, the right to fish exclusive of all others: as well an affirmation of Canada's obligation to protect and conserve the live resources of those seas to that same end.

*Clause 1:* Subsection 2(b) of the *Coastal Fisheries Protection Act* is presently as follows:

"2. In this Act

(b) 'Canadian territorial waters' means any waters designated by any Act of the Parliament of Canada or by the Governor in Council as the territorial waters of Canada, or any waters not so designated being within three marine miles of any of the coasts, bays, creeks, or harbours of Canada, and includes the inland waters of Canada;"

At the First United Nations Conference on the Law of the Sea in 1958, Canada put forth her position on national fishing limits in these words:

"A State has a fishing zone contiguous to its territorial sea extending to a limit twelve nautical miles from the baseline from which the breadth of its territorial sea is measured in which it has the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea."

*Clause 2:* To allow time for international negotiation which may result in agreement on national fishing limits, this Bill is deferred in effect until July 1st, 1964.





**C-34.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-34.**

**An Act to amend the Municipal Improvements  
Assistance Act.**

---

First reading, October 1, 1962.

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**Mr. MacINNIS.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27392-0

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-34.**

An Act to amend the Municipal Improvements Assistance Act.

R.S., c. 183.

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

**1.** Subsection (2) of section 6 of the *Municipal Improvements Assistance Act* is repealed and the following substituted therefor: 5

Amount to any one municipality.

“(2) The aggregate principal amount of loans made under this Act to any one municipality shall not exceed that proportion of the sum of thirty million dollars which the population of the municipality bears to the total population of Canada on the basis of population figures shown by the census of 1961, except that subject to the limitation fixed by subsection (1) a loan not exceeding two hundred thousand dollars may be made to any municipality of whatever population, and in the case of a loan made to a board, commission or agency acting on behalf of more than one municipality, the aggregate amount of the loans to be made to such board, commission or agency and the municipalities concerned shall not exceed the maximum amount of loans that the municipalities would be entitled to receive if acting separately and shall be apportioned between the board, commission or agency and the municipalities concerned on a basis to be approved by the Governor in Council.” 10 15 20 25

Repeal of section 8.

**2.** Section 8 of the said Act is repealed and any order made pursuant to the said section is of no further force and effect.



EXPLANATORY NOTES.

The purpose of this Bill is to re-animate the *Municipal Improvements Assistance Act*. The Act provides for amortized loans to municipalities for self-liquidating municipal projects at 2% interest for a term not longer than the useful life of the project. The loan is made out of any unappropriated moneys in the Consolidated Revenue Fund and is doubly secured as to principal and interest by the guarantee of the appropriate provincial government and by municipal debentures for the face amount of the loan; for triple security, the Canadian Government can take a first mortgage on the project.

*Clause 1.* The 1961 census is substituted for the 1931 census presently used in the Act.

*Clause 2.* Section 8 now reads:

"8. The Governor in Council may at any time fix and determine a date after which no loans shall be made to any municipality under this Act."

No financial expenditures are involved as the Act uses "unappropriated moneys in the Consolidated Revenue Fund", if any, so that a loan only involves a substitution of provincial government and municipal government debt to Canada for a bank debt to Canada. The provincially-guaranteed municipal securities are pledgable for the face of the Canadian loan at any time during the term of the loan.

THE HOUSE OF COMMONS OF CANADA

BILL C-34

An Act to amend the Municipal Improvement Assistance Act

Enacted by Her Majesty in Council

EXPLANATORY NOTES

The purpose of this Bill is to amend the Municipal Improvement Assistance Act. The Act provides for grants to municipalities for self-financing municipal projects for a term not longer than the useful life of the project. The loan is made out of the unexpended moneys in the Consolidated Revenue Fund and is repaid to the Government by the municipalities by the sale of bonds or by other means. The Government can also provide a loan to municipalities for the purpose of financing municipal projects.

Enacted by Her Majesty in Council

The Bill is intended to be read by the House of Commons on the 19th day of November 1952.

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The Bill is intended to be read by the House of Commons on the 19th day of November 1952.



**C-35.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-35.**

An Act to amend the Small Loans Act. (Advertising.)

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First Reading, October 1, 1962.

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**Mr. ARGUE.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-35.**

An Act to amend the Small Loans Act. (Advertising.)

R.S., c 251;  
1956, c. 46.

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

1956, c. 46, s. 2

**1.** Section three of the *Small Loans Act* is amended by adding thereto the following subsection:

Advertising  
to indicate  
percentum  
per annum.

“(5) Whenever a money-lender advertises himself as carrying on the business of money-lending and in such advertising indicates the monthly or other periodic payments required for the repayment of any loan, he shall also indicate in such advertising what the total cost of any such loan amounts to in terms of percentum per annum.”

5

1956 c. 46, s. 6

**2.** Subsection (5) of section 14 of the said Act is amended by striking out the word “and” after paragraph (b) thereof, by inserting the word “and” after paragraph (c) thereof and by adding thereto the following paragraph:

Proviso.

“(d) whenever any small loans company advertises itself as carrying on the business of money-lending and in such advertising indicates the monthly or other periodic payments required for the repayment of any loan, it shall also indicate in such advertising what the total cost of any such loan amounts to in terms of percentum per annum.”

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EXPLANATORY NOTE.

The purpose of this Act is to amend the *Small Loans Act*, so as to require any money-lender or small loans company, in any advertising in which the amount required by way of monthly or periodic payments in order to repay a loan is indicated, to state what the cost of such loan amounts to in terms of percentum per annum.





**C-36.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-36.**

An Act to make Provision for the Disclosure of  
Information in respect of Finance Charges.

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First reading, October 1, 1962.

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Mr. ARGUE.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962





### EXPLANATORY NOTES.

The sole purpose of this bill is to require every person who carries on the business of extending consumer credit to disclose in writing to the consumer of such credit the total cost thereof, expressed both as a lump sum and in terms of simple annual interest.

The bill is restricted to the field of consumer credit and has no application to cash loans, mortgages on real estate, etc.

No criminal liability would flow from non-compliance with the bill but in the event of non-disclosure a credit financier would be unable to recover or retain any finance charges whatever on any unpaid balance in respect of which he has extended credit.

- (a) the total amount of the unpaid balance outstanding;
- (b) the total amount of the finance charges to be borne by such other person in connection with the transaction; and
- (c) the percentage relationship, expressed in terms of simple annual interest, that the total amount of the finance charges bears to the unpaid balance outstanding under the transaction.

5

Recovery of  
finance  
charges.

**4.** (1) No credit financier who fails to provide the written statement referred to in section 3 to a person to whom he is extending credit shall have any right, remedy or cause of action either in law or equity with respect to any finance charges whatsoever under the transaction.

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(2) Where a credit financier has failed to provide the written statement referred to in section 3 to a person to whom he is extending credit, and such person has paid some or all of the finance charges to such credit financier, such person shall have a right of action against such credit financier whereby he may recover back the finance charges so paid.

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Regulations.

**5.** The Governor in Council may make regulations prescribing

- (a) the form and manner in which the written statement referred to in section 3 is to be made;
- (b) the manner of calculating the total amount of the finance charges to be borne and the manner of calculating the simple annual interest thereon in respect of any transaction or type of trans- action; and
- (c) the degree of accuracy within which the total amount of the finance charges and the annual interest thereon shall be calculated.

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30



**C-37.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-37.**

An Act respecting the Administration of certain Crown  
Corporations.

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First Reading, October 1, 1962.

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**Mr. BOURBONNAIS.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27047-0

THE HOUSE OF COMMONS OF CANADA.

**BILL C-37.**

An Act respecting the Administration of certain Crown Corporations.

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 *Crown Corporations Administration Act, 1962.* 5
- Application.      **2.** This Act shall apply to the following corporations:  
Atomic Energy Control Board,  
Canadian Arsenals Limited,  
Canadian Broadcasting Corporation, 10  
Canadian National Railways,  
Central Mortgage and Housing Corporation,  
Crown Assets Disposal Corporation,  
Defence Construction (1951) Limited,  
Eldorado Mining and Refining (1944) Limited, 15  
Farm Credit Corporation,  
National Film Board,  
National Harbours Board,  
Northern Transportation Company (1947) Limited,  
Polymer Corporation Limited,  
Trans-Canada Air Lines. 20
- Appointment of two members to Board.      **3.** (1) The Governor in Council may appoint two members of the House of Commons for each of the corporations enumerated in section 2 of this Act to be members of the boards of such corporations.
- Nomination.      (2) In each case one member shall be nominated by the 25 government and the second member by the leader of Her Majesty's official opposition.



(3) The members shall be appointed as directors on the 1st of March in each year for a term of one year, and on the expiration of their term of office, and subject to re-appointment and they shall exercise their office as directors to be members of the House of Commons.

4. The members appointed as directors to the said corporations shall receive no salaries, fees or expenses for their services as directors.

5. Notwithstanding anything to the contrary contained in any Act or Statute in force at the date of the passing of this Act, the members of the House of Commons appointed as directors shall be deemed to be members of the House of Commons.

**EXPLANATORY NOTE.**

The purpose of this measure is to provide the House of Commons with more information in connection with the activities and expenditures of certain Crown corporations.

6. It shall be the duty of the said members of the House of Commons to make a report to the Committee on Finance and Accounts on the activities and expenditures of the corporations in which they are or have been directors as soon as it is possible to do so and to the Committee of Supply whenever the House of Commons is sitting and to the Committee of the said corporations in which they are or have been directors.

7. The members of the House of Commons appointed as directors shall be deemed to be members of the House of Commons.

Terms of  
office.

(3) The members shall be appointed as directors on the 1st of March in each year for a term of one year, and on the expiration of their terms of office, are eligible for re-appointment and they shall cease to hold office on ceasing to be members of the House of Commons.

5

No salaries,  
fees or  
expenses.

4. The members appointed as directors to the said corporations shall receive no salaries, fees or expenses for their service as directors.

Notices.

5. Notices of all board meetings shall be sent by the above-mentioned corporations to the members of the House of Commons appointed as directors thereto.

No right to  
vote.

6. Members of the House of Commons who are directors of the said corporations shall have the right to take part in the deliberations of the boards of which they are members but will not have the right to vote at the meetings thereof.

Report to  
Committee.

7. It shall be the duty of the said members of the House of Commons to make a report to the Committee on Public Accounts on the activities of the respective corporations of which they are or have been directors as soon as it is possible to do so and to the Committee of Supply whenever the estimates covering the expenditures of the said corporations are before the Committee.

4. (1) The Secretary to the Board may appoint the members of the House of Commons for each of the corporations mentioned in section 2 of the Act to be members of the board of such corporation.

(2) In each case one member shall be nominated by the government and the second member by the leader of the majority in the House of Commons.



**C-38.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-38.**

**An Act to enable Civil Servants to engage in  
Political Activity.**

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First reading, October 1, 1962.

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**Mr. BERGER.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-38.**

An Act to enable Civil Servants to engage in Political Activity.

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 *Civil Servants' Bill of Rights*. 5

Right to engage in political activity.

**2.** Notwithstanding anything contained in any other Act of Parliament, every employee of Her Majesty in right of Canada, shall have the right to engage in any form of political activity including the following enumerated rights: 10

- (a) the right freely to associate with others in political parties and organizations;
- (b) the right to speak, to write, and to publish on behalf of candidates for public office;
- (c) the right to be a candidate for public office; 15 and
- (d) the right to make contributions to and expenditures on behalf of political parties and candidates for public office, subject to the provisions of the *Canada Elections Act*. 20

Exception.

**3.** No employee of Her Majesty in right of Canada shall, during his hours of employment engage in political activity, or at any time use any money, materials, facilities, equipment or other property of Her Majesty in connection with, or for the furtherance of political activity 25 of any kind.



#### EXPLANATORY NOTE.

This Act gives to Civil Servants the right to engage in political activity.

Section 2 enumerates the various forms which political activity may take. Civil Servants are given the opportunity to exercise these rights.

Section 2(d) makes it clear that Civil Servants, despite the opening clause of section 2, are subject to the provisions of the *Canada Elections Act*.

Section 3 prohibits Civil Servants engaging in political activity during working hours, or using Federal Government vehicles, etc., for that purpose.

Exception.

- 4. The provisions of this Act shall not apply to:
  - (a) a deputy head as defined in paragraph (h) of subsection 1 of section 2 of the *Civil Service Act*, or an employee of equivalent rank; or
  - (b) an employee employed in a confidential capacity.

5



Section 4 excludes Civil Servants engaged in policy-making or employed in confidential work from the benefits of the Act.

THE HOUSE OF COMMONS OF CANADA

BILL C-39

An Act to provide for the Control of Consumer Credit

First reading, October 1, 1962

Mr. [Name]

PRINTED BY THE QUEEN'S PRINTER  
OTTAWA, CANADA





C-39.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-39.**

An Act to provide for the Control of Consumer Credit.

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First reading, October 1, 1962.

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Mr. BERGER.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-39.**

An Act to provide for the Control of Consumer Credit.

**H**ER 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 *Control of Consumer Credit Act*. 5

Definitions.  
"Agreement."

**2.** In this Act  
(a) "agreement" shall include any deed, assignment, mortgage, agreement for sale, conditional sales agreement, chattel mortgage or any instrument or contract whatsoever; 10

"Person."

(b) "person" shall include any partnership, corporation, association or group of persons.

**3.** Wherever by agreement interest is chargeable, whether by way of interest so-called, discount, commission, brokerage, bonus or any fees whatsoever, the person to whom such interest is payable shall furnish to the person liable to pay such interest, a statement in writing setting forth 15

- (a) the total amount of the unpaid balance upon which interest is chargeable;
- (b) the total amount of interest payable under the agreement; and 20
- (c) the percentage relationship between the principal and the total amount of interest payable, expressed in terms of simple annual interest.

**4.** The rate of interest payable under any agreement to which this Act applies shall not exceed ten per cent per annum. 25



### EXPLANATORY NOTE.

This Bill provides for the disclosure of the actual amount of interest being charged on the sale both real property and personal property, as well as for restricting the rate of interest to ten per cent per annum.

Section 2(a) provides a comprehensive definition of agreement designed to encompass transactions of all kinds.

Section 3 provides for the disclosure to the purchaser of the actual amount of interest being paid on the transaction.

Section 4 limits the rate of interest to ten per cent per annum.

5. Wherever any person obligated to provide a statement under section 4 fails to do so, the agreement, as regards interest and the payment thereof, shall be void.

6. Wherever any agreement is made in violation of section 4 the said agreement, as regards interest and the payment thereof, shall be void. 5



Sections 5 and 6 render any transaction void, as regards payment of interest, where section 3 or section 4 is infringed. Thus a purchaser, in those circumstances, could recover interest paid and would not be obliged to pay any further interest. These provisions would ensure obedience to the Act.





**C-40.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-40.**

An Act to amend the Interest Act.

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First Reading, October 1, 1962.

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Mr. ARGUE.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-40.

An Act to amend the Interest Act.

R.S., c. 156.

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

1. Section 2 of the *Interest Act* is repealed and the following substituted therefor: 5

Rate of interest not to exceed twelve per cent per annum.

“2. Except as otherwise provided by this or by any other Act of Parliament no person may stipulate, allow or exact on any contract or agreement whatsoever, a rate of interest in excess of twelve per cent per annum, whether it is called interest or is claimed as a discount, 10 deduction from advance, commission, brokerage, chattel mortgage fees, or recording fees, or is claimed as fines, penalties or charges for inquiries, defaults or renewals or otherwise, and whether paid to or charged by the lender or paid to or charged by any other person, and 15 whether fixed and determined by the loan contract itself, or in whole or in part by any other collateral contract or document by which the charges, if any, imposed under the contract or the terms of the repayment of the loan are effectively varied.” 20



C-41

THE HOUSE OF COMMONS OF CANADA

BILL C-41

EXPLANATORY NOTE.

Section 2 as at present provides that there is no restriction as to the rate of interest except as provided by statute. The amendment limits the rate to twelve per cent.

This section now reads as follows:

"2. Except as otherwise provided by this or by any other Act of the Parliament of Canada, any person may stipulate for, allow and exact, on any contract or agreement whatsoever, any rate of interest or discount that is agreed upon."





**C-41.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-41.**

An Act for the Establishment of an Annual  
Youth Appreciation Week.

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First Reading, October 1, 1962.

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Mr. SMITH (Calgary South).

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-41.**

An Act for the Establishment of an Annual  
Youth Appreciation Week.

Preamble.

The Parliament of Canada recognizing that our young people are good citizens who live decent, upstanding, honest lives and contribute generously to the heritage of our nation, and being desirous of promoting a more active participation of individuals, families, civic organization and other groups in religious, social and recreational activities for youths and being desirous of encouraging parents to rededicate themselves to the responsibilities of parenthood and also of encouraging a greater interchange of ideas between adults and young people leading to a broader understanding of their mutual problems: 5

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

Short title.

1. This Act may be cited as the *Annual Youth Appreciation Week Act*. 15

Youth  
Appreciation  
Week.

2. Throughout Canada, in each and every year, the seven-day period beginning on the second Monday of November is hereby designated as and declared to be *Youth Appreciation Week*. 20



**C-42.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-42.**

An Act to amend the Bills of Exchange Act  
(Instalment Purchases).

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First Reading, October 1, 1962.

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Mr. PETERS.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

BILL C-42.

An Act to amend the Bills of Exchange Act  
(Instalment Purchases).

R.S., c. 15.

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

1. The *Bills of Exchange Act* is amended by adding thereto, immediately after section 16 thereof, the following section: 5

Consideration, retail credit instalment transaction.

“16A. (1) Every bill or note, the consideration of which consists in whole or in part of the purchase money or a part thereof in a retail credit instalment transaction, shall have written or printed prominently and legibly across the face thereof, before the same is issued, the words *Given in a retail credit instalment transaction*. 10

Absence of necessary words.

(2) Without such words thereon, such instrument and any renewal thereof is void except in the hands of a holder in due course without notice of such consideration. 15

Transferee to take with equities.

(3) The endorsee or other transferee of any such instrument having the words *Given in a retail credit instalment transaction* so written or printed thereon takes the instrument subject to any defence or set-off in respect of the whole or any part thereof that would have existed between the original parties. 20

Transferring defective note.

(4) Every one who issues, sells or transfers, by endorsement or delivery, any such instrument not having “the words *Given in a retail credit instalment transaction* written or printed across the face thereof in the manner prescribed by subsection (1), knowing the consideration of such instrument to have consisted in whole or in part of the purchase money or a part thereof in a retail credit instalment transaction, is guilty of an indictable offence and liable to imprisonment for any term not exceeding one year or to such fine, not exceeding two hundred dollars, as the court thinks fit.” 25 30 35

Indictable offence. Penalty.



### EXPLANATORY NOTE.

The purpose of this Bill is for the better prevention of fraud in connection with retail credit instalment transactions. Its object is to protect persons who give bills or notes in retail credit instalment transactions and to enable them to defend themselves against transferees to the same extent as they could against the original payee.

*Subclause 1:* Any bill of exchange or promissory note given in a retail credit instalment transaction must so indicate on its face;

*Subclause 2:* When the warning words are omitted, the bill or note is void except against a holder in due course without notice of the transaction; in all such cases of omission, however, a person who negotiates the instrument, knowing that the instrument was given in a retail credit instalment transaction, is guilty of an indictable offence, *subclause 4*;

*Subclause 3:* When the warning words are on the bill or note, all the defences, set-offs and counterclaims that may arise out of the retail credit instalment transaction are available to the original parties against any subsequent holder.

These four subclauses are modelled respectively upon sections 14(1), 14(2), 15 and 16 of the Act; these sections provide for the better prevention of fraud in connection with the sale of patent rights. Sections 14(1), 15 and 16 were first enacted by Parliament in chapter 38 of the Acts of 1884 and ante-date the original *Bills of Exchange Act* of 1890. This 1884 anti-fraud statute was incorporated in that original Act; and section 14(2) was added by the Senate as an amendment.





**C-43.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-43.**

An Act to amend the Canada Fair Employment Practices  
Act (Age Discrimination).

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First Reading, October 1, 1962.

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**Mr. MATHER.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-43.**

An Act to amend the Canada Fair Employment Practices Act (Age Discrimination).

