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CHAPTER 111.

An Act respecting Discipline on board of Canadian Government Vessels.

SHORT TITLE.

1. This Act may be cited as the Government Vessels Discipline Act. R.S., c. 71, s. 1.

INTERPRETATION.

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

(a) 'commissioner' or 'police commissioner' means any commissioner of police appointed under the Dominion Police Act;
(b) 'police constable' means any police constable appointed under the said Act;
(c) 'master,' excepting when used in connection with duties or requirements connected with the ship's book, includes any person, for the time being, lawfully in command or in charge of any government vessel, as the officer thereof highest in rank then on board. R.S., c. 71, ss. 3, 8 and 10.

APPLICATION.

3. Every vessel employed by the Government of Canada, either temporarily or permanently, shall be deemed to belong, while so employed, to the Government of Canada for the purposes of this Act. R.S., c. 71, s. 2.

SHIP'S BOOK.

4. The master of every vessel belonging to the Government of Canada shall cause every person engaged for service in such vessel, after having had this Act read to him, and before he enters upon the discharge of any duty on board of such vessel, to sign his name in the proper column of a book to be kept by the master for that purpose. R.S., c. 71, s. 4.

5. Such book shall contain a statement of the name of the vessel, the name of the master, and the year for which it is the ship's book. 1871

R.S., 1906.
ship's book of such vessel, and also statements to the effect
that,—

(a) this Act was read to each person who has signed his
name in the proper column, before he signed his name
thereeto;

(b) each person who has so signed has thereby consented to
submit himself to the provisions of this Act, and to conduct
himself in an orderly, faithful, honest and sober manner,
and to be at all times diligent in the discharge of his duty,
and to be obedient to the lawful commands of the master
of the said vessel for the time being and of others, his
superior officers, whether on board, in boats, or on shore,
in everything relating to the said vessel, and the stores
thereof, and to this Act;

(c) any embezzlement, or wilful or negligent destruction or
loss of or injury to any part of the stores of the said vessel
shall be made good out of the wages of the person guilty
of the same; and,

(d) if such person has entered himself as qualified for a
duty which he proves incompetent to perform, he may be
discharged or his wages may be reduced at the discretion
of the master. R.S., c. 71, s. 5.

6. Such book shall contain separate columns properly headed,
intended to contain respectively,—

(a) the names of the persons engaged, including officers;

(b) the dates when engaged;

(c) the capacity in which each person is to serve, with the
relative rank of the officers indicated by numbers;

(d) the period during which each person is to serve;

(e) the rate of wages at which each person is to be paid;

(f) the names of the witnesses to each signature; and,

(g) the dates of signatures. R.S., c. 71, s. 6.

7. The ship's book of every vessel belonging to the Govern-
ment of Canada shall be conclusive evidence of the relative rank
of every officer therein named.

2. The signature of any such officer as being in command or
in charge of the vessel, and the fact that any such officer was
at any particular time in command or in charge thereof, shall
not be called in question except by the Crown. R.S., c. 71,
s. 3.

8. The contents of the said book shall be read by the master
or other officer of such vessel to each man about to ship on board
thereof, and every person so signing any such book shall thence-
forth be subject to this Act for and during the period of his
engagement as therein mentioned. R.S., c. 71, s. 7.

R.S., 1906.
9. Whenever any person subject to this Act commits any of the following offences, he shall be liable on conviction before a commissioner, or before any justice of the peace,—

(a) for desertion, to imprisonment for any term not exceeding four weeks with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned:

(b) for neglecting or refusing, without reasonable cause, to join his vessel, or to proceed on any voyage or cruise in his vessel, or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, or for absence at any time, without leave and without sufficient reason, from his vessel, or from his duty, not amounting to desertion, to imprisonment for any term not exceeding four weeks with or without hard labour, and also at the discretion of the commissioner, or justice, to forfeit out of his wages a sum not exceeding the amount of ten days' pay;