1952-53, c. 19. HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section 4 of the *Canada Fair Employment Practices Act* is repealed and the following substituted therefor: 5

“PROHIBITED EMPLOYMENT PRACTICES.

Employers  
not to  
discriminate.

“4. (1) No employer shall refuse to employ or to continue to employ, or otherwise discriminate against any person in regard to employment or any term or condition of employment because of his race, national origin, colour, religion, or age unless age is a *bona fide* occupational qualification. 10

Use of  
employment  
agencies that  
discriminate.

(2) No employer shall use, in the hiring or recruitment of persons for employment, any employment agency that discriminates against persons seeking employment because of their race, national origin, colour, religion, or age unless age is a *bona fide* occupational qualification. 15

Membership  
in trade  
unions.

(3) No trade union shall exclude any person from full membership or expel or suspend or otherwise discriminate against any of its members or discriminate against any person in regard to his employment by any employer, because of that person's race, national origin, colour, religion, or age unless age is a *bona fide* occupational qualification. 20



### EXPLANATORY NOTES.

The chief purpose of this Bill is to add age discrimination to the list of prohibited employment practices unless age is a *bona fide* occupational qualification. A secondary purpose is to prohibit the employer from including in an employment application form, advertisement or written or oral inquiry, a question or request for particulars as to the applicant's race, national origin, colour, religion or age unless by reason of a *bona fide* occupational qualification.

*Clause 1.* The present section 4 is amended by adding, where necessary, the words "*or age unless age is a bona fide occupational qualification*". To achieve the above-mentioned secondary purpose, subsection 5(b) is added. Except for these additions, the proposed new section 4 is identical with the present section.

Discharge,  
expulsion, etc.

(4) No employer or trade union shall discharge, expel or otherwise discriminate against any person because he has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Act. 5

Prohibited  
practices  
when  
employing.

(5) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry in connection with employment that 10

(a) expresses either directly or indirectly any limitation, specification or preference as to race, national origin, colour, religion, or age unless the limitation, specification or preference is based upon a *bona fide* occupational qualification; or 15

(b) contains a question or a request for particulars as to the race, national origin, colour, religion, or age of an applicant for employment unless the question or request for particulars is based upon a *bona fide* occupational qualification. 20

Trade union  
name.

(6) Whenever any question arises under this section as to whether a trade union discriminates contrary to this section, no presumption shall be made or inference drawn from the name of the trade union." 25



C-44.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-44.**

An Act to amend the Railway Act  
(Abandonment).

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First Reading, October 1, 1962.

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Mr. THOMAS.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-44.**

An Act to amend the Railway Act  
(Abandonment).

R.S., c. 234;  
1955, cc. 41, 55;  
1958, c. 40;  
1960, c. 35;  
1960-61, c. 54.

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

**1.** Section 168 of the Railway Act is repealed and the following substituted therefor:

Abandonment of operation.

**"168.** (1) The Company may abandon the operation of any line of railway with the approval of the Board and upon such terms and conditions subsequent as the Board from time to time may by order provide, and no company shall abandon the operation of any line of railway without such approval or do, cause or permit to be done any matter, act or thing contrary to, or omit to do any matter, act or thing required by, the terms and conditions so provided;

(2) Where an abandonment of the operation of a line of railway is or has been approved and thereby any person may suffer or has suffered diminution in the proper enjoyment of his lands or other damages, the Board shall order the company to carry out such remedial measures in the way of fencing, gates, cattle-guards, weed control, drainage works, demolition, restoration or any other remedy as the Board deems necessary."



## EXPLANATORY NOTES.

The purpose of this Bill is to make legislatively certain that the Board of Transport Commissioners has authority to order railway companies to so maintain abandoned lines of railway as to prevent damages to the rights of persons or the interest of the public. This greater certainty is required because the Board of Transport Commissioners holds itself bound by a judgment of the Board of Railway Commissioners dated 7th November 1936 which excludes an abandoned "line of railway" from the definition of "railway" as given by Parliament in the *Railway Act*:

"It is to be noted that the requirement for fencing is that the company shall erect and maintain fences upon the railway (section 274—[now 277] of the *Railway Act*). Where abandonment of operation has been authorized and has taken place, the right of way through which the railway is operated ceased to be used for railway purposes and is held by the company, not as part of its railway qua railway company, but in the same way as land is held by private individuals, subject to any provincial or municipal laws in respect of fencing which may be in force in the particular district."—*Guthrie, Chief Commissioner, in Re Cairns Bros.*

Note, however, section 2(21) of the Act which defines "railway" as including "all . . . property real or personal"; and the drafting practice of the Act, where operating track is meant exclusively, to use "railway lines or tracks" or "line of railway". Thus, when a line of track is abandoned the land would appear to fall into the residual definition of "railway" as real property and be subject to Board jurisdiction. The Act nowhere seems to authorize the Board to divide railway property into railway qua railway company and railway non qua railway company; and so to remove the latter type of property from Board jurisdiction.





**C-45.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-45.**

An Act to amend the National Energy Board Act  
(Drainage Works).

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First Reading, October 1, 1962.

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**Mr. THOMAS.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-45.**

An Act to amend the National Energy Board Act  
(Drainage Works).

1959, c. 46;  
1960, c. 9;  
1960-61, c. 52.

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

**1.** Subsection (1) of section 75 of the *National Energy Board Act* is repealed and the following substituted therefor: 5

Expropriation and drainage provisions of *Railway Act* incorporated as to farm drains.

“**75.** (1) Sections 207 to 246, section 248 and section 273 of the *Railway Act*, in so far as they are reasonably applicable and not inconsistent with this Act, apply *mutatis mutandis* to companies and their works and undertakings.” 10

**2.** Subsection (1) of section 77 of the said Act is repealed and the following substituted therefor:

Leave to construct highways, etc., across pipe lines.

“**77.** (1) Except a drain used to drain land that for the purpose of municipal assessment is classed as a farm, market garden, or nursery, no highway, private road, railway, irrigation ditch, drain, drainage ditch, sewer, telegraph, telephone line or line for the transmission of hydrocarbons, power or any other substance shall, except by leave of the Board, be carried across, along, upon or under any pipe line.” 20



## EXPLANATORY NOTES.

Section 273 of the *Railway Act* incorporates drainage proceedings under provincial Acts. This section was inserted in *The Railway Act, 1903*, when the railway laws were amended and consolidated. As the law then stood,—and as proposed in the 1903 Bill,—municipal authorities and individual landowners applied to the Railway Committee of the Privy Council or to the Board of Railway Commissioners for permission to construct a drainage system across railway lands; and, if permission were granted, the conditions,—financial, mechanical, and otherwise,—upon which the system might be constructed. This method of constituting a federal authority as arbiter to apportion rights as between railways and municipal authorities and landowners was debated in Committee of the Whole. *see 1903 Debates vol. II, pp. 4728-4765.* As a result, the Bill was amended to incorporate the provincial statutes so that the railways were subject to the provincial drainage laws and to the judicial interpretation of these laws by the Courts. The *Pipe Lines Act, 1949 Acts, ch. 20*, was enacted to control interprovincial and international oil and gas pipe lines. As with the railways, control was entrusted to the Board of Transport Commissioners. Many provisions of the *Railway Act* were made applicable to pipe lines including entry upon, use and expropriation of lands. *See section 30.* However, section 273 of the *Railway Act*, to apply provincial drainage laws to pipe line companies, was not incorporated. Instead, the Board of Transport Commissioners was given authority over drain rights of way that crossed interprovincial or international pipe lines. This section 32 was carried forward, except for non-material changes into the *National Energy Board Act* as section 77, which is as follows:

“77. (1) No highway, private road, railway, irrigation ditch, drain, drainage ditch, sewer, telegraph, telephone line or line for the transmission of hydrocarbons, power or any other substance shall, except by leave of the Board, be carried across, along, upon or under any pipe line.

(2) Upon application for leave, the Board may grant the application in whole or in part and upon such terms and conditions as the Board considers proper.”

The result of the present laws is that the railway utilities, interprovincial and provincial, and the provincial pipe lines utilities are subject to provincial drainage authorities while the interprovincial and international pipe line utilities are subject to the National Energy Board.

This Bill proposes to incorporate in the *National Energy Board Act* the provincial drainage laws so as to apply these laws to interprovincial and international pipe lines with respect to farms, market gardens and nurseries so classed under the applicable provincial assessment law. This is done by *Clause One* which incorporates section 273 of the *Railway Act* and by *Clause Two* which removes the Board's authority over those drains which are within the exception.

EXPLANATORY NOTES

Section 275 of the Railway Act incorporates drainage proceedings under provincial Acts. This section was inserted in the Railway Act, 1903, after the railway laws were amended and consolidated. As the law then stood, and as proposed in the 1903 Bill, municipal authorities and individual landowners applied to the Railway Commission, the Privy Council or the Board of Railway Commissioners for permission to construct a drainage system across railway lands; and if permission was granted, the conditions—financial, mechanical, and otherwise—upon which the system might be constructed. This method of constructing a drainage system as applied to agricultural lands between railways and municipal authorities and landowners was debated in Committee of the House of Commons in 1903. It was amended in 1904. As a result, the Bill was amended to insert in the Railway Act, 1904, section 275, which provides for the judicial interpretation of these laws by the Court. The Railway Act, 1904, section 275 was enacted to control municipal and provincial drainage laws. The Board of Railway Commissioners. Many provisions of the Railway Act were made applicable to these laws including early provisions for the construction of lands. However, section 275 of the Railway Act, 1904, provided that the Board of Railway Commissioners was empowered to exercise over drain rights of way that were not otherwise provided for. This section 275 was carried for the purpose of non-judicial control and the National Energy Board. It was amended to provide for the following provisions:

The result of the present law is that the railway drainage laws to provincial and provincial and the provincial drainage laws are subject to provincial drainage authorities and the provincial and international pipe and drainage laws subject to the National Energy Board.

The Bill proposes to incorporate in the National Energy Board Act the provincial drainage laws so as to apply these laws to international and international pipe laws with respect to farms, market gardens and nurseries so situated under the applicable provincial drainage law. This is done by Clause One which incorporates section 275 of the Railway Act and by Clause Two which transfers the Board's authority over those drains which are within the exception.



**C-46.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-46.**

An Act to amend the Broadcasting Act  
(Human Rights abuses remedied).

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First Reading, October 1, 1962.

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**Mr. HERRIDGE.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

BILL C-46.

An Act to amend the Broadcasting Act.  
(Human Rights abuses remedied).

1958, c. 22.

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

Subsection added.

1. Section 12 of the *Broadcasting Act* is amended by adding thereto, immediately after subsection (5) thereof, 5 the following subsection:

Licence conditioned on observance of *Canadian Bill of Rights*, 1960, c. 44.

“(6) (a) Every licence issued before or after the coming into effect of this Act is subject to the condition that the licensee will comply with the provisions of the *Canadian Bill of Rights* and will not 10 abrogate, abridge or infringe or authorize the abrogation, abridgment or infringement of any of the rights or freedoms in that Act recognized and declared, and in particular, the licensee

Specific condition: commercial service must be furnished without discrimination against competitor applicants.

(i) will not discriminate or delay, upon reasonable notice given, in furnishing suitable commercial service of the type furnished by the licensee, to any person who may apply therefor and be reasonably entitled thereto and to whom such service reasonably 20 can be supplied by the licensee, for reason only that the person so applying carries on a business that competes with a business in which the licensee has an interest;

Minister of Justice to ascertain if condition breached.

(b) The Minister of Justice shall, upon any complaint thereof, ascertain whether a licensee has breached in any particular the condition set out in paragraph (a) and he shall report thereon to the Minister of Transport forthwith and to the House of Commons at the first convenient 30 opportunity;



## EXPLANATORY NOTES.

Section 2 of the *Bill of Rights*, 2nd sess., 1 Wm. & Mary, 1688, provides:

"And from and after this present session of Parliament no dispensation by *non obstante* (exception) of or to any statute or any part thereof shall be allowed but . . . . the same shall be held void and of no effect except a dispensation be allowed of in such statute . . . ."

This section was directed against the Crown's practice of granting licences to private persons to do acts that could not lawfully be done without the privilege of the licence. Parliament especially had been concerned with the Crown's habit of selling or giving licences to violate the laws against monopolies.

Both the English common law and the French civil law recognize the doctrine that the right of the businessman or industrialist to do business only with persons of his choice is subject to restrictions based on reasons of good morals or public order: such is the case where the State takes exclusive control of a commercial field and grants a special privilege or licence in that field to the businessman or industrialist to sell, under monopoly or quasi-monopoly, to the public; the licensee then assumes definite obligations, including the obligation to sell to anyone who is ready to pay the regular price. See *Christie v. York Corp.*, (1940) *Supreme Court of Canada*, p. 139; *Tribunal de Commerce de Nice and confirmed by the French Cour de Cassation* (S. 93-2-193; and S. 96-1-144). In the *Christie* case, Mr. Justice Davis said:

"If there is to be exclusion on the ground of colour or of race or of religious faith or on any other ground not already specifically provided for by the statute, it is for the Legislature itself, in my view, to impose such limitations under the exclusive system of governmental control of the sale of liquor to the public which it has seen fit to enact."

The Canadian Parliament, for public convenience, interest and necessity, has by the *Radio Act* allowed the Crown to grant monopolies by licence to individuals and corporations to operate broadcasting stations for private gain. Under the common law and civil law, therefore, such stations must sell advertising time without discrimination. In 1960, Parliament confirmed this law by statute. Section 2 of the *Canadian Bill of Rights* applies to provide that the *Radio Act* and the *Broadcasting Act* shall not be so used as to violate the rights or freedoms of any citizen: e.g., freedom of speech or freedom of the press. Presumably, the Governor in Council might make regulations to control such excesses or the Minister of Transport arbitrarily remedy violations by revocation or suspension of licence.

Licence  
revoked  
upon  
breach.

(c) Upon receiving a report from the Minister of Justice that a licensee has breached in any particular the condition set out in paragraph (a), the Minister of Transport shall revoke forthwith the licence of such licensee and shall notify the licensee of the revocation so made; 5

Appeal.

(d) Where the Minister of Transport orders the revocation of the licence under paragraph (c), the licensee may by leave of a judge of the Exchequer Court of Canada appeal against the order to that Court on any question of law, and the Court may stay the operation of the order pending its final decision and may affirm, alter or rescind the order." 10



However, for the semblance of impartiality, the seemly method is that Parliament decree the means and manner of enforcement. This Bill, therefore, so provides.

*Clause 1:* For clarity, and emphasis of notice to the licensee, this clause provides, generally, that a licence is conditional upon observance of the *Canadian Bill of Rights*; and, specifically, that there shall be no discrimination by a licensee in providing commercial services to competitor applicants—e.g., freedom of the press includes liberty of circulation and distribution, as well as publication, *Lovell v. Griffin*, 303 U.S. 444(1938), and liberty of circulation and distribution includes the right to compete for advertising space on a government-licensed advertising media—without discrimination because the applicant competes in the newspaper field with the broadcasting monopolist. Subsection 6(a)(i) is an adaptation of provincial public utility anti-discrimination law. Subsection (6)(b) follows the procedure in section 3 of the *Canadian Bill of Rights* in appointing the Minister of Justice to be the deputy of Parliament to determine whether a licensee has violated the *Canadian Bill of Rights*. Upon a violation, the Minister of Transport revokes the licence. The licensee has a right of appeal on any question of law to the Exchequer Court which may suspend the revocation until the appeal is determined.





C-47.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-47.**

An Act to amend the Pension Act  
(Judicial Appeal).

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First Reading, October 1, 1962.

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Mr. McINTOSH.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

27306-6

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-47.

An Act to amend the Pension Act  
(Judicial Appeal).

R.S., cc. 207,  
332;  
1953-54, c. 62;  
1957, c. 14;  
1957-58, c. 19;  
1960-61, c. 10.

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

1. Section 2 of the *Pension Act* is amended by adding thereto, immediately after paragraph (f) thereof, the following paragraph: 5

"Court of Appeal."

"(ff) "court of appeal" means the court of appeal, as defined in the *Criminal Code*, of the province in which the applicant resides at the time an appeal thereto is taken;" 10

2. Subsection (5) of section 5 of the said Act is repealed and the following substituted therefor:

Interpreta-  
tion of Act.

"(5) Except as hereinafter otherwise provided, the Commission shall determine any question of interpretation of this Act and the decision of the Commission on any such question is final." 15

3. Subsection (7) of section 11 of the said Act is repealed and the following substituted therefor:

Pension  
Advocates.

"(7) For the purposes of subsection (6) pension advocates are empowered to attend and assist the pensioner or applicant, or, in his absence represent him, at any hearing before the Commission, an Appeal Board thereof, a court of appeal, or the Supreme Court of Canada, at which he is entitled to be present." 20

4. Subsection (1) of section 58 of the said Act is repealed and the following substituted therefor:

Applicant  
entitled to  
assistance  
of Chief  
Advocate.

"58. (1) Upon request in writing by an applicant, the Chief Pensions Advocate shall assist him in the preparation of his case and arrange for its presentation 25



## EXPLANATORY NOTES.

The purpose of this Bill is to give an applicant for a pension under the *Pension Act* the right, where the Pension Commission or an Appeal Board has ruled against his or her entitlement, to have the decision reviewed by the Courts: (a) on any question of law respecting the interpretation of the *Pension Act* and (b) on those controversial issues of fact which must be weighed, as the courts are used to do, in the knowledge of human conduct and intention. An ancillary purpose gives the Commission itself the right to refer any question of law to the Supreme Court of Canada.

The Bill applies to the *Pension Act* that principle of the Rule of Law that, to the degree most possible, the decisions of an administrative tribunal or commission which touch the person, or property or rights of an individual should be subject to review by the Courts. The United Kingdom has applied this Rule of Law to as many of its boards, tribunals and commissions as possible in the *Tribunals and Inquiries Act, 1958*.

*Clause 1:* Consequential upon Clause 6. Incorporates the *Criminal Code* definition which gives the names of all provincial courts of appeal.

*Clause 2:* Consequential upon Clause 6. The Commission is not a disinterested judge of its own powers nor experienced in interpreting the statutory intention of Parliament.

*Clauses 3 & 4:* Consequential upon Clause 6. Provides for assistance of pension advocates on a court appeal or reference.

before the Commission, an Appeal Board thereof, a court of appeal, or the Supreme Court of Canada by a Pensions Advocate; but if the applicant so elects he may have the same prepared and presented by a representative of a service bureau of a veteran organization or by some other person at his own expense." 5

5. Section 63 of the said Act is repealed and the following substituted therefor:

Party and witness fees and allowances.

"63. Subject to the rules of procedure made under this Act an applicant, or any person or class representative notified by direction of a court of appeal judge or the Supreme Court of Canada, may attend and witnesses may be called on his behalf or on behalf of the Crown to give evidence before an Appeal Board of the Commission, a court of appeal or the Supreme Court of Canada, and such applicant, person, class representative, and witnesses may be paid by the Comptroller of the Treasury the cost of transportation and the fees and allowances as therein fixed." 10 15

6. The said Act is amended by adding thereto, 20 immediately after section 68 thereof, the following section:

Appeal to court of appeal.

"68A. (1) An appeal shall lie to a court of appeal from a decision of an Appeal Board of the Commission on any question of law or fact touching

Grounds.

- (a) the interpretation of the *Pension Act*; 25
- (b) the issue whether an injury or disease or aggravation thereof resulting in disability or death arose out of or was directly connected with military service in peace time;
- (c) the issue whether an injury or disease pre- 30 existed enlistment and, if so, whether it was aggravated during military service;
- (d) the issue whether an award of entitlement was granted as a result of fraud, misrepresentation, or concealment of material facts. 35

Procedure.

(2) An appeal may be taken only by leave of a judge of the court of appeal, granted upon a petition presented to him within thirty days after the applicant has been notified of the decision, or within such extended time as the judge may for special reasons allow, and 40 upon such terms as the judge may determine;

Notice to Commission.

(3) Where leave to appeal has been granted, the appeal shall be brought by notice served on the Chairman or Deputy Chairman of the Commission within ten days after the leave to appeal has been 45 granted; the notice shall contain the name of the



*Clause 5:* Consequential upon Clause 6. Provides for party and witness fees and allowances on a court appeal or reference.