(c) for quitting the vessel without leave after her arrival in port at the close of the season of navigation, and before she is placed in security, to forfeit out of his wages a sum not exceeding ten days' pay;

(d) for wilful disobedience to any lawful command, to imprisonment for any term not exceeding four weeks, with or without hard labour, and also, at the discretion of the commissioner or justice, to forfeit out of his wages a sum not exceeding two days' pay;

(e) for continued wilful disobedience to lawful commands, or continued wilful neglect of duty, to imprisonment for any term not exceeding four weeks, with or without hard labour, and also, at the discretion of the commissioner or justice, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, a sum not exceeding two days' pay;

(f) for assaulting any master or officer of any Canadian Government vessel, to imprisonment for any term not exceeding four weeks, with or without hard labour;

(g) for combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the vessel, or the progress of the voyage, or the continuance of the cruise, to imprisonment for any term not exceeding four weeks, with or without hard labour;

(h) for wilfully damaging the vessel, or embezzling or wilfully damaging any of her stores, to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the commissioner or justice.
10. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the log-book, and shall be signed by the master and also by one of the officers or one of the crew.

2. The offender, if still in the vessel, shall before the next subsequent arrival of the vessel at any port, or, if she is at the time in port, before her departure therefrom, be furnished with a copy of such entry, and have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit.

3. A statement that a copy of the said entry has been so furnished, and that the same has been so read over as aforesaid, and the reply, if any, made by the offender, shall likewise be entered and signed in manner aforesaid.

4. In any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced and proved, and, in default of such production and proof, the commissioner or justice hearing the case may, in his discretion, refuse to receive evidence of the offence. R.S., c. 71, s. 9.

11. Whenever, either at the commencement or during the progress of any voyage or cruise, any person subject to this Act neglects or refuses to join, or deserts from, or refuses to proceed on any voyage or cruise in any vessel belonging to the Government of Canada in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any officer of such vessel may, in any place in Canada, with or without the assistance of the police constables, apprehend him without first procuring a warrant, and may in any case, and shall, when such person so requires, if practicable, convey him before a commissioner or before some justice of the peace, to be dealt with according to law.

2. The master or other officer may, if such person does not require himself to be conveyed before a commissioner or justice, or if he does so require, and such course is impracticable by reason of there being no commissioner or justice at or near the place where such person is apprehended, at once convey such person on board such vessel; or the master or other officer may, for the purpose of conveying such person before such commissioner or justice, detain him in custody for a period not exceeding twenty-four hours.

3. Every police constable shall, when requested so to do, assist any master or officer of a vessel belonging to the Government in apprehending any person offending against the provisions of this Act.

4. If any such apprehension appears to the commissioner or justice before whom the case is brought to have been made on improper
improper or insufficient grounds, the master or officer who makes the same or causes the same to be made, shall incur a penalty not exceeding one hundred dollars; but such penalty, if inflicted shall be a bar to any action for false imprisonment in respect of such apprehension. R.S., c. 71, s. 10.

12. Whenever a person subject to this Act is brought before any commissioner, or justice of the peace, on the ground of having neglected or refused to join or proceed on any voyage or cruise in any vessel belonging to the Government of Canada, in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such commissioner or justice may, if the master or any officer thereof so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage or cruise, or deliver him to the master or any officer of the vessel, to be by him so conveyed.

2. The commissioner or justice may in such case order any costs and expenses properly incurred by or on behalf of the master, by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn. R.S., c. 71, s. 11.

13. If any person subject to this Act is imprisoned on the ground of his having neglected or refused to join or to proceed in any voyage or cruise in any vessel belonging to the Government of Canada in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and, if during such imprisonment, and before his engagement is at an end, his services are required on board his vessel, any justice of the peace may, at the request of the master or of any officer thereof, cause such person to be conveyed on board his said vessel for the purpose of proceeding on the voyage or cruise, or to be delivered to the master or any officer of the same, to be by him so conveyed, notwithstanding that the term for which he was sentenced to imprisonment has not expired. R.S., c. 71, s. 12.