*Clause 6:* (1) Provides for an appeal to the court of appeal of the province in which the applicant resides on certain specified questions of law and fact. The appeal to local provincial courts is convenient in time and money to the applicant and, as well, distributes the work load among the appeal courts of the ten provinces and of the territories.

(2) Procedure on an appeal. An appeal is only by leave of a court of appeal judge. This permits the court to screen frivolous or nuisance applications.

(3) Provides for notice of appeal to Commission.

applicant and the date of the order appealed from and such other particulars as the judge granting leave to appeal may require;

Commission  
may refer  
question of  
law to  
Supreme  
Court.

(4) The Commission may of its own motion refer a question of law to the Supreme Court of Canada for hearing and consideration and it shall be the duty of the Court to hear and consider a reference so made and to answer each question so referred; and the Court shall certify to the Commission its opinion upon each such question with the reasons for each such answer; and such opinion shall be pronounced in like manner as in the case of a judgment upon an appeal to the Court; and any judge who differs from the opinion of the majority shall in like manner certify his opinion and his reasons; 5 10 15

Reference  
may stay  
appeal.

(5) Where a question of law has been referred to the Supreme Court of Canada, the proceedings on an appeal touching that question shall be stayed until the Supreme Court has certified its opinion thereon to the Commission; 20

Notice to  
interested  
persons.

(6) The court of appeal judge or the Supreme Court, as the case may be, has the power to direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing on the application or reference; 25

Court may  
appoint  
counsel.

(7) The court of appeal or the Supreme Court, as the case may be, may in its discretion request any counsel to argue the application or reference as to any interest that is affected and as to which counsel does not appear and expenses thereby required to be incurred shall be expenses under subsection (1) of section 4; 30

When appeal  
abandoned for  
want of  
prosecution.

(8) An appeal that is not brought on for hearing by the applicant at the session of the court of appeal during which the decision appealed from was pronounced by the Appeal Board of the Commission that heard the application, or during the next session thereof, shall be deemed to be abandoned, unless otherwise ordered by the court of appeal or a judge thereof. 35 40

7. Paragraph (a) of section 69 of the said Act is repealed and the following substituted therefor:

“(a) the applicant for pension concerned and any person or class representative notified by 45  
direction of a court of appeal judge or the



(4) Provides that the Commission may refer any question of law to the Supreme Court of Canada for an opinion.

(5) Where the Commission has referred a question of law to the Supreme Court, any proceedings in a provincial court of appeal upon or including that question of law are stayed. When the Supreme Court has given its opinion, the provincial court will be guided thereby. This ensures unanimity in the provincial courts on questions of law. Further, while reference by the Commission is voluntary, the Commission must, to ensure this unanimity of interpretation, make such a reference whenever an applicant raises an importance question of *Pension Act* interpretation on an appeal to a provincial court.

(6) The courts may give interested parties an opportunity to be heard.

(7) The courts may appoint counsel to argue questions in issue where an interest is unrepresented. Expenses to be payable out of the Parliamentary expense vote.

(8) Provides for abandonment of appeal for want of, or delay in, prosecution. The court may grant an extension on proper grounds, as, for example, a stay of proceedings on a reference.

*Clause 7:* Consequential upon clause 6. Provides for access by interested parties to Departmental and Commission records on an appeal or reference.

Supreme Court and such persons as may be employed by or on behalf of them to appear before the Commission, an Appeal Board thereof, a court of appeal, or the Supreme Court of Canada;"



C-48.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

## BILL C-48.

An Act to Revise and Consolidate the Interpretation Act and Amendments thereto, and to Effect Certain Consequential Amendments to the Canada Evidence Act and the Bills of Exchange Act.

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First reading, October 2, 1962.

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THE MINISTER OF JUSTICE.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

BILL C-48.

An Act to Revise and Consolidate the Interpretation Act and Amendments thereto, and to Effect Certain Consequential Amendments to the Canada Evidence Act and the Bills of Exchange Act.

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 *Interpretation Act*.

INTERPRETATION.

- Definitions.      2. (1) In this Act, 5
- “Act.”  
“Enact”  
“Enactment.”  
“Public officer.”
- (a) “Act” means an Act of the Parliament of Canada;
- (b) “enact” includes to issue, make or establish;
- (c) “enactment” means an Act or a regulation or any portion of an Act or regulation;
- (d) “public officer” includes any person in the public service of Canada 10
- (i) who is authorized by or under an enactment to do or enforce the doing of an act or thing or to exercise a power, or
- (ii) upon whom a duty is imposed by or under an enactment; 15
- “Regulation.”
- (e) “regulation” includes an order, regulation, order in council, order prescribing regulations, rule, rule of court, form, tariff of costs or fees, letters patent, commission, warrant, instrument, proclamation, by-law, resolution or other instrument issued, made or established 20
- (i) in the execution of a power conferred by or under the authority of an Act, or
- (ii) by or under the authority of the Governor in Council; and 25



## EXPLANATORY NOTES.

The purposes of an *Interpretation Act* are to establish uniform definitions and modes of expression, to eliminate repetition in the statutes and to facilitate the drafting and construction of statutes.

Although the *Interpretation Act* has been amended from time to time and consolidated by successive Statute Revision Commissions, there has not been, since Confederation, a general revision by Parliament.

In the present revision some new provisions have been added and others have been improved. There is a general re-arrangement, and the language has been revised throughout in accordance with modern drafting standards.

In the notes below, the references to sections are to sections of the present *Interpretation Act*. In many cases there has been some change in wording and minor alteration in scope. Substantial changes, and new provisions, are specially mentioned.

*Clause 2.* (1) The definitions of "Act", "enactment" and "regulation" are new. Their purpose is to apply the whole of the Act to all orders in council and to the various instruments made under the authority of statutes.

“Repeal.”  
Expired  
enactment  
deemed  
repealed.

(f) “repeal” includes revoke or cancel.

(2) For the purposes of this Act, an enactment that has expired or lapsed or otherwise ceased to have effect shall be deemed to have been repealed.

#### APPLICATION.

- Application. **3.** (1) Every provision of this Act extends and applies, 5  
unless a contrary intention appears, to every enactment,  
whether enacted before or after the commencement of this  
Act.
- Application  
to this Act. (2) The provisions of this Act apply to the interpretation 10  
of this Act.
- Rules of  
construction  
not excluded. (3) Nothing in this Act excludes the application to an  
enactment of a rule of construction applicable thereto and  
not inconsistent with this Act.

#### ENACTING CLAUSE OF ACTS.

- Enacting  
clause. **4.** (1) The enacting clause of an Act may be in the  
following form:—“Her Majesty, by and with the advice and 15  
consent of the Senate and House of Commons of Canada,  
enacts as follows:”
- Order of  
clauses. (2) The enacting clause of an Act shall follow the pre-  
amble, if any, and the various provisions within the purview 20  
or body of the Act shall follow in a concise and enunciative  
form.

#### OPERATION.

##### *Royal Assent.*

- Royal assent  
and date of  
com-  
mencement. **5.** (1) The Clerk of the Parliaments shall endorse on  
every Act, immediately after the title thereof, the day,  
month and year when the Act was assented to in Her 25  
Majesty’s name; such endorsement shall be taken to be a  
part of the Act, and the date of such assent shall be the  
date of the commencement of the Act, if no other date of  
commencement is therein provided.
- Com-  
mencement  
of coming  
into force  
provision. (2) Where an Act contains a provision that the Act or  
any portion thereof is to come into force on a day later than 30  
the date of assent to the Act, such provision shall be deemed  
to have come into force on the date of assent to the Act.
- Com-  
mencement  
when no  
date fixed. (3) Where an Act provides that certain provisions thereof  
are to come or shall be deemed to have come into force on 35  
a day other than the date of assent to the Act, the remaining  
provisions of the Act shall be deemed to have come into  
force on the date of assent to the Act.



(2) Section 19(3).

*Clause 3.* (1) Section 2(1). The phrase “unless a contrary intention appears” occurs throughout the present Act; the proposed new provision will apply the context rule to all the provisions of the Act, thus making repetition of this phrase unnecessary.

(2) Section 4.

(3) Section 3.

*Clause 4.* Sections 5 and 6.

*Clause 5.* (1) Section 7.

(2) New. It is frequently provided in an Act of Parliament that the Act is to come into force on a day to be fixed by proclamation. Hitherto there has been no express statement that such a provision is itself in force although it has always been regarded as immediately operative.

(3) New. From time to time it is provided in an Act of Parliament that certain sections are to come into force on a day to be fixed by proclamation and no date is prescribed for the coming into force of the remaining sections. This clause expresses the understood rule that in such cases the provisions for which no date of commencement is prescribed shall be deemed to come into force on the date of assent to the Act.

*Day Fixed for Commencement or Repeal.*

Operation when date fixed for commencement or repeal.

**6.** (1) Where an enactment is expressed to come into force on a particular day, it shall be construed as coming into force upon the expiration of the previous day; and where an enactment is expressed to expire, lapse or otherwise cease to have effect on a particular day, it shall be construed as ceasing to have effect upon the commencement of the following day. 5

When no date fixed.

(2) Every enactment that is not expressed to come into force on a particular day shall be construed as coming into force upon the expiration of the day immediately before the day the enactment was enacted. 10

*Regulation Prior to Commencement.*

Preliminary proceedings.

**7.** Where an enactment is not in force and it contains provisions conferring power to make regulations or do any other thing, that power may, for the purpose of making the enactment effective upon its commencement, be exercised at any time before its commencement, but a regulation so made or a thing so done has no effect until the commencement of the enactment except in so far as may be necessary to make the enactment effective upon its commencement. 15

*Territorial Operation.*

Enactments apply to all Canada. Amending enactment.

**8.** (1) Every enactment applies to the whole of Canada, unless it is otherwise expressed therein. 20

(2) Where an enactment that does not apply to the whole of Canada is amended, no provision in the amending enactment applies to any part of Canada to which the amended enactment does not apply, unless it is therein provided that the amending enactment applies to such part of Canada or to the whole of Canada. 25

## RULES OF CONSTRUCTION.

*Private Acts.*

Provisions in private Acts.

**9.** No provision in a private Act affects the rights of any person, except only as therein mentioned or referred to.

*Law Always Speaking.*

Law always speaking.

**10.** The law shall be considered as always speaking, and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to the enactment and every part thereof according to its true spirit, intent and meaning. 30



*Clause 6.* (1) Section 11, re-worded.

(2) New. Subclause (1) provides for the time of commencement of an enactment that is expressed to come into force on a particular day. This subclause provides for the time of commencement when no date is expressly stated.

*Clause 7.* Section 12, re-worded.

*Clause 8.* Section 9.

*Clause 9.* Section 17.

*Clause 10.* Section 10.

*Enactments Remedial.*

Enactments  
deemed  
remedial.

**11.** Every enactment shall be deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

*Preambles and Marginal Notes.*

Preamble  
part of  
enactment.

**12.** The preamble of an enactment shall be read as a part thereof intended to assist in explaining its purport and object. 5

Marginal  
notes.

**13.** Marginal notes and references to former enactments in an enactment after the end of a section or other division thereof form no part of the enactment, but shall be deemed to have been inserted for convenience of reference only. 10

*Application of Definitions.*

Application  
of inter-  
pretation  
provisions.

**14.** (1) Definitions or rules of interpretation contained in an enactment apply to the construction of the provisions of the enactment that contain those definitions or rules of interpretation, as well as to the other provisions of the enactment. 15

Interpretation  
sections  
subject to  
exceptions.

(2) Where an enactment contains an interpretation section or provision, it shall be read and construed  
(a) as being applicable only if the contrary intention does not appear, and  
(b) as being applicable to all other enactments relating to the same subject matter unless the contrary intention appears. 20

Words in  
regulations  
have same  
meaning as in  
enactment.

**15.** Where an enactment confers power to make regulations, expressions used in the regulations have the same respective meanings as in the enactment conferring the power. 25

*Her Majesty.*

Her Majesty  
not bound  
or affected  
unless stated.

**16.** No enactment is binding on Her Majesty or affects Her Majesty or Her Majesty's rights or prerogatives in any manner, except only as therein mentioned or referred to.

*Proclamations.*

Proclamation  
means  
proclamation  
of Governor  
in Council.

**17.** (1) Where an enactment authorizes the issue of a proclamation, the proclamation shall be understood to be a proclamation of the Governor in Council. 30

Proclamation  
of Governor  
General to  
be issued  
on advice.

(2) Where the Governor General is authorized to issue a proclamation, the proclamation shall be understood to be a proclamation issued under an order of the Governor in Council, but it is not necessary to mention in the proclamation that it is issued under such order. 35



*Clause 11.* Section 15, simplified.

*Clause 12.* Section 14(1).

*Clause 13.* Section 14(2).

*Clause 14.* (1) Section 34.

(2) Section 2(3) re-worded.

*Clause 15.* Section 38.

*Clause 16.* Section 16, re-worded.

*Clause 17.* (1) New. This provision will make it unnecessary to state that a proclamation is a proclamation of the Governor in Council.

(2) Section 23.

Date of  
proclamation.

(3) Where the Governor in Council has authorized the issue of a proclamation, the proclamation may purport to have been issued on the day its issue was so authorized, and the day on which it so purports to have been issued shall be deemed to be the day on which the proclamation takes effect. 5

Judicial  
notice of  
proclamation.

(4) Where an enactment is expressed to come into force on a day to be fixed by proclamation, judicial notice shall be taken of the issue of the proclamation and the day fixed thereby without being specially pleaded. 10

### *Oaths.*

Administra-  
tion of oaths.

**18.** (1) Where by an enactment or by a rule of the Senate or House of Commons, evidence under oath is authorized or required to be taken, or an oath is authorized or directed to be made, taken or administered, the oath may be administered, and a certificate of its having been made, taken or administered may be given by any one authorized by the enactment or rule to take the evidence, 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. 15 20

Where justice  
of peace  
empowered.

(2) Where power is conferred upon a justice of the peace to administer an oath or affirmation, or to take an affidavit or declaration, the power may be exercised by a notary public or a commissioner for taking oaths.

### *Reports to Parliament.*

Reports to  
Parliament.

**19.** Where an Act requires a report or other document to be laid before Parliament and, in compliance with the Act, a particular report or document has been laid before Parliament at a session thereof, nothing in the Act shall be construed as requiring the same report or document to be laid before Parliament at any subsequent session thereof. 25 30

### *Corporations.*

Powers  
vested in  
corporations.

**20.** (1) Words establishing a corporation shall be construed

(a) to vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal and to alter or change it at pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purposes for which the corporation is established and to alienate the same at pleasure;

(b) to vest in a majority of the members of the corporation the power to bind the others by their acts; and 40



(3) New. The practice is to date proclamations the day they are authorized, but it is not always possible to have the proclamation engrossed, signed and sealed on the same day.

(4) New. Under this amendment it will not be necessary to set out the commencement date in pleadings.

*Clause 18.* (1) Section 25.

(2) Section 31(2).

*Clause 19.* Section 31A (R.S.C. 1952, c. 327).

*Clause 20.* Section 30, altered to include all cases where a corporation is established, and not only those where "a number of persons" are established as a corporation.

(c) to exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment establishing the corporation.

Banking business.

(2) No corporation shall be deemed to be authorized to carry on the business of banking unless such power is expressly conferred upon it by the enactment establishing the corporation. 5

*Majority and Quorum.*

Majorities.

21. (1) Where an act or thing is required or authorized to be done by more than two persons, a majority of them may do it. 10

Quorum of board, court, commission, etc.

(2) Where an enactment establishes a board, court, commission or other body consisting of three or more members (in this section called an "association"),

(a) at a meeting of the association, a number of members equal to at least one-half of the number of members of the association provided for by the enactment constitutes a quorum; 15

(b) an act or thing done by a majority of the members of the association present at a meeting, if the members present constitute a quorum, shall be deemed to have been done by the association; and 20

(c) a vacancy in the membership of the association does not invalidate the constitution of the association or impair the right of the members in office to act, if the number of members in office is not less than a quorum. 25

*Appointment, Retirement and Powers of Officers.*

Public officers hold office during pleasure.

22. (1) Every public officer appointed before or after the commencement of this Act, by or under the authority of an enactment or otherwise, shall be deemed to have been appointed to hold office during pleasure only, unless it is otherwise expressed in the enactment or in his commission or appointment. 30

Effective day of appointments.

(2) Where an appointment is made by instrument under the Great Seal, the instrument may purport to have been issued on or after the day its issue was authorized, and the day on which it so purports to have been issued shall be deemed to be the day on which the appointment takes effect. 35

Remuneration.

(3) Where a person is appointed to an office, the appointing authority may fix, vary or terminate his remuneration.

Commencement of appointments or retirements.

(4) Where a person is appointed to an office effective on a specified day, or where the appointment of a person is terminated effective on a specified day, the appointment or termination, as the case may be, shall be deemed to have been effected immediately upon the expiration of the previous day. 40 45



*Clause 21.* (1) Section 31(1)(c).

(2) New. This provision is intended to supplement subclause (1), and to state more precisely the quorum rules applicable to meetings.

*Clause 22.* (1) Section 24, extended to all public officers.

(2) New. The purpose of this provision is to authorize a commission of appointment to bear the same date as the appointing order in council.

(3) Section 31(1)(h) in part.

(4) New.

Implied powers respecting public officers.

**23.** (1) Words authorizing the appointment of a public officer to hold office during pleasure include the power of

(a) terminating his appointment or removing or suspending him,

(b) reappointing or reinstating him, and

(c) appointing another in his stead or to act in his stead, in the discretion of the authority in whom the power of appointment is vested.

5

Powers of acting Minister, successor or deputy.

(2) Words directing or empowering a Minister of the Crown to do an act or thing, or otherwise applying to him by his name of office, include a Minister acting for him, or, if the office is vacant, a Minister designated to act in the office by or under the authority of an order in council, and also his successors in the office, and his or their deputy, but nothing in this subsection shall be construed to authorize a deputy to exercise any authority conferred upon a Minister to make a regulation as defined in the *Regulations Act*.

10

15

Successors to and deputy of public officer.

(3) Words directing or empowering any other public officer to do any act or thing, or otherwise applying to him by his name of office, include his successors in the office and his or their deputy.

20

Powers of holder of public office.

(4) Where a power is conferred or a duty imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the execution of the powers and duties of the office.

25

#### *Evidence.*

Documentary evidence.

**24.** (1) Where an enactment provides that a document is evidence of a fact without anything in the context to indicate that the document is conclusive evidence, then, in any judicial proceedings, the document is admissible in evidence and the fact shall be deemed to be established in the absence of any evidence to the contrary.

30

Queen's Printer.

(2) Every copy of an enactment having printed thereon what purports to be the name or title of the Queen's Printer and Controller of Stationery shall be deemed to be a copy purporting to be printed by the Queen's Printer for Canada.

35

#### *Computation of Time.*

Time limits and holidays.

**25.** (1) Where the time limited for the doing of a thing expires or falls upon a holiday, the thing may be done on the day next following that is not a holiday.

Clear days.

(2) Where there is a reference to a number of clear days or "at least" a number of days between two events, in calculating the number of days there shall be excluded the days on which the events happen.

40



Clause 23. (1) Section 31(1)(k), re-worded.

(2) Section 31(1)(l). The concluding words are new and are intended to make it clear that a deputy has not the power to exercise a Minister's power to make delegated legislation.

(3) Section 31(1)(m).

(4) Section 31(1)(f).

Clause 24. (1) New. The purpose of this provision is to eliminate the latin phrase *prima facie* in establishing rebuttable presumptions of fact.

(2) New. Other statutes refer to the "Queen's Printer for Canada", but his full title is "Queen's Printer and Controller of Stationery".

Clause 25. (1) Section 31(1)(h).

(2) and (3) Section 31(1)(o) revised.

Not clear days.

(3) Where there is a reference to a number of days, not expressed to be clear days, between two events, in calculating the number of days there shall be excluded the day on which the first event happens and there shall be included the day on which the second event happens. 5

Beginning and ending of prescribed periods.

(4) Where a time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day.

After specified day.

(5) Where a time is expressed to begin after or to be from a specified day, the time does not include that day. 10

Within a time.

(6) Where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Calculation of a period of months after or before a specified day.

(7) Where there is a reference to a period of time consisting of a number of months after or before a specified day, 15 the number of months shall be counted from, but not so as to include, the month in which the specified day falls, and the period shall be reckoned as being limited by and including

(a) the day immediately after or before the specified 20 day, according as the period follows or precedes the specified day; and

(b) the day in the last month so counted having the same calendar number as the specified day, but if such last month has no day with the same calendar 25 number, then the last day of that month.

Time of the day.

(8) Where there is a reference to time expressed as a specified time of the day, the time shall be taken to mean standard time.

Time when specified age attained.

(9) A person shall be deemed not to have attained a 30 specified number of years of age until the commencement of the anniversary, of the same number, of the day of his birth.

### *Miscellaneous Rules.*

Reference to magistrate, etc.

**26.** (1) Where anything is required or authorized to be done by or before a judge, magistrate, justice of the peace, 35 or any 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.

Ancillary powers.

(2) Where power is given to a person, officer or functionary, to do or enforce the doing of any act or thing, all 40 such powers shall be deemed to be also given as are necessary to enable the person, officer or functionary to do or enforce the doing of the act or thing.

Powers to be exercised as required.

(3) Where a power is conferred or a duty imposed the power may be exercised and the duty shall be performed 45 from time to time as occasion requires.



(4), (5), (6), (7) and (8) New. These provisions are designed to resolve the doubts frequently arising out of references to time.

(9) New. This provision is designed to make it clear that a person does not attain a specified age, for example eighteen years, on the day immediately preceding the eighteenth anniversary of his birthday, but rather on the anniversary itself.

*Clause 26.* (1) Section 31(1) (a), expanded to include a judge.

(2) Section 31(1) (b).

(3) Section 31(1) (e).

Power to repeal.

(4) Where a power is conferred to make regulations, the power shall be construed as including a power, exercisable in the like manner, and subject to the like consent and conditions, if any, to repeal, amend or vary the regulations and make others.

5

Forms.

(5) Where a form is prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, do not invalidate the form used.

Gender.

(6) Words importing one gender include all other genders.

Number.

(7) Words in the singular include the plural, and words in the plural include the singular.

Parts of speech and grammatical forms.

(8) Where a word is defined, other parts of speech and grammatical forms of the same word have corresponding meanings.

*Offences.*

Indictable and summary conviction offences.

**27.** (1) Where an enactment establishes an offence and provides that the offender may be prosecuted for the offence by indictment, the offence shall be deemed to be an indictable offence; and where an enactment establishes an offence without anything in the context to indicate that the offence is an indictable offence, the offence shall be deemed to be an offence for which the offender is punishable on summary conviction.

20

*Criminal Code* to apply.

(2) All the provisions of the *Criminal Code* relating to indictable offences apply to indictable offences established by an enactment, and all the provisions of the *Criminal Code* relating to summary conviction offences apply to all other offences established by an enactment, except to the extent that the enactment otherwise provides.

25

Documents similarly construed.

(3) In a commission, proclamation, warrant or other document relating to criminal law or procedure in criminal matters

30

(a) a reference to an offence for which the offender may be prosecuted by indictment shall be construed as a reference to an indictable offence; and

(b) a reference to any other offence shall be construed as a reference to an offence for which the offender is punishable on summary conviction.

35

DEFINITIONS.

**28.** In every enactment,

"Act."

(1) "Act", as meaning an Act of a legislature, includes an ordinance of the Yukon Territory or of the Northwest Territories;

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"Active service forces."

(2) "active service forces" means the components of the Canadian Forces that are referred to in the *National Defence Act* as the active service forces;



(4) Section 31(1) (g).

(5) Section 31(1) (d).

(6) Section 31(1) (i).

(7) Section 31(1) (j).

(8) Section 31(1) (n).

*Clause 27.* Section 28, revised to accord with the new *Criminal Code*.

*Clause 28.* (1) Section 35(1).

(2) Section 35(2).

- "Bank." (3) "bank" or "chartered bank" means a bank to which the *Bank Act* applies;
- "Broadcasting." (4) "broadcasting" means the dissemination of any form of radioelectric communication, including radiotelegraph, radiotelephone, the wireless transmission of writing, signs, signals, pictures and sounds of all kinds by means of Hertzian waves, intended to be received by the public either directly or through the medium of relay stations; 5
- "Commencement." (5) "commencement", when used with reference to an enactment, means the time at which the enactment comes into force; 10
- "County." (6) "county" includes two or more counties united for purposes to which the enactment relates;
- "County court." (7) "county court" in its application to the Province of Ontario includes, and in its application to the Provinces of Saskatchewan, Alberta and Newfoundland means, "district court"; 15
- "Diplomatic or consular officer." (8) "diplomatic or consular officer" includes an ambassador, envoy, minister, charge d'affaires, counsellor, secretary, attache, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul, acting consular agent, high commissioner, permanent delegate, adviser, acting high commissioner and acting permanent delegate; 20 25
- "Fiscal year." (9) "fiscal year" or "financial year" means, in relation to money provided by Parliament, or the Consolidated Revenue Fund of Canada, or the accounts, taxes or finances of Canada, the period beginning on and including the 1st day of April in one year and ending on and including the 31st day of March in the next year; 30
- "Governor." (10) "Governor", "Governor of Canada", or "Governor General" means the Governor General for the time being of Canada, or other chief executive officer or administrator for the time being carrying on the Government of Canada on behalf and in the name of the Sovereign, by whatever title he is designated; 35
- "Governor in Council." (11) "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; 40 45
- "Great Seal." (12) "Great Seal" means the Great Seal of Canada;
- "Herein." (13) "herein" used in any section shall be understood to relate to the whole enactment, and not to that section only;



(3) New.

(4) New. This definition is taken from the *Radio Act*.

(5) Section 35(3).

(6) Section 35(4).

(7) Section 35(5).

(8) New.

(9) Section 35(6), revised to accord with the *Financial Administration Act*.

(10) Section 35(7).

(11) Section 35(8).

(12) Section 35(9).

(13) Section 35(10).

- "Her Majesty." (14) "Her Majesty", "His Majesty", "the Queen", "the King" or "the Crown" means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth;
- "Her Majesty's Realms and Territories." (15) "Her Majesty's Realms and Territories" means all realms and territories under the sovereignty of Her Majesty; 5
- "Land." (16) "land" or "real property" includes lands, tenements, messuages and hereditaments of any tenure, mines, minerals, mineral oils and natural gases, whether held apart from the surface or not, buildings and other structures and any easements, servitudes, rights, privileges or benefits in, over or derived from land; 10
- "Holiday." (17) "holiday" includes Sundays; New Year's Day; the Epiphany; Good Friday; the Ascension; 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; Victoria Day; Dominion Day; the first Monday in September, designated Labour Day; Remembrance Day; and any day appointed by proclamation to be observed as a day of general prayer or mourning or as a day of public rejoicing or thanksgiving; 15
- "Legislature." (18) "legislature", "legislative council" or "legislative assembly" includes the Lieutenant Governor in Council and the Legislative Assembly of the Northwest Territories, as constituted before the 1st day of September, 1905, the Commissioner in Council of the Yukon Territory, and the Commissioner in Council of the Northwest Territories; 20
- "Lieutenant Governor." (19) "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 indicated by the enactment, by whatever title he is designated, and, in relation to the Yukon Territory or the Northwest Territories, means the Commissioner thereof; 35
- "Lieutenant Governor in Council." (20) "lieutenant governor in council" means the lieutenant governor, or person administering the government of the province indicated by the enactment, 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 such province and, in relation to the Yukon Territory or the Northwest Territories, means the Commissioner thereof; 40
- "Local time." (21) "local time", in relation to any place, means the time observed in that place for the regulation of business hours; 45



(14) Section 35(11).

(15) New. This follows from the definition of Her Majesty in subclause (14).

(16) New.

(17) Section 35(12), revised.

(18) Section 35(13).

(19) Section 35(14), expanded to include the executive authority of the Yukon and the Northwest Territories.

(20) Section 35(15), expanded to include the executive authority of the Yukon and the Northwest Territories.

(21) New.

- "May." (22) "may" is to be construed as permissive;
- "Military." (23) "military" shall be construed as relating to all or any of the Services of the Canadian Forces;
- "Month." (24) "month" means a calendar month;
- "Now." (25) "now" or "next" shall be construed as having reference to the time when the enactment was enacted; 5
- "Oath." (26) "oath" includes a solemn affirmation or declaration, whenever the context applies to any person by whom and case 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"; 10
- "Person." (27) "person" or any word or expression descriptive of a person, includes a corporation; 15
- "Proclamation." (28) "proclamation" means a proclamation under the Great Seal;
- "Province." (29) "province" means a province of Canada, and includes the Yukon Territory and the Northwest Territories;
- "Radio." (30) "radio" means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by means of Hertzian waves; 20
- "Regular forces." (31) "regular forces" means the components of the Canadian Forces that are referred to in the *National Defence Act* as the regular forces; 25
- "Reserve forces." (32) "reserve forces" means the components of the Canadian Forces that are referred to in the *National Defence Act* as the reserve forces;
- "Shall." (33) "shall" is to be construed as imperative; 30
- "Standard time." (34) "standard time" means
- (a) in relation to the Province of Newfoundland, Newfoundland standard time, being three hours and thirty minutes behind Greenwich time,
- (b) in relation to the Provinces of Nova Scotia, New Brunswick and Prince Edward Island and those parts of the Province of Quebec and the Northwest Territories lying east of the sixty-eighth meridian of west longitude, atlantic standard time, being four hours behind Greenwich time, 35
- (c) in relation to those parts of the Provinces of Ontario and Quebec lying between the ninetieth and the sixty-eighth meridians of west longitude, Southampton Island and the islands adjacent to Southampton Island, and that part of the 40 45



(22) Section 35(28) in part.

(23) Section 35(17).

(24) Section 35(18).

(25) Section 35(20).

(26) Section 35(21).

(27) Section 35(22) revised.

(28) Section 35(23).

(29) Section 35(24).

(30) New.

(31) Section 35(26).

(32) Section 35(27).

(33) Section 35(28).

(34) New.

Northwest Territories lying between the sixty-eighth and the eighty-fifth meridians of west longitude, eastern standard time, being five hours behind Greenwich time,

- (d) in relation to that part of the Province of Ontario lying west of the ninetieth meridian of west longitude, the Province of Manitoba, and that part of the Northwest Territories, except Southampton Island and the islands adjacent to Southampton Island, lying between the eighty-fifth and the one hundred and second meridians of west longitude, central standard time, being six hours behind Greenwich time, 5 10
- (e) in relation to the Province of Saskatchewan, the Province of Alberta, and that part of the Northwest Territories lying between the one hundred and second and the one hundred and twentieth meridians of west longitude, mountain standard time, being seven hours behind Greenwich time, 15
- (f) in relation to the Province of British Columbia and that part of the Northwest Territories lying west of the one hundred and twentieth meridian of west longitude, pacific standard time, being eight hours behind Greenwich time, and 20
- (g) in relation to the Yukon Territory, Yukon standard time, being nine hours behind Greenwich time; 25

“Statutory declaration.”

(35) “statutory declaration” means a solemn declaration made by virtue of the *Canada Evidence Act*;

“Superior court.”

- (36) “superior court” means 30
- (a) in the Province of Ontario, the Supreme Court of the Province;
- (b) in the Province of Quebec, the Court of Queen’s Bench, and the Superior Court in and for the Province; 35
- (c) in the Province of Nova Scotia, New Brunswick, Alberta or Newfoundland, the Supreme Court of the Province;
- (d) in the Province of British Columbia, the Court of Appeal and the Supreme Court of the Province; 40
- (e) in the Province of Manitoba or Saskatchewan, the Court of Appeal for the Province and the Court of Queen’s Bench for the Province;
- (f) in the Province of Prince Edward Island, the Supreme Court of Judicature of the Province; 45





- (g) in the Yukon Territory or the Northwest Territories, the Territorial Court;  
and includes the Supreme Court of Canada and the Exchequer Court of Canada;
- "Sureties." (37) "sureties" means sufficient sureties, and the expression "security" means sufficient security; and, whenever these words are used, one person is sufficient therefor, unless otherwise expressly required; 5
- "Telecommunication." (38) "telecommunication" means any transmission, emission or reception of signs, signals, writing, images or sounds or intelligence of any nature by wire, radio, visual or other electromagnetic system; 10
- "Two justices." (39) "two justices" means two or more justices of the peace, assembled or acting together; 15
- "United Kingdom." (40) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland; 20
- "United States." (41) "United States" means the United States of America; 25
- "Writing." (42) "writing", or any term of like import, includes words printed, typewritten, painted, engraved, lithographed, photographed, or represented or reproduced by any mode of representing or reproducing words in visible form; and 30
- "Year." (43) "year" means any period of twelve consecutive months, except that a reference to a "calendar year" means a period of twelve consecutive months commencing on the first day of January and a reference by number to a Dominical year means the period of twelve consecutive months commencing on the first day of January of that year. 35
- "Minister of Finance." **29.** The expression "Minister of Finance" or "Receiver General" in an enactment or document means the Minister of Finance and Receiver General, and the expression "Deputy Minister of Finance" or "Deputy Receiver General" in an enactment or document means the Deputy Minister of Finance and Receiver General. 35
- "Telegraph." **30.** The expression "telegraph" and its derivatives in an enactment or in an Act of the legislature of any province enacted before that province became part of Canada on any subject that is within the legislative powers of the Parliament of Canada, shall be deemed not to include the word "telephone" or its derivatives. 40



(37) Section 35(31).

(38) New. This definition is taken from the *Radio Act*.

(39) Section 35(32).

(40) Section 35(33).

(41) Section 35(34).

(42) Section 35(35).

(43) Section 35(36) revised.

Clause 29. Section 36.

Clause 30. Section 37.

Common  
names.

**31.** The name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied, although the name is not the formal or extended designation thereof. 5

Power to  
define year.

**32.** Where in an enactment relating to the affairs of Parliament or the Government of Canada there is a reference to a period of a year without anything in the context to indicate beyond doubt whether a fiscal year, or any period of twelve consecutive months or a period of twelve consecutive months commencing on the 1st day of January is intended, the Governor in Council may prescribe which of such periods of twelve consecutive months shall constitute a year for the purposes of the enactment. 15

#### REFERENCES AND CITATIONS.

Citation of  
enactment.

**33.** (1) In an enactment or document

(a) an Act may be cited by reference to its chapter number in the Revised Statutes, by reference to its chapter number in the volume of Acts for the year or regnal year in which it was enacted, or by reference to its long title or short title, with or without reference to its chapter number; and 20

(b) a regulation may be cited by reference to its long title or short title, by reference to the Act under which it was made or by reference to the number or designation under which it was registered pursuant to the *Regulations Act*. 25

Citation  
includes  
amendment.

(2) A citation of or reference to an enactment shall be deemed to be a citation of or reference to the enactment as amended. 30

Reference  
to two or  
more parts,  
etc.

**34.** (1) A reference in an enactment by number or letter to two or more parts, divisions, sections, subsections, paragraphs, subparagraphs, clauses, subclauses, schedules, appendices or forms shall be read as including the number or letter first mentioned and the number or letter last mentioned. 35

Reference in  
enactment to  
parts, etc.

(2) A reference in an enactment to a part, division, section, schedule, appendix or form shall be read as a reference to a part, division, section, schedule, appendix or form of the enactment in which the reference occurs. 40

Reference in  
enactment to  
subsections,  
etc.

(3) A reference in an enactment to a subsection, paragraph, subparagraph, clause or subclause shall be read as a reference to a subsection, paragraph, subparagraph, clause or subclause of the section, subsection, paragraph, subparagraph or clause, as the case may be, in which the reference occurs. 45



Clause 31. Section 35(19).

Clause 32. In some statutes, particularly those respecting government departments and those requiring the making of annual reports, it is not clear what is meant by the word "year". The purpose of the provision is to authorize the Governor in Council to resolve the doubt.

Clause 33. (1) Section 40(1).

(2) Section 40(2).

Clause 34. (1) Section 41(2).

(2) Section 41(3).

(3) Section 41(4).

- Reference to regulations. (4) A reference in an enactment to regulations shall be read as a reference to regulations made under the enactment in which the reference occurs.
- Reference to another enactment. (5) A reference in an enactment by number or letter to any section, subsection, paragraph, subparagraph, clause, subclause or other division or line of another enactment shall be read as a reference to the section, subsection, paragraph, subparagraph, clause, subclause or other division or line of such other enactment as printed by authority of law. 5

#### REPEAL AND AMENDMENT.

- Power of repeal or amendment reserved. **35.** (1) 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. 10
- Amendment or repeal at same session. (2) An Act may be amended or repealed by an Act passed in the same session of Parliament. 15
- Amendment part of enactment. (3) An amending enactment, as far as consistent with the tenor thereof, shall be construed as part of the enactment that it amends.
- Effect of repeal. **36.** Where an enactment is repealed in whole or in part, the repeal does not 20
- (a) revive any enactment or anything not in force or existing at the time when the repeal takes effect; 20
  - (b) affect the previous operation of the enactment so repealed or anything duly done or suffered thereunder; 25
  - (c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed; 25
  - (d) affect any offence committed against or a violation of the provisions of the enactment so repealed, or any penalty, forfeiture or punishment incurred under the enactment so repealed; or 30
  - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment; 35
- and an investigation, legal proceeding or remedy as described in paragraph (e) may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed as if the enactment had not been so repealed.
- Repeal and substitution. **37.** Where an enactment (in this section called the "former enactment") is repealed and another enactment (in this section called the "new enactment") is substituted therefor, 40



(4) Section 41(5).

(5) Section 41(1).

*Clause 35.* (1) Section 18(1).

(2) Section 8.

(3) Section 22.

*Clause 36.* (1) Section 19(1).

*Clause 37.* Sections 19(2) and 20. Paragraphs (b) and (f) are new.

- (a) every person acting under the former enactment shall continue to act, as if appointed under the new enactment, until another is appointed in his stead;
- (b) every bond and security given by a person appointed under the former enactment remains in force, and all books, papers, forms and things made or used under the former enactment shall continue to be used as before the repeal so far as they are consistent with the new enactment; 5
- (c) every proceeding taken under the former enactment shall be taken up and continued under and in conformity with the new enactment so far as it may be done consistently with the new enactment; 10
- (d) the procedure established by the new enactment shall be followed as far as it can be adapted thereto in the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights, existing or accruing under the former enactment or in a proceeding in relation to matters that have happened before the repeal; 15 20
- (e) when any penalty, forfeiture or punishment is reduced or mitigated by the new enactment, the penalty, forfeiture or punishment if imposed or adjudged after the repeal shall be reduced or mitigated accordingly;
- (f) except to the extent that the provisions of the new enactment are not in substance the same as those of the former enactment, the new enactment shall not be held to operate as new law, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the former enactment; 25 30
- (g) all regulations made under the repealed enactment remain in force and shall be deemed to have been made under the new enactment, in so far as they are not inconsistent with the new enactment, until they are repealed or others made in their stead; and 35
- (h) any reference in an unrepealed enactment to the former enactment, shall, as regards a subsequent transaction, matter or thing, be read and construed as a reference to the provisions of the new enactment relating to the same subject matter as the former enactment; but where there are no provisions in the new enactment relating to the same subject matter, the former enactment shall be read as unrepealed in so far as is necessary to maintain or give effect to the unrepealed enactment. 40 45



8.8. (1) The report of an enactment shall not be deemed to be or to involve a declaration that such enactment was or was considered by Parliament or other body or person by whom the enactment was enacted to have been previously in force.

Enactment  
not made  
by Parliament  
or other body

(2) The enactment of an enactment shall not be deemed to be or to involve a declaration that the law under which enactment was or was considered by Parliament or other body or person by whom the enactment was enacted to have been different from the law as it is under the enactment so amended.

Enactment  
not made  
by Parliament  
or other body

(3) The report or amendment of an enactment in whole or in part shall not be deemed to be or to involve any declaration as to the previous state of the law.

Enactment  
not made  
by Parliament  
or other body

(4) A re-enactment, variation, consolidation or amendment of an enactment shall not be deemed to be or to involve an adoption of the constitution that has by judicial decision or otherwise been placed upon the language used in the enactment or upon similar language.