14. Whenever a question arises, whether the wages of any person subject to this Act are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that—

(a) such person was duly engaged in, or that he belonged to the vessel from which he is alleged to have deserted;

(b) he quitted such vessel before the completion of the period of his engagement; and,

(c) an entry of the desertion has been duly made in the log-book.

R.S., 1906.
Desertion presumed unless certificate of discharge.

Chap. 111. Government Vessels Discipline.

2. The desertion shall thereupon, as far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the person can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the commissioner or justice of the peace hearing the case that he had sufficient reason for leaving his vessel. R.S., c. 71, s. 13.

15. Any justice of the peace for the county or district in which is situated the port where the vessel, on board of which any offence against the provisions of this Act has been committed, touches next after the time of the commission of the offence shall have jurisdiction over any such offence.

2. Any sentence of imprisonment under this Act may be carried out in the common gaol of such county or district. R.S., c. 71, s. 14.

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R.S., 1906.
CHAPTER 112.

An Act respecting the Government Harbours, Piers and Breakwaters.

SHORT TITLE.

1. This Act may be cited as the Government Harbours and Piers Act.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, 'Minister' means the Minister of Marine and Fisheries.

APPLICATION.

3. Nothing in this Act shall apply to the harbour of Toronto, Quebec, Montreal, Halifax, Pictou, or St. John, New Brunswick, or any harbour under the management of commissioners appointed under any Act of the Parliament of Canada. R.S., c. 84, s. 8.

WORKS UNDER THE CONTROL OF THE MINISTER.

4. Excepting such wharfs, piers and breakwaters as are on or connected with canals, the use, maintenance and ordinary repairs of all harbours, wharfs, piers and breakwaters constructed or completed at the expense of Canada, or in any way the property of Canada, and the making and enforcing of regulations concerning such use, maintenance and ordinary repairs, and the collection of tolls and dues for such use, shall be under the control and management of the Minister. R.S., c. 84, s. 1.

5. Such construction and repairs and the works connected therewith, other than maintenance and ordinary repairs, shall be under the control and direction of the Minister of Public Works. R.S., c. 84, s. 1.

POWERS OF THE GOVERNOR IN COUNCIL.

6. The Governor in Council may appoint or direct such officers or persons as he thinks proper, who shall have, under the 1877 Act, power to act for the Minister of Public Works.
Chap. 112. Government Harbours and Piers.

the direction of the Minister, the charge of the works by this Act placed under the management and control of the Minister, and who shall collect the tolls and dues to be paid in respect thereof.

2. The Governor in Council may determine the remuneration to be allowed them respectively for such services, and such remuneration shall be retained from the tolls and dues collected. 61 V., c. 42, s. 1.

7. The Governor in Council may, on the recommendation of the Minister, make rules and regulations for the use and management of such harbours, wharfs, piers and breakwaters, and a tariff or tariffs of the tolls and dues to be paid for the use of the same, and levied on persons or vessels using them, and on goods, wares or merchandise landed or shipped on or from off them; and may, by such rules and regulations, impose penalties not exceeding two hundred dollars, and punishment by imprisonment not exceeding sixty days, for any violation thereof. R.S., c. 84, s. 3.

8. Such tolls, dues and penalties shall be a lien on the goods and on the vessels with their tackle in respect of which they are payable or incurred; and the officer or person appointed to collect the same may detain such vessel or goods until they are paid. R.S., c. 84, s. 3.

9. No vessel leaving any port at which any such tolls or dues are payable shall receive a clearance at the Custom-house thereat, unless the master produces to the collector or proper officer of the Customs a certificate that the tolls or dues on such vessel have been paid, or that none are payable thereon. R.S., c. 84, s. 3.