Enactment  
not made  
by Parliament  
or other body

Interpretation of the Constitution

8.9. (1) Where there is a conflict between the provisions of the Constitution and the provisions of any other law, the provisions of the Constitution shall prevail.

Conflict  
between  
Constitution  
and other law

(2) Where there is a conflict between the provisions of the Constitution and the provisions of any other law, the provisions of the Constitution shall prevail.

Conflict  
between  
Constitution  
and other law

(3) Where there is a conflict between the provisions of the Constitution and the provisions of any other law, the provisions of the Constitution shall prevail.

Conflict  
between  
Constitution  
and other law

(4) Where there is a conflict between the provisions of the Constitution and the provisions of any other law, the provisions of the Constitution shall prevail.

Conflict  
between  
Constitution  
and other law

(5) Where there is a conflict between the provisions of the Constitution and the provisions of any other law, the provisions of the Constitution shall prevail.

Conflict  
between  
Constitution  
and other law

Repeal does not imply enactment was in force.

**38.** (1) The repeal of an enactment in whole or in part shall not be deemed to be or to involve a declaration that such enactment was or was considered by Parliament or other body or person by whom the enactment was enacted to have been previously in force. 5

Amendment does not imply change in law.

(2) The amendment of an enactment shall not be deemed to be or to involve a declaration that the law under such enactment was or was considered by Parliament or other body or person by whom the enactment was enacted to have been different from the law as it is under the enactment as amended. 10

Repeal does not declare previous law.

(3) The repeal or amendment of an enactment in whole or in part shall not be deemed to be or to involve any declaration as to the previous state of the law.

Judicial construction not adopted.

(4) A re-enactment, revision, consolidation or amendment of an enactment shall not be deemed to be or to involve an adoption of the construction that has by judicial decision or otherwise been placed upon the language used in the enactment or upon similar language. 15

#### DEMISE OF CROWN.

Effect of demise.

**39.** (1) Where there is a demise of the Crown, 20

(a) the demise does not affect the holding of any office under the Crown in right of Canada; and

(b) it is not necessary by reason of such demise that the holder of any such office again be appointed thereto or that, having taken an oath of office or allegiance before such demise, he again take such oath. 25

Continuation of proceedings.

(2) No writ, action or other process or proceeding, civil or criminal, in or issuing out of any court established by an Act of the Parliament of Canada is, by reason of a demise of the Crown, determined, abated, discontinued or affected, but every such writ, action, process or proceeding remains in full force and may be enforced, carried on or otherwise proceeded with or completed as though there had been no such demise. 30

#### CONSEQUENTIAL AMENDMENTS.

**40.** Section 18 of the *Canada Evidence Act* is repealed and the following substituted therefor: 35

Acts of Canada.

“**18.** Judicial notice shall be taken of all Acts of the Parliament of Canada, public or private, without being specially pleaded.”



Clause 38. Section 21.

Clause 39. New. This section is intended to remedy certain defects and omissions presently found in the *Demise of the Crown Act*. The provisions of the latter Act deal with matters similar to those dealt with in the present revision of the *Interpretation Act*, and it is considered desirable that, with the changes therein proposed by this section, they be incorporated in the present revision. This would permit the repeal of the present *Demise of the Crown Act*, which is provided for in clause 42(2).

Clause 40. The present section reads as follows:

"18. Judicial notice shall be taken of all public Acts of the Parliament of Canada without such Acts being specially pleaded."

This amendment is consequential to the dropping of section 13 of the *Interpretation Act*, which reads as follows:

"13. Every Act shall, unless by express provision it is declared to be a private Act, be deemed to be a public Act."

The foregoing provision was taken from the United Kingdom Interpretation Act of 1850. At that time judicial notice had to be taken of public Acts, but not private Acts. The sole purpose of the provision was to require private Acts to be judicially noticed. This was accomplished by the indirect device of deeming them public Acts. It is considered preferable to state the rule directly, and to deal with public and private Acts in one provision; the *Evidence Act* is the logical place for such a provision.

**41.** Subsection (3) of section 121 of the *Bills of Exchange Act* is repealed and the following substituted therefor:

Time of protest.

“(3) Every protest for dishonour, either for non-acceptance or non-payment, may be made on the day of such dishonour, and in case of non-acceptance at any time after non-acceptance, and in case of non-payment at any time after three o'clock in the afternoon, local time.” 5

**REPEAL.**

Repeal.  
R.S., c. 158;  
1952-53, c. 9.  
R.S., c. 65.

**42.** (1) The *Interpretation Act*, chapter 158 of the Revised Statutes of Canada, 1952 is repealed.

(2) The *Demise of the Crown Act* is repealed. 10

**COMMENCEMENT.**

Proclamation.

**43.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.



*Clause 41.* The present section reads as follows:

"(3) Every protest for dishonour, either for non-acceptance or non-payment may be made on the day of such dishonour, and in case of non-acceptance at any time after non-acceptance, and in case of non-payment at any time after three o'clock in the afternoon."

The time for protesting bills of exchange is governed by banking hours, which are not necessarily according to standard time.





**C-49.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-49.**

An Act to amend An Act to amend the Combines  
Investigation Act and the Criminal Code.

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First reading, October 2, 1962.

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**THE MINISTER OF JUSTICE.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-49.

An Act to amend An Act to amend the Combines Investigation Act and the Criminal Code.

1959, c. 40;  
1960, c. 45;  
1960-61, c. 42.

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

1959, c. 40,  
s. 1;  
1960, c. 45,  
s. 23;  
1960-61, c. 42,  
s. 1.

1. Section 1 of *An Act to amend the Combines Investigation Act and the Criminal Code*, chapter 40 of the Statutes of 1959, as amended by section 23 of *An Act to amend the Combines Investigation Act and the Criminal Code*, chapter 45 of the Statutes of 1960, and section 1 of *An Act to amend An Act to amend the Combines Investigation Act and the Criminal Code*, chapter 42 of the Statutes of 1960-61, is repealed and the following substituted therefor:

Application  
of Acts to  
fishing  
agreements.

“1. Nothing in the *Combines Investigation Act* or in section 411 of the *Criminal Code* shall be construed to apply to any contract, agreement or arrangement between fishermen or associations of fishermen in British Columbia, and persons or associations of persons engaged in the buying or processing of fish in British Columbia, relating to the prices, remuneration or other conditions under which fish will be caught and supplied to such persons by fishermen between the 1st day of January, 1959 and the 31st day of December, 1963.”



### EXPLANATORY NOTE.

Section 1 of the 1959 Act, which was continued for a further year in 1960 and again in 1961, at present reads as follows:

"1. Nothing in the *Combines Investigation Act* or in section 411 of the *Criminal Code* shall be construed to apply to any contract, agreement or arrangement between fishermen or associations of fishermen in British Columbia, and persons or associations of persons engaged in the buying or processing of fish in British Columbia, relating to the prices, remuneration or other conditions under which fish will be caught and supplied to such persons by fishermen between the 1st day of January, 1959 and the 31st day of December, 1962."

The proposed amendment would continue this provision for a further year ending December 31, 1963.

In Session, 1952-53, 11th Parliament, 1st Session, 1952

## THE HOUSE OF COMMONS OF CANADA

### BILL C-49.

An Act to amend the Criminal Code and the Criminal Code.

Section 1 of the 1952 Act which was contained for a

1. Nothing in the Criminal Code shall be construed

to apply to any contract, agreement or arrangement

between individuals or associations of individuals in



**C-50.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-50.**

**An Act respecting the Expropriation of Land.**

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First reading, October 3, 1962.

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**THE MINISTER OF JUSTICE.**

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-50.**

An Act respecting the Expropriation of Land.

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 *Expropriation Act*.

INTERPRETATION.

Definitions.	<b>2.</b> In this Act,	5
"Court."	(a) "Court" means the Exchequer Court of Canada;	
"Crown."	(b) "Crown" means Her Majesty in right of Canada;	
"Expropriated."	(c) "expropriated" means taken by the Crown under Part I;	
"Expropriated interest."	(d) "expropriated interest" means any right or interest that has been lost, in whole or in part, by the registration of a notice of expropriation under Part I;	10
"Land."	(e) "land" includes buildings, structures and other things in the nature of fixtures and mines and minerals whether precious or base, on, above or below the surface;	15
"Minister."	(f) "Minister" means a Minister presiding over a department named in Schedule A to the <i>Financial Administration Act</i> and includes his deputy;	
"Register."	(g) "register" includes file or deposit;	20
"Registrar."	(h) "registrar" means the registrar or master of deeds or land titles or other officer with whom the title to land is registered or recorded; and	
"Tender."	(i) "tender" means an offer in writing of compensation in respect of any parcel of land included in a notice of expropriation whether or not the offer is conditional on providing a release or releases of claims to compensation under this Act.	25



PART I

EXPROPRIATION

APPROPRIATION AND EXPROPRIATION BY LAND

1. Any interest in, and including any of the interests in, land is subject to the provisions of this Part in relation to the exercise of the powers of expropriation by the Crown in accordance with the provisions of this Part.

2. (1) Wherever in the opinion of a Minister any interest in land is required by the Crown for a public work or other public purpose, the Minister may cause to be registered in the office of the registrar for the county a notice of expropriation signed by him setting forth

(a) a description of the land;  
 (b) the nature of the interest expropriated and whether the interest expropriated is subject to any existing interest in the land; and

(c) a statement that the interest is expropriated by the Crown.

(2) There shall be registered with a notice of expropriation a plan of the land in which the notice relates.

(3) If a notice of expropriation is not made by reason only that it does not set forth the nature of the interest expropriated in the land described therein, and it does not set forth a description of the interest expropriated in the land described therein,

(4) A notice of expropriation is not made by reason only that it does not set forth whether the interest expropriated is subject to an existing interest in the land described therein, and it does not set forth the interest expropriated in the land described therein.

(5) Where a notice of expropriation or a plan registered under this section contains any omission, the Registrar of Expropriation may, if he is satisfied that it may be corrected without prejudice to the date of the registration of the notice, cause the notice to be corrected.

(6) A notice of expropriation may be made by the Registrar of Expropriation, and the date of its registration shall be the date of its registration.

(7) The Registrar of Expropriation may, if he is satisfied that it may be corrected without prejudice to the date of the registration of the notice, cause the notice to be corrected.

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Subject to the provisions of this Part

Wherever in the opinion of a Minister

Plan

Notice

Notice

Registrar of Expropriation

Registrar of Expropriation

Registrar of Expropriation

Registrar of Expropriation

## PART I.

## EXPROPRIATION.

## ACQUISITION AND ABANDONMENT OF LAND.

- Authority to expropriate.** **3.** Any interest in land, including any of the interests mentioned in section 5, that, in the opinion of a Minister, is required by the Crown for a public work or other public purpose may be expropriated by the Crown in accordance with the provisions of this Part. 5
- Notice to be registered.** **4.** (1) Whenever, in the opinion of a Minister, any interest in land is required by the Crown for a public work or other public purpose, the Minister may cause to be registered in the office of the registrar for the county, district or registration division in which the land is situated 10 a notice of expropriation, signed by him, setting forth
- (a) a description of the land,
  - (b) the nature of the interest expropriated and whether the interest expropriated is subject to any existing interest in the land, and 15
  - (c) a statement that the interest is expropriated by the Crown.
- Plan.** (2) There shall be registered with a notice of expropriation a plan of the land to which the notice relates.
- Validity of notice.** (3) A notice of expropriation is not invalid by reason 20 only that it does not set forth the nature of the interest expropriated in the land described therein, and, in such case, the interest expropriated includes all of the interests in the land described therein.
- Idem.** (4) A notice of expropriation is not invalid by reason 25 only that it does not set forth whether the interest expropriated is subject to an existing interest in the land described therein, and, in such case, the interest expropriated is not subject to that existing interest.
- Error, etc. in notice or plan.** (5) Where a notice of expropriation or a plan registered 30 under this section contains any omission, mis-statement or erroneous description, a corrected notice or plan may be registered, which shall be deemed to relate back to the date the original notice or plan was registered.
- Nature of interests that may be expropriated.** **5.** A notice of expropriation may set forth, as the nature 35 of the interest expropriated, any estate or interest in land, including, without restricting the generality of the foregoing,
- (a) an interest limited as to time or by condition or otherwise; 40
  - (b) an easement, profit or servitude;





- (c) any right to, over or in respect of land that could be conferred by the owner thereof, whether or not such right, if conferred by the owner, could be asserted against a subsequent owner of the land;
- (d) any restriction on the use of land that could be assumed by the owner thereof in favour of any person, whether or not such restriction, if assumed by the owner, could be asserted against a subsequent owner of the land; and 5
- (e) the exclusive possession of land for a limited time or for a definite or indefinite period, subject to such conditions or limitations, if any, as may be specified in the notice. 10

Effect of registration of notice.

- 6.** Upon the registration of a notice of expropriation,
- (a) subject to paragraph (b), the interest set forth therein as expropriated or all of the interests in the land described therein, as the case may be, become and are absolutely vested in the Crown, and 15
- (b) the Crown is entitled to take physical possession or make use of the land to the extent of the interest expropriated at the expiration of ninety days after the registration of the notice or such lesser number of days as may, in the special circumstances of the case, be approved by the Governor in Council either before or after the registration of the notice, and 20 25
- (c) any estate in, encumbrance on or right or claim to the land described in the notice is, as respects the Crown and all persons claiming through or under the Crown, void to the extent that such estate, encumbrance, right or claim conflicts or is inconsistent with the interest expropriated. 30

Abandonment of expropriation.

**7.** (1) Where, at any time before any compensation is paid in respect of any parcel of land included in a notice of expropriation, the Minister is of opinion that any interest expropriated in that parcel of land is not or is no longer required by the Crown for a public work or other public purpose, or that a more limited interest only is so required, the Minister may cause a declaration signed by him to be registered in the office of the registrar in which the notice of expropriation was registered, declaring that the interest is abandoned by the Crown, or that a more limited interest as mentioned in the declaration is retained. 35 40

Effect of abandonment.

(2) Upon a declaration being registered under this section the interest declared to be abandoned, or, if a more limited interest is retained by the Crown, the remainder of the interest not retained, is abandoned and 45





reverts in the person from whom it was taken or in the persons entitled to claim through or under him.

Duties of registrar.

**8.** Every registrar shall receive and permanently preserve in his office such notices of expropriation, plans and declarations as a Minister may cause to be registered under this Part and shall endorse thereon the day, hour and minute when the same were received by him as the time of registration and shall make such entries in his records as will make their registration of public record. 5

Notice conclusive, except against Crown.

- 9.** Unless questioned by the Crown, 10
- (a) a notice of expropriation or declaration purporting to be signed by a Minister shall be conclusively deemed to have been so signed;
  - (b) it shall be conclusively deemed that the interest set forth in a notice of expropriation or all of the interests in the land described therein, as the case may be, are in the opinion of the Minister required by the Crown for a public work or other public purpose; and 15
  - (c) it shall be conclusively deemed that the interest declared in a declaration to be abandoned or the remainder of the interest not retained, as the case may be, is not or is no longer in the opinion of the Minister required for a public work or other public purpose. 20 25

Evidence of notice.

**10.** A document purporting to be certified by the registrar to be a true copy of a notice of expropriation, plan or declaration registered under this Part at the time stated in the certificate is, without proof of the official character or signature of the registrar, evidence of the original and of the registration thereof at the time so stated. 30

#### COMPENSATION.

Compensation.

**11.** Compensation shall be paid by the Crown to each person who immediately before the expropriation was the owner of a proprietary right or proprietary interest in any parcel of land included in a notice of expropriation to the extent of his expropriated interest in that parcel, the amount of which compensation shall not exceed an amount equal to the aggregate of 35

- (a) the value to the owner of the expropriated interest at the time the notice of expropriation was registered, and 40





- (b) the amount of the decrease in value, if any, of the remaining property of the owner, determined as provided in section 13.

Rules for determining compensation.

Market value.

Where owner in occupation.

Where specially designed building erected on land.

**12.** (1) The rules set forth in this section shall be applied in determining the value to the owner of an expropriated interest. 5

(2) Subject to this section, the value to the owner of an expropriated interest is the market value thereof, that is to say, the amount that would have been paid for the interest if at the time of the expropriation it had been sold in the open market by a willing seller to a willing buyer and fully paid for in cash. 10

(3) Where the owner of an expropriated interest was in actual occupation of the land at the time the notice of expropriation was registered and it is necessary for him to give up actual occupation thereof because of the interest expropriated, the value to the owner of the expropriated interest is the greater of 15

(a) the market value thereof determined as set forth in subsection (2), or 20

(b) the aggregate of

(i) the market value thereof at the time of the expropriation, determined on the basis that the use to which it was then being put was its highest and best use, and 25

(ii) the cost, expenses and losses arising out of or incidental to the owner's disturbance including moving to other premises, but if such cannot practically be estimated or determined, the Court may in lieu thereof allow a percentage, not exceeding fifteen, of the market value determined as set forth in subparagraph (i), 30

plus the value to the owner of any element of special economic advantage to him arising out of or incidental to his actual occupation of the land, to the extent that no other provision is made by this paragraph for the inclusion thereof in determining the value to him of the expropriated interest. 35

(4) Where any parcel of land included in a notice of expropriation has any building or other structure erected thereon that is specially designed for use for the purpose of a school, hospital or religious institution or for any similar purpose, the use of which building or other structure for that purpose by the owner is rendered impracticable because of the interest expropriated, the value to the owner 40 45



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of the expropriated interest is, if the expropriated interest was and, but for the expropriation, would have continued to be used for that purpose and at the time of the expropriation there was no general demand or market for such interest for that purpose, the greater of 5

- (a) the market value of the expropriated interest determined as set forth in subsection (2), or
- (b) the aggregate of
  - (i) the cost of any reasonably alternative interest in land for that purpose, and 10
  - (ii) the cost, expenses and losses arising out of or incidental to moving to and re-establishment on other premises, but if such cannot practically be estimated or determined, the Court may in lieu thereof allow a percentage, not exceeding fifteen, 15 of the cost determined under subparagraph (i), minus the amount by which the owner has improved, or may reasonably be expected to improve, his position through re-establishment on other premises.

Additional compensation for immediate possession.

(5) Where the Crown has taken physical possession or made use of any land before the expiration of ninety days from the registration of the notice of expropriation, the person who was in actual occupation at the time the Crown took possession or commenced to make use of the land is entitled to additional compensation in respect of his interest equal to ten per cent of the compensation to which he would otherwise be entitled. 25

Additional factors.

(6) For the purposes of subparagraph (ii) of paragraph (b) of subsection (3) and subparagraph (ii) of paragraph (b) of subsection (4), consideration shall be given to the time and circumstances in which the former owner is allowed to continue in actual occupation of the land after the Crown became entitled to possession thereof, and any assistance given by the Minister to enable the former owner to seek and obtain alternative premises. 35

Decrease in value of remaining property.

**13.** The amount of the decrease in value, if any, of the remaining property of an owner is the value to the owner of all of his interests in land immediately prior to the expropriation, calculated as prescribed in section 12, minus the aggregate of 40

- (a) the value to the owner of the expropriated interest, and



(3) the value to the owner of all his remaining interests in land immediately after the expropriation, before notice as provided in section 14.

14. The fact of an abandonment or reversion under this Act shall be taken into account in connection with all the other circumstances of the case, in determining the amount to be paid to any person claiming compensation for an expropriated interest.

Payment of Compensation

15. (1) Where a notice of expropriation has been

(a) the persons entitled to compensation may commence proceedings for the recovery of the amount thereof in the Court by petition of right or

(b) the Attorney General of Canada may, whether or not proceeding by petition of right, have been commenced, he a notice in the matter in the Court setting forth the particulars of the expropriation in relation to any parcel of land included in the notice of expropriation, the name so far as may be known of each person having or asserting a claim to compensation by reason of the expropriation, the names of the persons that are to be parties to the proceedings, the amount that the Crown has tendered or is tendering in the matter as compensation and such further facts as appear to be material.

(2) A notice filed in the Court under this section shall be deemed to constitute an action or suit involving the persons stated therein to be parties to the proceedings for the determination of the compensation payable or any other matter or issue arising out of the registration of a notice of expropriation.

(3) Each person stated in a notice filed in the Court under this section to be a party to the proceedings shall, within a period of thirty days from the day the notice is served on him or within such further time as the Court or a judge thereof may allow either before or after the expiration of that period, serve on the Attorney General of Canada and file in the Court a statement of claim in the proceedings and the Attorney General of Canada shall, within a period of thirty days from the day on which that statement was served on him, or if more than one such statement was served on him, the first day on which any such statement was served on him, or within such further time as the Court or

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- (b) the value to the owner of all his remaining interests in land immediately after the expropriation, determined as prescribed in section 12.

Abandonment as additional factor.

**14.** The fact of an abandonment or reversion under this Act shall be taken into account, in connection with all the other circumstances of the case, in determining the amount to be paid to any person claiming compensation for an expropriated interest. 5

#### PAYMENT OF COMPENSATION.

Proceedings to fix compensation.

**15.** (1) Where a notice of expropriation has been registered, 10

- (a) the persons entitled to compensation may commence proceedings for the recovery of the amount thereof in the Court by petition of right, or
- (b) the Attorney General of Canada may, whether or not proceedings by petition of right have been commenced, file a notice in the matter in the Court setting forth the particulars of the expropriation in relation to any parcel of land included in the notice of expropriation, the name so far as may be known of each person having or asserting a claim to compensation by reason of the expropriation, the names of the persons that are to be parties to the proceedings, the amount that the Crown has tendered or is tendering in the matter as compensation and such further facts as appear to be material. 25

Notice filed in Court.

(2) A notice filed in the Court under this section shall be deemed to commence an action or suit involving the persons stated therein to be parties to the proceedings, for the determination of the compensation payable or any other matter or issue arising out of the registration of a notice of expropriation. 30

Statement of claim and defence.

(3) Each person stated in a notice filed in the Court under this section to be a party to the proceedings shall, within a period of thirty days from the day the notice is served on him or within such further time as the Court or a judge thereof may allow either before or after the expiration of that period, serve on the Attorney General of Canada and file in the Court a statement of claim in the proceedings, and the Attorney General of Canada shall, within a period of thirty days from the day on which that statement was served on him, or, if more than one such statement was served on him, the latest day on which any such statement was served on him, or within such further time as the Court or 35 40



a person thereof and shall have the right to attend or after the ex-  
piration of that period, upon or each such person and the  
in the Court a statement of damages or answer thereto.

(7) Subject to the foregoing, an action or suit commenced  
as directed in subsection (2) shall be proceeded with in a  
manner consistent with the Rules and Order of Practice and  
Procedure of the Court and as if the proceedings had  
been instituted by a person of legal age.

(8) A judgment, order or decree, default or other-  
wise in any proceedings under this section shall not be  
binding on the parties thereto and of any persons  
claiming through or under them, including any claim in  
respect of interest or of power not yet open or in respect of  
any property, hypothec or other right or encumbrance,  
and the Court shall have the amount of compensation pay-  
able to and due such order for the distribution pay-  
ment or the amount of any compensation money and in  
the absence of the rights of all persons interested as may  
be necessary.

(9) The compensation agreed upon or adjudged to be  
payable to an appointed trustee shall stand in the stead  
of the interest.

1.6 (1) For the purpose of enabling him to carry out  
his duties and obligations under this section and section  
1.5, the trustee by whom a notice of appointment has been  
given or is to be given shall, in accordance with any order  
or direction made by the Governor in Council or the  
Commissioner of the Attorney General of Canada,  
submit the relevant records of Canada to report upon  
the state of the title to the land described or to be de-  
scribed therein and the Attorney General of Canada shall  
advise the trustee and the Attorney General of Canada  
of any changes and investigations and returns to be made  
as appear to him to be necessary or desirable, including the  
listing with a return of the names and addresses  
of the persons appearing to have any right, title or interest  
in the land so far as he has been able to ascertain thereon.

(2) Notwithstanding after the registration of a notice of ap-  
pointment or declaration, the Minister who issued the  
notice of declaration shall give to the persons named in the  
notice of the Attorney General mentioned in subsection  
(1) notice of the registration or appointment by writ-  
ten instrument and where a copy of the instrument is given  
in relation to the possession is not sufficient to permit  
notice to be given by registered mail, he shall cause notice  
of the registration or appointment to be published in a  
third consecutive issue of a newspaper having general  
circulation in the area in which the land is situated.

Proceedings

Interests  
of persons  
interested

Compensation  
payable to  
trustee

Attorney  
General

Notice of ap-  
pointment  
or declaration

a judge thereof may allow either before or after the expiration of that period, serve on each such person and file in the Court a statement of defence or answer thereto.

Procedure.

(4) Subject to this section, an action or suit commenced as described in subsection (2) shall be proceeded with in accordance with the Rules and Orders of Practice and Procedure before the Court and as if the proceedings had been commenced by petition of right. 5

Judgment as bar to further claims.

(5) A judgment, whether by consent, default or otherwise, in any proceedings under this section shall bar all further claims of the parties thereto and of any persons claiming through or under them, including any claim in respect of dower or of dower not yet open or in respect of any mortgage, hypothec or other right or encumbrance, and the Court shall declare the amount of compensation payable and make such order for the distribution, payment or investment of any compensation money and for the securing of the rights of all persons interested, as may be necessary. 10 15

Compensation in the stead of interest.

(6) The compensation agreed upon or adjudged to be payable for an expropriated interest shall stand in the stead of the interest. 20

Advance report on title.

**16.** (1) For the purposes of enabling him to carry out his duties and obligations under this section and section 17, the Minister by whom a notice of expropriation has been or is to be signed shall, in accordance with any order or direction made by the Governor in Council on the recommendation of the Attorney General of Canada, request the Attorney General of Canada to report upon the state of the title to the land described or to be described therein, and the Attorney General of Canada shall, after causing such investigations and searches to be made as appear to him to be necessary or desirable, furnish the Minister with a report setting forth the names and addresses of the persons appearing to have any right, title or interest in the land, so far as he has been able to ascertain them. 25 30 35

Notice to be given to owners of interest.

(2) Forthwith after the registration of a notice of expropriation or declaration, the Minister who signed the notice or declaration shall give to the persons named in the report of the Attorney General mentioned in subsection (1) notice of the expropriation or abandonment by registered mail, and where it appears to the Minister that the information in his possession is not sufficient to permit notice to be given by registered mail, he shall cause notice of the expropriation or abandonment to be published in three consecutive issues of a newspaper having general circulation in the area in which the land is situated. 40 45



4 (3) When it appears to the Minister that any applicant who is referred to him in accordance with section 10 of the Act has failed to comply with the provisions of the Act in relation to the notice of registration or declaration.

10 (4) Within ninety days after the registration of a notice of registration or declaration or to whom thereafter as is prescribed in the Act, the Minister shall send such amount as is considered reasonable to satisfy all claims to compensation arising out of the registration of the notice of registration, unless in the meantime proceedings are commenced under section 18.

15 (5) The Minister may tender an amount in accordance with subsection (4) by sending a copy of the tender by registered mail addressed to each person who is named in the report of the Attorney General mentioned in subsection (1) of section 10 and for the purposes of this Act the date of such tender or of any further tender made by registered mail to any person shall be deemed to be the date upon which the copy thereof was mailed to him.

20 (6) Where the Attorney General of Canada is in doubt as to the person who are entitled to compensation in respect of an expedition or that a person who claims or whose claim is being considered was the owner of an expedition or any part thereof immediately prior to the date of the title to the land described in the notice of registration or any part thereof immediately prior to the registration of the notice of registration, and the person who had an interest in that land at that time, and the nature and extent thereof.

25 (7) An application under this section shall in the first instance be made ex parte and the Court shall fix a date and place for the hearing of the parties concerned and shall give directions as to the procedure to be followed.

30 (8) The persons who are to be served with the notice of the hearing, the contents of the notice and the nature of the claims.

35 (9) The facts and information to be submitted by the Attorney General of Canada or any other person; and

40 (10) such other matters as the Court considers necessary.

45 (11) After the hearing the Court shall either adjudge for the purposes of this Part that the person had interests in the land described in the notice of registration or any part thereof immediately prior to the registration of the notice

Provincial  
lands.

(3) When it appears to the Minister that any expropriated interest in land belonged to Her Majesty in right of a Province, he shall thereupon cause the Attorney General of the Province to be notified of the particulars of registration of the notice of expropriation or declaration. 5

Tender of  
compensation.

**17.** (1) Within ninety days after the registration of a notice of expropriation, or so soon thereafter as is practicable, the Minister shall tender such amount as is considered reasonable to satisfy all claims to compensation arising out of the registration of the notice of expropriation, unless 10  
in the meantime proceedings are commenced under section 18.

Manner of  
making  
tender.

(2) The Minister may tender an amount in accordance with subsection (1) by sending a copy of the tender by registered mail addressed to each person who is named in 15  
the report of the Attorney General mentioned in subsection (1) of section 16, and for the purposes of this Act the date of such tender or of any further tender made by registered mail to any person shall be deemed to be the date upon 20  
which the copy thereof was mailed to him.

Investigation  
of title by  
Court.

**18.** (1) Where the Attorney General of Canada is in doubt as to the persons who are entitled to compensation in respect of an expropriation or that a person who claims or might claim compensation was the owner of an expropriated interest, he may apply to the Court to investigate 25  
the state of the title to the land described in the notice of expropriation or any part thereof immediately prior to the registration of the notice of expropriation, and to adjudge who had an interest in that land at that time, and the nature and extent thereof. 30

Hearing.

(2) An application under this section shall in the first instance be made *ex parte* and the Court shall fix a date and place for the hearing of the persons concerned and shall give directions as to

- (a) the persons who are to be served with the notice 35  
of the hearing, the contents of the notice and the manner of service;
- (b) the material and information to be submitted by the Attorney General of Canada or any other persons; 40  
and
- (c) such other matters as the Court considers necessary.

Adjudica-  
tion.

(3) After the hearing the Court shall either adjudge for the purposes of this Part what persons had interests in the land described in the notice of expropriation or any part 45  
thereof immediately prior to the registration of the notice



of extinguishment and the nature and extent of those interests, or direct or indirect, to be tried for the purpose of enabling the Court to make such an adjustment.

15 16. Where a notice of appropriation has been registered and compensation has been paid in respect thereof to the persons of whose title or claim compensation the Crown had notice at the time of payment, no compensation is payable to any other person, whether the right of such other person is derived from the person to whom compensation has been paid or otherwise, if under the law of the 20 province in which the land is situated the right of interest that first has to the right of compensation of such other person would have been void or unenforceable against the Crown had the Crown, at the time the compensation was paid, been a purchaser of the interest appropriated.

Interest

25 20. (1) Subject to this section, interest is payable on the compensation adjudged payable under this Part from the date when physical possession is taken by or delivered up to the Crown or, in the case of an interest of which physical possession is not to be taken or delivered up, from the date on which the Crown first commenced to use the interest, to the date when judgment is given, and, except as otherwise provided in this section, the rate of interest so payable shall be five per cent per annum.

30 (2) Where no tender is made by the Crown in respect of a parcel of land included in a notice of appropriation, the rate of interest payable shall be ten per cent per annum on the compensation adjudged payable under this Part.

35 (3) Where the total amount tendered by the Crown in respect of a parcel of land included in a notice of appropriation is equal to or greater than the compensation adjudged payable under this Part in respect of that parcel, interest on the compensation adjudged payable under this Part shall not be paid in respect of any period after the date of such tender.

40 (4) Where the compensation adjudged payable under this Part in respect of a parcel of land included in a notice of appropriation exceeds the total amount tendered by the Crown in respect of that parcel, in addition to any interest payable under subsection (2) interest at the rate of five per cent per annum is payable on the amount of the excess from the date of such tender to the date when judgment is

Crown's  
position of  
person  
to whom

Interest

Notice  
of appropriation  
to be taken  
possession

No interest  
to be paid  
where compensation  
is equal to or  
greater than  
the amount  
adjudged payable

Interest  
to be paid  
where compensation  
exceeds the  
total amount  
tendered

Page 10

of expropriation, and the nature and extent of those interests, or direct an issue or issues to be tried for the purpose of enabling the Court to make such an adjudgment.

Crown in position of purchaser for value.

**19.** Where a notice of expropriation has been registered and compensation has been paid in respect thereof to the persons of whose right to claim compensation the Crown had notice at the time of payment, no compensation is payable to any other person, whether the right of such other person is derived from the persons to whom compensation has been paid or otherwise, if under the law of the province in which the land is situated the right or interest that gives rise to the right to compensation of such other person would have been void or unenforceable against the Crown had the Crown, at the time the compensation was paid, been a purchaser of the interest expropriated.

INTEREST.

Interest.

**20.** (1) Subject to this section, interest is payable on the compensation adjudged payable under this Part from the date when physical possession is taken by or delivered up to the Crown or, in the case of an interest of which physical possession is not to be so taken or delivered up, from the date on which the Crown first commenced to use the interest, to the date when judgment is given, and, except as otherwise provided in this section, the rate of interest so payable shall be five per cent per annum.

Double interest where no tender made.

(2) Where no tender is made by the Crown in respect of a parcel of land included in a notice of expropriation, the rate of interest payable shall be ten per cent per annum on the compensation adjudged payable under this Part.

No interest after tender where compensation less than amount tendered.

(3) Where the final amount tendered by the Crown in respect of a parcel of land included in a notice of expropriation is equal to or greater than the compensation adjudged payable under this Part in respect of that parcel, interest on the compensation adjudged payable under this Part shall not be paid in respect of any period after the date of such tender.

Additional interest where tender insufficient.

(4) Where the compensation adjudged payable under this Part in respect of a parcel of land included in a notice of expropriation exceeds the final amount tendered by the Crown in respect of that parcel, in addition to any interest payable under subsection (1) interest at the rate of five per cent per annum is payable on the amount of the excess, from the date of such tender to the date when judgment is given.





No interest  
on advance  
payments of  
compensa-  
tion.

(5) Where payment of any amount as or on account of the compensation adjudged payable under this Part in respect of a parcel of land included in a notice of expropriation is made to any person before the date when judgment is given, no interest is payable on or in respect of that amount in respect of any period after the date of such payment. 5

Delay.

(6) Where the Court is of opinion that the delay in the final determination of the amount of compensation payable is attributable in whole or in part to any person entitled thereto, or that such person has failed to deliver up possession within a reasonable time after demand, the Court may, for the whole or any part of the period for which, or the compensation in respect of which, he would otherwise be entitled to interest, refuse to allow him interest. 10

### POSSESSION.

Warrant for  
possession.

**21.** (1) When the Minister, or a person acting for him, is prevented from entering upon or taking physical possession of any interest expropriated under this Act, a judge of the Court or any judge of a superior court of a province may, on proof of the expropriation thereof and, when required, of the right of the Crown to take physical possession thereof, and after notice to show cause given in such manner and to such persons who shall be parties to the proceedings as the judge prescribes, issue his warrant in accordance with Form A to the appropriate sheriff directing him to put the Minister, or a person authorized to act for him, in physical possession of the interest expropriated. 20 25

Execution of  
warrant.

(2) The sheriff shall forthwith execute a warrant issued to him under this section and shall make return of the warrant to the court to which the judge who issued it belongs, and of the manner in which it was executed. 30

### COSTS.

Costs.

**22.** The costs of and incident to any proceedings under this Part are in the discretion of the Court or, in the case of proceedings before a judge of the Court or a judge of a superior court of a province, in the discretion of the judge, and the Court or the judge may direct that the whole or any part thereof shall be paid by the Crown or by any party to such proceedings. 35

## PART II.

### USE OF LANDS.

Powers of  
Minister.

**23.** A Minister, or any other person with his written consent, may



(a) enter into upon any land and survey and take  
possession of the same, and make such borings or sink  
wells and pits as he deems necessary for any purpose  
relative to a public work;

5 (b) enter upon any land, and deposit thereon soil,  
earth, gravel, trees, bushes, logs, poles, brushwood  
or other material found on any land required for  
a public work, or for the purpose of digging up,  
removing and carrying away earth, stones, gravel,  
10 or other material and cutting down and carrying  
away trees, bushes, logs, poles and brushwood  
therefrom for constructing, maintaining or repairing  
a public work;

(c) locate and use all such temporary roads to and from  
15 (b) and use all such gravel, sand or gravel pits as  
may be needed by him for the convenient passing to  
and from a public work during the construction and  
repair thereof;

(d) enter upon any land for the purpose of making  
20 proper drains to carry off the water from a public  
work or its adjoining lands in respect:

(a) along the course of any river, canal, brook, stream  
or watercourse and divers at right angles thereto  
or perpendicularly, the course of any river, stream,  
25 brook, canal, ditch or way, or into or over  
the level of the same, in order to carry them over  
or under, on the level of, or by the side of a public  
work, as he thinks proper; and

(b) for the purpose of a public work, divert or alter  
30 the position of any watercourse, brook, stream or  
ditch, or any telegraphic telephonic or electric wire  
or pole.

23. Whenever it is necessary in the building, maintain-  
ing or repairing of a public work to take down or remove  
any wall or fence of any nature or number of load-bearing  
35 or supporting walls, or to reconstruct any such wall or fence  
for carrying off water, the wall or fence shall be replaced as  
soon as the necessity that caused its taking down or removal  
has ceased, and when it has been so replaced, or when the  
40 draft or back ditch is reconstructed, the owner or occupier  
of the land shall maintain the walls or fences during or  
after the reconstruction to the same extent he might be lawfully  
to do if the walls or fences had never been so taken down  
or removed, or the draft or back ditch had always  
45 existed.

24. (1) When the Crown has contracted with any  
person for the construction or execution of any public  
work, or work, by direction of the Governor in Council,  
or of a Minister within the scope of his powers, any officer

Revised  
and  
reprinted  
1907  
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Printed  
at  
the  
Government  
Printer

- (a) enter into and upon any land and survey and take levels of the same, and make such borings, or sink such trial pits as he deems necessary for any purpose relative to a public work;
- (b) enter upon any land, and deposit thereon soil, 5 earth, gravel, trees, bushes, logs, poles, brushwood or other material found on any land required for a public work, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material, and cutting down and carrying 10 away trees, bushes, logs, poles and brushwood therefrom for constructing, maintaining or repairing a public work;
- (c) make and use all such temporary roads to and from timber, stones, clay, gravel, sand or gravel pits as 15 are required by him for the convenient passing to and from a public work during the construction and repair thereof;
- (d) enter upon any land for the purpose of making proper drains to carry off the water from a public 20 work, or for keeping such drains in repair;
- (e) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, temporarily or permanently, the course of any rivers, streams, railways, roads, streets or ways, or raise or sink 25 the level of the same, in order to carry them over or under, on the level of, or by the side of a public work, as he thinks proper; and
- (f) for the purposes of a public work, divert or alter the position of any water-pipe, gas-pipe, sewer or 30 drain, or any telegraph, telephone or electric wire or pole.

Removal  
and replace-  
ment of wall,  
fence, etc.

**24.** Whenever it is necessary, in the building, maintain-  
ing or repairing of a public work, to take down or remove  
any wall or fence of any owner or occupier of land adjoining 35  
a public work, or to construct any back ditches or drains  
for carrying off water, the wall or fence shall be replaced as  
soon as the necessity that caused its taking down or removal  
has ceased; and after it has been so replaced, or when the  
drain or back ditch is completed, the owner or occupier 40  
of the land shall maintain the walls or fences, drains or  
back ditches, to the same extent he might be by law required  
to do if the walls or fences had never been so taken down  
or removed, or the drains or back ditches had always  
45  
existed.

Use of  
explosives.

**25.** (1) Where the Crown has contracted with any  
person for the construction or execution of any public  
work, or where, by direction of the Governor in Council,  
or of a Minister within the scope of his powers, any officer,





employee or agent of the Crown is charged with the construction or execution of any public work, the Governor in Council may, if in his opinion it is necessary or expedient that any material is required to be excavated or removed by blasting or the use of explosives, authorize the work to be performed in that manner, notwithstanding that the blasting or explosions may cause damage to land or other property or to the prosecution of any industry or work that is situated in the vicinity of the works or that may be thereby affected. 5 10

Compensation for damages.

(2) If the construction or execution of a public work is contracted for, then, unless the contract otherwise provides, the amount of compensation payable by the Crown is chargeable to the contractor; and, if not paid by him forthwith upon demand, may be recovered from him by the Crown as money paid to the contractor's use, or may be deducted from any money in the hands of the Crown belonging or payable to the contractor. 15

Liability for damages.

**26.** (1) Subject to subsection (2), the Crown is liable to pay compensation to the owner of any land for any actual loss or damage sustained by him by reason of the exercise upon such land of any powers under this Part. 20

*Crown Liability Act.*

(2) Compensation is not payable under this Part in respect of any matter for which the Crown is liable under the *Crown Liability Act*. 25

### PART III.

#### MISCELLANEOUS.

Appointment of trustee, etc. to act for persons under disability.

**27.** (1) The Court may, where a trustee, guardian or other person representing any person under a disability or any other persons including issue unborn is unable or unwilling to act on his or their behalf or where any such person or persons including issue unborn are not so represented, after such notice as the Court may direct, appoint a trustee, guardian or other person *ad litem* to act on his or their behalf for the purposes of this Act. 30

Protection of beneficiaries.

(2) The Court in making any appointment under subsection (1) may give such directions as to the disposal, application or investment of any compensation payable under this Act as it deems necessary to secure the interests of all persons having a claim thereto. 35

Contract, etc. binding.

(3) Any contract, agreement, release or receipt made or given by any person appointed under subsection (1) and any conveyance or other instrument made or given in pursuance of such contract or agreement is binding for all purposes upon the person by whom and any person or persons including issue unborn on behalf of whom such contract, agreement, release or receipt is made or given. 40 45





Repeal.

**28.** (1) The *Expropriation Act*, chapter 106 of the Revised Statutes of Canada, 1952, and paragraph (b) of subsection (1) of section 18, section 46 and section 49 of the *Exchequer Court Act*, are repealed.

Exception.

(2) Notwithstanding subsection (1), the provisions of the *Expropriation Act*, chapter 106 of the Revised Statutes of Canada, 1952, in force immediately before the coming into force of this Act continue to apply in respect of

- (a) any expropriation of land before the coming into force of this Act and any abandonment or reversioning of land expropriated before that time, and
- (b) any expropriation of land pursuant to the *Canadian National Railways Act* and any abandonment or reversioning of land expropriated pursuant to that Act in all respects as though those provisions had continued in force, and the provisions of this Act do not apply in respect of any such expropriation, abandonment or reversioning.

References  
in other Acts.

**29.** Where in any Act in force upon the coming into force of this Act there is a reference to the *Expropriation Act*, except as regards any expropriation, abandonment or reversioning in respect of which the provisions of this Act do not apply

- (a) a reference to section 9 of the *Expropriation Act* shall be construed as a reference to section 4 of this Act;
- (b) a reference to section 34 of the *Expropriation Act* shall be construed as a reference to section 79 of the *Exchequer Court Act*;
- (c) a reference to a plan or description shall be construed as a reference to a notice of expropriation; and
- (d) a reference to an information shall be construed as a reference to a notice under section 15 of this Act.

Coming  
into force.

**30.** This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

35



Form 1

WARRANT

IN THE MATTER OF  
the Administration Act  
AND IN THE MATTER OF

Province of

or

Territory

15-C-1118

TO

THE SHERIFF of the

Whereas the Sheriff of  
the Province of  
has been prevented from entering  
upon or taking physical possession of an interest ex-  
posed under the Act in respect of the land described as

And whereas the land described in the  
Act has been made before me

This is to certify to you in His Majesty's  
name forthwith to the Sheriff of  
or a person authorized to act for him in physical pos-  
session of the said land to the extent of the interest ex-  
posed therein and make return of this Warrant to the  
Court of  
and of the manner in which it was executed.

Given under my hand this  
day of

19

Judge

By the Sheriff

FORM A  
WARRANT.

Province of	}	IN THE MATTER OF
or		the <i>Expropriation Act</i>
Territory		AND IN THE MATTER OF
		.....

TO:

THE SHERIFF of the

WHEREAS the Minister of  
or a person acting for him has been prevented from entering  
upon or taking physical possession of an interest expro-  
priated under the Act in respect of the land described as  
follows:

AND WHEREAS the proof required by section 21 of the  
Act has been made before me;

THIS IS THEREFORE to command you in Her Majesty's  
name forthwith to put the Minister of  
or a person authorized to act for him, in physical pos-  
session of the said land to the extent of the interest expro-  
priated therein and make return of this Warrant to the  
Court of  
and of the manner in which it was executed.

GIVEN under my hand this                      day of                      19 .

.....  
Judge.



**C-51.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-51.**

An Act to amend the Small Loans Act.

---

First reading, October 3, 1962.

---

1962  
Mr. ORLIKOW.

---

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-51.**

An Act to amend the Small Loans Act.

R.S., c. 251;  
1956, c. 46.

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

1956, c. 46.

**1.** Subsection (2) of section 3 of the *Small Loans Act* is repealed and the following substituted therefor: 5

Maximum  
cost.

“(2) The cost of a loan shall not exceed the aggregate of

(a) one per cent per month on any part of the principal balance not exceeding one thousand dollars, and 10

(b) one-half of one per cent per month on any remainder of the unpaid principal balance exceeding one thousand dollars.”

Loans, how  
repayable.

**2.** Subsection (1) of section 6 of the said Act is repealed and the following substituted therefor: 15

“**6.** (1) Every loan shall be repayable in approximately equal instalment of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan.” 20

1956, c. 46.

**3.** (1) Subsections (2) and (3) of section 14 of the said Act are repealed and the following substituted therefor: 25

Maximum  
cost.

“(2) The cost of a loan made by the Company shall not exceed the aggregate of



## EXPLANATORY NOTES.

The main purpose of this Bill is to provide for a reduction of the rate of interest or "cost of loan" allowed by the *Small Loans Act* from two per cent per month to one per cent per month on any part of the unpaid principal balance not exceeding three hundred dollars.

### 1. Subsection (2) of section 3 at present reads as follows:

"(2) The cost of a loan shall not exceed the aggregate of

- (a) *two per cent per month on any part of the unpaid principal balance not exceeding three hundred dollars,*
- (b) *one per cent per month on any part of the unpaid principal balance exceeding three hundred dollars but not exceeding one thousand dollars, and*
- (c) *one-half of one per cent per month on any remainder of the unpaid principal balance exceeding one thousand dollars."*

### 2. Subsection (1) of section 6 at present reads as follows:

"6. (1) Every loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan; *but if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding one per cent per month from such date."*

### 3. (1) Subsections (2) and (3) of section 14 at present read as follows:

"(2) The cost of a loan made by the Company shall not exceed the aggregate of

- (a) *two per cent per month on any part of the unpaid principal balance not exceeding three hundred dollars,*
- (b) *one per cent per month on any part of the unpaid principal balance exceeding three hundred dollars but not exceeding one thousand dollars, and*
- (c) *one-half of one per cent per month on any remainder of the unpaid principal balance exceeding one thousand dollars.*

"(3) *Where a loan of five hundred dollars or less is made for a period greater than twenty months or where a loan exceeding five hundred dollars is made for a period greater than thirty months, the cost of the loan shall not exceed one per cent per month on the unpaid principal balance thereof."*

- (a) one per cent per month on any part of the unpaid principal balance not exceeding one thousand dollars, and
- (b) one-half of one per cent per month on any remainder of the unpaid principal balance exceeding one thousand dollars.” 5

1956, c. 46.

Repayment of loans.

(2) Paragraph (a) of subsection (5) of the said section is repealed and the following substituted therefor:

“(a) The loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan;” 10 15



(2) Paragraph (a) of subsection (5) at present reads as follows:

*"(a) the loan shall be repayable in approximately equal instalments of principal or of principal and cost of the loan at intervals of not more than one month each, and on default in the payment of any instalment, interest shall accrue thereon from the date of default at the rate fixed by the contract as the cost of the loan; but if default in the payment of any instalment continues beyond the date on which the last instalment of the loan falls due, interest shall accrue thereon at a rate not exceeding one per cent per month from such date;"*





**C-52.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-52.**

An Act to amend the Small Loans Act. (Advertising.)

---

First reading, October 3, 1962.

---

Mr. ORLIKOW.

---

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-52.**

An Act to amend the Small Loans Act. (Advertising.)

R.S., c. 251;  
1956, c. 46.

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

1956, c. 46,  
s. 2.

**1.** Section three of the *Small Loans Act* is amended by adding thereto the following subsection:

5

Advertising  
to indicate  
percentum  
per annum.

“(5) Whenever a money-lender advertises himself as carrying on the business of money-lending and in such advertising indicates the monthly or other periodic payments required for the repayment of any loan, he shall also indicate in such advertising what the total cost of any such loan amounts to in terms of percentum per annum.”

1956, c. 46,  
s. 6.

**2.** Subsection (5) of section 14 of the said Act is amended by striking out the word “and” after paragraph (b) thereof, by inserting the word “and” after paragraph (c) thereof and by adding thereto the following paragraph:

Proviso.

“(d) whenever any small loans company advertises itself as carrying on the business of money-lending and in such advertising indicates the monthly or other periodic payments required for the repayment of any loan, it shall also indicate in such advertising what the total cost of any such loan amounts to in terms of percentum per annum.”



THE HOUSE OF COMMONS OF CANADA

BILL C-33

EXPLANATORY NOTE.

The purpose of this Act is to amend the *Small Loans Act*, so as to require any money-lender or small loans company, in any advertising in which the amount required by way of monthly or periodic payments in order to repay a loan is indicated, to state what the cost of such loan amounts to in terms of percentum per annum.

Session 1962-63, February 22, March 11, 1962

THE HOUSE OF COMMONS OF CANADA

BILL C-51

The Canada Food Inspection Act (Bill C-51)

EXPLANATORY NOTE

The purpose of this Bill is to amend the Food Inspection Act so as to require manufacturers of small quantities of any advertising in which the amount required by way of contribution for the promotion of sales is less than 10 per cent of the total cost of the advertising. It also amends the Act to require manufacturers to submit to the Minister of Health a statement of the amount of contribution per manufacturer for a calendar year. It also amends the Act to require manufacturers to submit to the Minister of Health a statement of the amount of contribution per manufacturer for a calendar year.

The Bill also amends the Act to require manufacturers to submit to the Minister of Health a statement of the amount of contribution per manufacturer for a calendar year. It also amends the Act to require manufacturers to submit to the Minister of Health a statement of the amount of contribution per manufacturer for a calendar year.



**C-53.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-53.**

An Act to amend the Interest Act.

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First reading, October 3, 1962.

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Mr. ORLIKOW.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-53.**

An Act to amend the Interest Act.

R.S., c. 156.

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

**1.** Section 2 of the *Interest Act* is repealed and the following substituted therefor: 5

Rate of interest not to exceed twelve per cent per annum.

**“2.** Except as otherwise provided by this or by any other Act of Parliament no person may stipulate, allow or exact on any contract or agreement whatsoever, a rate of interest in excess of twelve per cent per annum, whether it is called interest or is claimed as a discount, 10 deduction from advance, commission, brokerage, chattel mortgage fees, or recording fees, or is claimed as fines, penalties or charges for inquiries, defaults or renewals or otherwise, and whether paid to or charged by the lender or paid to or charged by any other person, and 15 whether fixed and determined by the loan contract itself, or in whole or in part by any other collateral contract or document by which the charges, if any, imposed under the contract or the terms of the repayment of the loan are effectively varied.” 20



EXPLANATORY NOTE.

Section 2 as at present provides that there is no restriction as to the rate of interest except as provided by statute. The amendment limits the rate to twelve per cent.

This section now reads as follows:

"2. Except as otherwise provided by this or by any other Act of the Parliament of Canada, any person may stipulate for, allow and exact, on any contract or agreement whatsoever, any rate of interest or discount that is agreed upon."

Session 1962-63, 11th Parliament, 11th Session, 1962

THE HOUSE OF COMMONS OF CANADA

BILL C-53

An Act to amend the Interest Act.

Enacted by Her Majesty, by and with the advice and consent of the Senate and of the House of Commons in Parliament assembled, as follows:

EXPLANATORY NOTE

Section 2 of the present Act provides that there is no restriction as to the rate of interest except as provided by statute. The amendment limits the rate to twelve per cent.

This section now reads as follows:

2. Except as otherwise provided by statute, no person shall receive or be entitled to receive interest at a rate exceeding twelve per cent.

1. This Act shall be deemed to have come into force on the day on which it receives the royal assent.



**C-54.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-54.**

An Act to amend the Expropriation Act.

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First reading, October 9, 1962.

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Mr. MARTIN (Essex East).

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-54.**

An Act to amend the Expropriation Act.

R.S., c. 106.

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

1. The *Expropriation Act* is amended by inserting therein immediately before section 9 thereof the following section as section 8A: 5

Deposit, etc., not to be effective unless section complied with.

8A. (1) The deposit of a plan and description of lands under section 9 shall not be effective to vest lands or any interest therein in Her Majesty unless before the deposit the provisions of this section have been 10 complied with.

Notice of intention by the Minister.

(2) Where the Minister proposes to take or acquire lands or any interest therein for Her Majesty by the deposit of the plan and description under section 9 he shall before the plan and description are deposited 15 give notice to the owner of the lands and every person having any interest therein which interest is to be taken of his intention so to do or if the whereabouts of the owner or any such person are unknown to the occupant of the lands or if there is no occupant the Minister shall 20 publish a notice of his intention so to do in at least three consecutive issues of a newspaper circulating in the area in which the lands are situated.

Contents and time of notice.

(3) A notice under subsection (2) shall inform the owner and every person having any interest in the 25 lands which interest is to be taken of the Minister's intention to vest the lands or interest in Her Majesty and shall be given at least thirty days prior to the deposit of the plan and description.



EXPLANATORY NOTE.

The purpose of this Bill is to amend the *Expropriation Act* so as to require the Minister, in the name of the Crown, to give notice of intention to all interested parties of the Crown's intention to take or acquire lands or any interest therein.

This procedure would be in accordance with the principles recognized and declared in the *Canadian Bill of Rights*.

Opportunity to make representations.

(4) The Minister shall, if the owner or a person having an interest in the lands which interest is to be taken so requests, give the owner or person an opportunity to make representations that the lands or interest should not be vested in Her Majesty and if thereafter the Minister decides that the lands or interest be vested in Her Majesty the Minister shall inform the owner or person of his reasons for the decision before filing the plan and description. 5

Reason for decision.

When section not to apply.

(5) The provisions of this section shall not apply where the Governor in Council has passed an order in council authorizing the immediate taking of lands or any interest therein on grounds of public urgency and any such order in council shall be tabled in the House of Commons within 14 days after the passing thereof if Parliament is then sitting or within 14 days after commencement of the next Session of Parliament if Parliament is not then sitting. 10 15



**C-55.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-55.**

**An Act to amend the War Measures Act.**

---

First reading, October 9, 1962.

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Mr. MARTIN (Essex East).

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

THE HOUSE OF COMMONS OF CANADA.

**BILL C-55.**

An Act to amend the War Measures Act.

R.S., c. 288;  
1960, c. 44,  
s. 6.

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

1960, c. 44,  
s. 6.

**1.** Subsection (5) of section 6 of the *War Measures Act* is repealed. 5

**2.** The said Act is amended by adding thereto, immediately after section 6 thereof, the following section:

Construction  
of *Canadian  
Bill of Rights*.

“**6A.** (1) Subject to subsections (2), (3), (4), (5), (6), and (7), any act or thing done or authorized or any order or regulation made under the authority of 10 this Act, shall be deemed not to be an abrogation, abridgement, or infringement of any right or freedom recognized by the *Canadian Bill of Rights*.

Protection of  
citizen or  
British  
subject by  
naturaliza-  
tion.

(2) Under this Act, a naturalized Canadian citizen shall not be deprived of his citizenship and a 15 naturalized British subject shall not be deprived of his status as a British subject.

No depor-  
tation  
of Canadian  
citizen.

(3) A Canadian citizen shall not be deported from Canada under this Act.

Condition of  
detention.

(4) A Canadian citizen or British subject shall 20 not be detained under this Act beyond a period of sixty days unless the cause for his detention has been reviewed by an appropriate impartial tribunal which has reported thereon to the Minister or authority authorizing the detention. 25

Order or  
regulation  
to be  
submitted to  
Parliament.

(5) An order or regulation under this Act that confers authority to order the detention of any person shall, forthwith after it is made, be laid before Parliament, or if Parliament is not then sitting, within the first fifteen days next thereafter that Parliament 30 is sitting.



## EXPLANATORY NOTES.

Section 6, subsection 5, of the *War Measures Act* provides:

"(5) Any act or thing done or authorized or any order or regulation made under the authority of this Act, shall be deemed not to be an abrogation, abridgement or infringement of any right or freedom recognized by the *Canadian Bill of Rights*."

The purpose of this bill is to prohibit the Executive of Government, by use of this *ad hoc* revocation of the *Canadian Bill of Rights*, from arbitrarily stripping a naturalized Canadian or a naturalized British subject of his citizenship or British status; from arbitrarily exiling a Canadian, whether natural born or naturalized, by deportation from Canada; or from arbitrarily depriving a Canadian citizen or British subject, whether in either case natural born or naturalized, of his liberty by detaining him beyond a definite period so as to deprive him of the remedy of *habeas corpus* or the right of appeal to an independent tribunal.

*Clause 1* is consequential upon *clause 2*.

*Clause 2* re-enacts section 6(5) but provides that the *Canadian Bill of Rights* shall apply to the *War Measures Act* in respect of action by the Executive of Government to violate the prohibitions above set out. The clause further provides that any regulation authorizing powers of detention must be tabled in Parliament and may be reviewed by Parliament and negatived by the dissent of either House.

portunity  
debate.

(6) Where an order or regulation has been laid before Parliament pursuant to subsection (5), a notice of motion in either House, signed by ten members of that House and made in accordance with the rules of that House within ten days of the day the order or regulation was laid before Parliament, praying that the order or regulation be revoked, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made. 5 10

vocation  
order or  
ulation  
resolu-  
l.

(7) If either House of Parliament resolves pursuant to a motion made under subsection (6) that the order or regulation be revoked, the order or regulation shall cease to have effect, but without prejudice to the previous operation of the order or regulation or anything duly done thereunder." 15



**C-56.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-56.**

An Act to amend the Criminal Code.  
(Provincial Lotteries).

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First reading, October 10, 1962.

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Mr. VALADE.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-56.**

An Act to amend the Criminal Code  
(Provincial Lotteries).

1953-54, c. 51;  
1955, cc. 2, 45;  
1956, c. 48;  
1957-58, c. 28;  
1958, c. 18;  
1959, c. 41;  
1960, c. 37;  
1960-61, cc.  
21, 42, 43, 44.

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

**1.** Subsection (8) of section 179 of the *Criminal Code* is amended by striking out the word "or" at the end of paragraph "(c)" thereof, by adding the word "or" at the end of paragraph "(d)" thereof and by adding thereto the following paragraph

"(e) a lottery organized and operated by a provincial government to provide financial assistance to hospitals or for other welfare purposes under provincial jurisdiction."



Printed in Canada, 1962

THE HOUSE OF COMMONS OF CANADA

BILL C-57

EXPLANATORY NOTE.

The purpose of this Bill is to amend the *Criminal Code* so as to allow provincial governments, so desiring, to provide financial assistance to hospitals or for other welfare purposes under provincial jurisdiction, by means of lotteries provincially organized and operated.

Printed in Canada, 1962

1st Session, 20th Parliament, 11 Elizabeth II, 1962

THE HOUSE OF COMMONS OF CANADA

BILL C-56

An Act to amend the Criminal Code  
and to amend the Criminal Code  
and to amend the Criminal Code

1962-63, c. 56  
1962, c. 56  
1962, c. 56  
1962, c. 56  
1962, c. 56  
1962, c. 56  
1962, c. 56  
1962, c. 56  
1962, c. 56  
1962, c. 56

The purpose of this Bill is to amend the Criminal Code so as to allow provincial governments to provide financial assistance to hospitals or for other welfare purposes under provincial jurisdiction, by means of lotteries privately organized and operated.

1. Section 173 of the Criminal Code is amended by striking out the word "or" at the end of paragraph "a" thereof, by adding the word "or" at the end of paragraph "b" thereof and by adding thereto the following paragraph:

- (c) a lottery organized and operated by a provincial government to provide financial assistance to hospitals or for other welfare purposes under provincial jurisdiction.



**C-57.**

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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**THE HOUSE OF COMMONS OF CANADA.**

**BILL C-57.**

An Act to amend the Criminal Code  
(Capital Punishment).

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First reading, October 11, 1962.

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Mr. Scott.

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ROGER DUHAMEL, F.R.S.C.  
\* QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

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1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

**BILL C-57.**

An Act to amend the Criminal Code  
(Capital Punishment).

1953-54, c. 51;  
1955, cc. 2, 45;  
1956, c. 48;  
1957-58, c. 28;  
1958, c. 18;  
1959, c. 41;  
1960, c. 37;  
1960-61,  
cc. 21, 42, 43,  
44.

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

1960-61, c. 44  
repealed.

**1.** The statute entitled "An Act to amend the Criminal Code (Capital Murder)", chapter 44 of the statutes of 1960-61, is repealed. 5

**2.** Section 75 of the *Criminal Code* is repealed and the following substituted therefor:

Piracy by  
law of  
nations.  
Punishment.

"**75.** (1) Every one commits piracy who does any act that, by the law of nations, is piracy. 10

(2) Every one who commits piracy while in or out of Canada is guilty of an indictable offence and is liable to imprisonment for life."

**3.** Section 206 of the said Act is repealed and the following substituted therefor: 15

Punishment  
for murder.

"**206.** Every one who commits murder is guilty of an indictable offence and shall be sentenced to imprisonment for life."



EXPLANATORY NOTES.

1. The 1960-61 Act to be repealed has the effect of dividing murder into two kinds, capital and non-capital; and of providing death as punishment for capital murder and imprisonment for life in the case of non-capital murder.

The purpose of this Bill is to provide that hereafter a person shall not, except in certain cases of treason, be sentenced in Canada to suffer death for murder but that such person shall hereafter be liable to imprisonment for life.

2. Section 75 at present reads as follows:—

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

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

3. Section 206, prior to the amendment of 1960-61, read as follows:—

"206. Every one who commits murder is guilty of an indictable offence and shall be sentenced to death."





C-58.

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First Session, Twenty-Fifth Parliament, 11 Elizabeth II, 1962.

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THE HOUSE OF COMMONS OF CANADA.

**BILL C-58.**

An Act to amend the Carriage by Air Act.

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First reading, October 11, 1962.

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MINISTER OF TRANSPORT.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1962

1st Session, 25th Parliament, 11 Elizabeth II, 1962.

THE HOUSE OF COMMONS OF CANADA.

BILL C-58.

An Act to amend the Carriage by Air Act.

R.S., c. 45.

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

1. Subsections (1), (2) and (3) of section 2 of the *Carriage by Air Act* are repealed and the following substituted therefor: 5

Convention  
in force.

"2. (1) Subject to this section, the provisions of the Convention set out in the First Schedule, as amended by the Protocol set out in the Third Schedule, in so far as they relate to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, have the force of law in Canada in relation to any carriage by air to which the Convention as so amended applies, irrespective of the nationality of the aircraft performing such carriage. 10 15

Proclama-  
tion as  
evidence.

(2) The Governor in Council may from time to time by proclamation published in the *Canada Gazette* certify who are the High Contracting Parties to the Convention, in respect of what territories they are respectively parties, to what extent they have availed themselves of the Additional Protocol to the Convention and who are the parties to the Protocol set out in the Third Schedule, and any such proclamation is, except in so far as it has been superseded by a subsequent proclamation, conclusive evidence of the matters so certified." 20 25



## EXPLANATORY NOTES.

The Warsaw Convention of 1929 makes provision for the uniformity of documents of air carriage and establishes an absolute liability on the carrier while at the same time limiting that liability in the event of an accident resulting in loss of life or injury to passengers or loss of or damage to property of passengers or shippers. Some forty-six countries including Canada are parties to the Convention, which governs most international air transport.

The Protocol to the Convention, which was signed at The Hague on September 28th, 1955 and which appears in the Schedule to this Bill, makes provision for an increase in the limit of liability for loss of life or injury to a passenger from approximately \$8,300 to approximately \$16,600, and for the removal of certain unsatisfactory requirements with respect to carriage documents. The purpose of this Bill is to enable effect to be given, in so far as Canada is concerned, to the provisions of the Protocol upon its ratification on behalf of Canada and its coming into force.

*Clause 1.* Subsections (1), (2) and (3) at present read as follows:

"2. (1) As from such day as the Governor in Council may, by proclamation published in the *Canada Gazette*, certify to be the day on which the Convention comes into force as regards Canada, the provisions thereof as set out in the First Schedule shall, so far as they relate to the rights and liabilities of carriers, passengers, consignors, consignees and other persons and subject to the provisions of this section, have the force of law in Canada in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

(2) The Governor in Council may from time to time by proclamation published in the *Canada Gazette* certify who are the High Contracting Parties to the Convention, in respect of what territories they are respectively parties and to what extent they have availed themselves of the provisions of the Additional Protocol to the Convention, and any such proclamation shall, except in so far as it has been superseded by a subsequent proclamation, be conclusive evidence of the matters so certified.

(3) Any reference in the First Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to the territories subject to his sovereignty, suzerainty, mandate or authority, in respect of which he is a party."

2. The said Act is further amended by adding thereto the following section:

References to First Schedule.

“6. In this Act except subsections (1) and (2) of section 2, a reference to the First Schedule or to any article or provision thereof shall be read as though for the provisions of the Convention set out in the First Schedule there were substituted the provisions of the Convention as amended by the Protocol set out in the Third Schedule.” 5

3. The said Act is further amended by adding thereto the Schedule set out in the Schedule to this Act. 10

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.





## SCHEDULE

## "Third Schedule

## PROTOCOL

to Amend the Convention for the Unification of Certain Rules  
Relating to International Carriage by Air  
Signed at Warsaw on 12 October 1929

THE HAGUE  
28 September 1955

## THE GOVERNMENTS UNDERSIGNED

CONSIDERING that it is desirable to amend the Convention for the  
Unification of Certain Rules Relating to International Carriage by  
Air signed at Warsaw on 12 October 1929,

HAVE AGREED as follows:

## CHAPTER I.

## AMENDMENTS TO THE CONVENTION

## ARTICLE I.

IN ARTICLE 1 of the Convention—

(a) paragraph 2 shall be deleted and replaced by the following:—

"2. For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention."

(b) paragraph 3 shall be deleted and replaced by the following:—

"3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State."





## ARTICLE II.

IN ARTICLE 2 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

“2. This Convention shall not apply to carriage of mail and postal packages.”

## ARTICLE III.

IN ARTICLE 3 of the Convention—

(a) paragraph 1 shall be deleted and replaced by the following:—

“1. In respect of the carriage of passengers a ticket shall be delivered containing:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- (c) a notice to the effect that, if the passenger's journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.”

(b) paragraph 2 shall be deleted and replaced by the following:—

“2. The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph 1 (c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.”

## ARTICLE IV.

IN ARTICLE 4 of the Convention —

(a) paragraphs 1, 2 and 3 shall be deleted and replaced by the following:—

“1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph 1, shall contain:

- (a) an indication of the places of departure and destination;



(3) If the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(4) a notice to the effect that, if the carriage involves an alteration of destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage."

(5) paragraph 4 shall be deleted and replaced by the following:—

"3. The baggage check shall constitute prima facie evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the evidence or the validity of the contract of carriage which shall, none the less, be subject to the rules of the Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless contained with or incorporated in the passenger ticket which complies with the provisions of Article 2, paragraph 1 (c)) does not include the notice required by paragraph 1 (c) of this Article, he shall not be entitled to avail himself of the provisions of Article 2, paragraph 3."

Article V

In Article 2 of the Convention—

paragraph 3 shall be deleted and replaced by the following:—

"3. The carrier shall sign prior to the loading of the cargo on board the aircraft."

Article VI

Article 2 of the Convention shall be deleted and replaced by the following:—

"The air waybill shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the recipient to the effect that, if the carriage involves an alteration of destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo."

- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
  - (c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.”
- (b) paragraph 4 shall be deleted and replaced by the following:—
- “2. The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph 1 (c)) does not include the notice required by paragraph 1 (c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

#### ARTICLE V.

IN ARTICLE 6 of the Convention—

paragraph 3 shall be deleted and replaced by the following:—

“3. The carrier shall sign prior to the loading of the cargo on board the aircraft.”

#### ARTICLE VI.

ARTICLE 8 of the Convention shall be deleted and replaced by the following:—

“The air waybill shall contain:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- (c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo.”



## Article VII

Article 9 of the Convention shall be deleted and replaced by the following:

"11. With the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph 2."

## Article VIII

In Article 10 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

"2. The consignee shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incompletion or non-compliance of the particulars and statements furnished by the consignee."

## Article IX

To Article 15 of the Convention—

the following paragraph shall be added:—

"3. Nothing in this Convention prevents the issue of a negotiable air waybill."

## Article X

Paragraph 2 of Article 20 of the Convention shall be deleted.

## Article XI

Article 23 of the Convention shall be deleted and replaced by the following:—

## "Article 23"

1. In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. Where, in accordance with the law of the court seized of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed two hundred and fifty thousand francs. Restricted by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. (a) In the carriage of restricted baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty thousand francs per kilogram, unless the passenger or consignee has

## ARTICLE VII.

ARTICLE 9 of the Convention shall be deleted and replaced by the following:—

“If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

## ARTICLE VIII.

IN ARTICLE 10 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

“2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.”

## ARTICLE IX.

TO ARTICLE 15 of the Convention—

the following paragraph shall be added:—

“3. Nothing in this Convention prevents the issue of a negotiable air waybill.”

## ARTICLE X.

Paragraph 2 of Article 20 of the Convention shall be deleted.

## ARTICLE XI.

ARTICLE 22 of the Convention shall be deleted and replaced by the following:—

## “Article 22

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed two hundred and fifty thousand francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogramme, unless the passenger or consignor has



made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination, and has paid a supplementary sum, if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

It is the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same package check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

As regards objects of which the passenger takes charge himself, the liability of the carrier is limited to five hundred francs per passenger.

The limits prescribed in this article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

The sums mentioned in terms in this Article shall be deemed to refer to a currency unit consisting of ten francs and a half milligrammes of gold of millimetric fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.

ARTICLE XII

In Article 23 of the Convention, the existing provision shall be reworded as paragraph 1 and another paragraph shall be added as follows:

"Paragraph 1 of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or

made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

- (b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to five thousand francs per passenger.

4. The limits prescribed in this article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment."

## ARTICLE XII.

IN ARTICLE 23 of the Convention, the existing provision shall be renumbered as paragraph 1 and another paragraph shall be added as follows:—

"2. Paragraph 1 of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried."



## ARTICLE XIII

In Article 25 of the Convention—

paragraphs 1 and 2 shall be deleted and replaced by the following:—

"The limits of liability specified in Article 23 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, who failed to exercise due diligence or to take such precautions as a prudent carrier would take, or if it is also proved that he was acting within the scope of his employment."

## ARTICLE XIV

Article 23 of the Convention, the following article shall

be inserted:—

## "Article 23 A

1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 23.

2. The aggregate of the amounts recoverable from the carrier, his servants and agents in that case shall not exceed the said limits.

3. The provisions of paragraphs 1 and 2 of this article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result."

## ARTICLE XV

In Article 26 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

"2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage and, at the latest, within seven days from the date of receipt in the case of cargo, packages and persons, and within two days from the date of receipt in the case of delay. The complaint must be made at the latest within twenty-one days from the date on which the package or cargo have been placed at his disposal."

## ARTICLE XVI

Article 24 of the Convention shall be deleted and replaced by

the following:—

"The provisions of Articles 2 to 5 inclusive relating to documents of title shall not apply in the case of carriage performed in express or time charter parties, or in the case of carriage of goods by air, unless otherwise provided in the contract of carriage."

## ARTICLE XIII.

IN ARTICLE 25 of the Convention—

paragraphs 1 and 2 shall be deleted and replaced by the following:—

“The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.”

## ARTICLE XIV.

AFTER ARTICLE 25 of the Convention, the following article shall be inserted:—

## “Article 25 A

1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.

2. The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

3. The provisions of paragraphs 1 and 2 of this article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.”

## ARTICLE XV.

IN ARTICLE 26 of the Convention—

paragraph 2 shall be deleted and replaced by the following:—

“2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.”

## ARTICLE XVI.

ARTICLE 34 of the Convention shall be deleted and replaced by the following:—

“The provisions of Articles 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.”



Article XVII

Article XVIII of the Convention, the following Article shall be inserted:

Article XVIII

1. In Article VII, paragraph 2 and Article 40, paragraph 1, the words "any State" shall mean "any State which has acceded to the Convention". Any State which accedes to the Convention after the Convention has become effective and whose accession has not become effective shall be deemed to have acceded to the Convention on the date of its accession.

2. For the purposes of the Convention the word "territory" means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

CHAPTER II

SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

Article XVIII

The Convention as amended by this Protocol shall apply to international territory as defined in Article I of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

CHAPTER III

FINAL CLAUSES

Article XIX

The text of the Convention and the text of this Protocol shall be deposited with the Secretary-General of the United Nations and shall be available to all States. The Convention as amended by this Protocol shall be known as the Warsaw Convention as amended in 1955.

Article XX

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, paragraph 1, it shall remain open for signature on behalf of any State which up to that date has notified its intention to the Convention or which has participated in the Convention at which this Protocol was adopted.

## ARTICLE XVII.

AFTER ARTICLE 40 of the Convention, the following Article shall be inserted:—

## “Article 40 A

1. In Article 37, paragraph 2 and Article 40, paragraph 1, the expression *High Contracting Party* shall mean *State*. In all other cases, the expression *High Contracting Party* shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.

2. For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.”

## CHAPTER II

SCOPE OF APPLICATION OF THE  
CONVENTION AS AMENDED

## ARTICLE XVIII.

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

## CHAPTER III

## FINAL CLAUSES

## ARTICLE XIX.

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955*.

## ARTICLE XX.

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, paragraph 1, it shall remain open for signature on behalf of any State which up to that date has ratified or adhered to the Convention or which has participated in the Conference at which this Protocol was adopted.



Article XXI

- 1. This Protocol shall be subject to ratification by the signatory States.
- 2. Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as provided by this Protocol.
- 3. The original text of ratification shall be deposited with the Government of the People's Republic of Poland.

Article XXII

- 1. It is agreed that any signatory State may deposit its instrument of ratification of this Protocol if such State has not deposited its instrument of ratification of the Convention, provided that such State ratifies this Protocol in the instrument or in a separate instrument.
- 2. As soon as this Protocol enters into force it shall be registered with the United Nations by the Government of the People's Republic of Poland.

Article XXIII

- 1. This Protocol shall, when it has come into force, be open for signature to any non-signatory State.
- 2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as provided by this Protocol.
- 3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People's Republic of Poland and shall take effect on the date of such deposit.

Article XXIV

- 1. Any State to this Protocol may designate the People's Republic of Poland as the authority to the Government of the People's Republic of Poland.
- 2. Designation shall take effect on the date of receipt by the Government of the People's Republic of Poland of the notification of designation.
- 3. As between the Parties to this Protocol designation by any State of the Convention in accordance with Article 22 thereof shall not be construed in any way as a designation of the Convention as a whole by this Protocol.

## ARTICLE XXI.

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. The instruments of ratification shall be deposited with the Government of the People's Republic of Poland.

## ARTICLE XXII.

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the People's Republic of Poland.

## ARTICLE XXIII.

1. This Protocol shall, after it has come into force, be open for adherence by any non-signatory State.

2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People's Republic of Poland and shall take effect on the ninetieth day after the deposit.

## ARTICLE XXIV.

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the People's Republic of Poland.

2. Denunciation shall take effect six months after the date of receipt by the Government of the People's Republic of Poland of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.



Article XXV

1. This Protocol shall apply to all territories for the foreign relations of which a State is, or this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article.
2. Any State may, at the time of deposit of its instrument of ratification or accession, declare that its acceptance of this Protocol does not apply to any one or more of the territories for the foreign relations of which such State is responsible.
3. Any State may, subsequently, by notification to the Government of the People's Republic of Poland, extend the application of this Protocol to any or all of the territories referred to in Article 1, paragraph 1, of this Protocol, or to any other territory which may hereafter be added to the list of territories to which the Protocol applies.
4. Any State which in this Protocol may determine it, in accordance with the provisions of Article XXII, paragraph 1, especially for any one or all of the territories for the foreign relations of which such State is responsible.

Article XXVI

The words "and may be made to this Protocol" which appear in Article XXII, paragraph 1, of this Protocol shall be understood to mean that a State may, at any time, declare to the Government of the People's Republic of Poland that the Convention is amended by the addition of any territory which may hereafter be added to the list of territories to which the Protocol applies, or that it reserves the right to determine, in accordance with the provisions of Article XXII, paragraph 1, of this Protocol, the territories to which the Protocol shall apply.

Article XXVII

The Government of the People's Republic of Poland shall give immediate notice to the Government of all States signatories to the Convention or this Protocol, and to the Government of the United States of America, and to the Government of the United Kingdom, of the date on which this Protocol enters into force in respect of any territory.

- (a) of any signature of this Protocol and the date thereof;
- (b) of the deposit of any instrument of ratification or accession in respect of this Protocol and the date thereof;
- (c) of the date on which the Protocol enters into force in respect of any territory; and
- (d) of the receipt of any notification of denunciation and the date thereof.

## ARTICLE XXV.

1. This Protocol shall apply to all territories for the foreign relations of which a State Party to this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article.

2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Protocol does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

3. Any State may subsequently, by notification to the Government of the People's Republic of Poland, extend the application of this Protocol to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article. The notification shall take effect on the ninetieth day after its receipt by that Government.

4. Any State Party to this Protocol may denounce it, in accordance with the provisions of Article XXIV, paragraph 1, separately for any or all of the territories for the foreign relations of which such State is responsible.

## ARTICLE XXVI.

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People's Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

## ARTICLE XXVII.

The Government of the People's Republic of Poland shall give immediate notice to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations and to the International Civil Aviation Organization:

- (a) of any signature of this Protocol and the date thereof;
- (b) of the deposit of any instrument of ratification or adherence in respect of this Protocol and the date thereof;
- (c) of the date on which this Protocol comes into force in accordance with Article XXII, paragraph 1;
- (d) of the receipt of any notification of denunciation and the date thereof;



- (b) of the receipt of any declaration or notification made under Article XXV and the date thereof;
- (c) of the receipt of any notification made under Article XXVI and the date thereof.

If, however, within the undersigned plenipotentiaries having been duly authorized, have signed this Protocol.

Done at The Hague on the twenty-eighth day of the month of September of the year One Thousand Nine Hundred and Fifty-five in three authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People's Republic of Poland with which it remains with Article XX. It shall remain open for signature, and that Government shall send a copy of the text of the Convention to the Government of all States mentioned in the Convention or this Protocol, all States Parties to the Convention, the Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations and to the International Civil Aviation Organization.

There follow the signatures on behalf of the following countries:  
 Belgium, Brazil, Republic of Czechoslovakia, Egypt, France, Federal Republic of Germany, Greece, Hungary, India, Republic of Ireland, Italy, Japan, Luxembourg, Netherlands, Norway, Sweden, Switzerland, United Kingdom, United States of America, and Yugoslavia.

- (e) of the receipt of any declaration or notification made under Article XXV and the date thereof; and
- (f) of the receipt of any notification made under Article XXVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at The Hague on the twenty-eighth day of the month of September of the year One Thousand Nine Hundred and Fifty-five, in three authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People's Republic of Poland with which, in accordance with Article XX, it shall remain open for signature, and that Government shall send certified copies thereof to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations, and to the International Civil Aviation Organization."

(Here follow the signatures on behalf of the following countries:

Belgium, Brazil, Republic of Czechoslovakia, Egypt, France, Federal Republic of Germany, Greece, Hungarian People's Republic, Ireland, Israel, Italy, Laos, Liechtenstein, Luxembourg, Mexico, Norway, Netherlands, Philippines, Polish People's Republic, Portugal, Roumanian People's Republic, Salvador, Sweden, Switzerland, Union of Soviet Socialist Republics and Venezuela.)

*G. I.*

