10. No such regulations shall be in force until they are published in the Canada Gazette. R.S., c. 84, s. 3.

11. If any tolls or dues imposed and payable on any goods under this Act by any regulation made thereunder, remain unpaid during four weeks after they are due, the officer or person to whom they are payable may apply to any justice of the peace for an order to levy the same.

2. Such application shall be accompanied by the oath or solemn affirmation of the applicant, made before such justice, that such tolls or dues, stating the amount thereof, are due on such goods, describing them sufficiently to identify them, and have remained unpaid during twenty-eight days or more, as the case may be.

3. Upon receiving such application accompanied by the prescribed oath or affirmation, the justice shall issue his warrant.

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rant to some constable commanding him to sell such goods or so much thereof as is sufficient to pay the sum due, with reasonable costs, not exceeding five dollars, which such constable shall accordingly do, and shall pay over the amount made, less the costs, to the officer or person authorized to collect such tolls or dues. R.S., c. 84, s. 4.

12. All tolls and dues payable under this Act or under any rule or regulation made thereunder shall constitute a debt due and payable to His Majesty jointly and severally,—

(a) by the owner of the goods, wares or merchandise in respect of which such dues or tolls are payable, and the consignee or person to whom such goods, wares or merchandise are delivered or who is in charge of them; or,

(b) in the case of a vessel, by the owner, master and agent of such vessel.

2. In the case of a person using a harbour, wharf, pier or breakwater, such tolls and dues shall be payable by such person.

3. Such debt may, at any time, be recovered with full costs How recover- erable. 
c. 52, s. 1.

13. After deducting the remuneration to officers and persons hereinbefore mentioned, the remainder, if any, of all tolls and dues received under this Act shall be paid over by the person receiving them to the Minister of Finance at such times and in such manner as the Governor in Council directs; and an account thereof shall be rendered to the Minister at such times and in such manner as the Minister directs. 61 V., c. 42, s. 2.

14. An account of all such moneys and of all expenditure incurred in the collection thereof, or otherwise under this Act, shall be laid before Parliament at the session next after the close of the fiscal year in which such moneys have been received and such expenditure has been incurred. 61 V., c. 42, s. 2.

RECOVERY AND DISPOSAL OF PENALTIES.

15. All pecuniary penalties imposed under this Act, may be recovered with costs by summary conviction, under Part XV. of the Criminal Code, and shall belong to His Majesty for the public uses of Canada. R.S., c. 84, s. 6.

16. If, at any time, the average annual receipts from any wharf, for the three years previous have not exceeded one hundred dollars, the Minister may lease such wharf to the municipality. 1879

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municipality within which it is situated for a term not exceeding three years, for an annual sum, payable in advance, of not less than such average annual receipts, and on such other terms or conditions as to him seem advisable. 61 V., c. 43, s. 1.

17. Nothing in this Act shall be construed to impair, affect, or avoid,—

(a) any of the powers or duties of the Minister of Public Works under the Public Works Act, in respect of the construction, improvement, repair or maintenance of the works hereinbefore mentioned; or,

(b) the power of the Governor in Council to make regulations for the proper use of the said works, concerning their safety and protection from injury, and the prevention of, or liability for damages done to them; or,

(c) the effect of any order in council made under the said Act imposing or providing for the collection of tolls or dues for the use of such works, until such order is revoked, or other provisions made for the same purpose under this Act. R.S., c. 84, s. 7.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 113.

An Act respecting Shipping in Canada.

SHORT TITLE.

1. This Act may be cited as the Canada Shipping Act. Short title.

INTERPRETATION—GENERAL.

2. In this Act, unless the context otherwise requires,— Definitions.
   (a) 'Minister' means the Minister of Marine and Fisheries; 'Minister.'
   (b) 'master' includes every person except a pilot having command or charge of any ship;
   (c) 'consular officer' includes consul general, consul and vice-consul, and any person for the time being discharging the duties of consul general, consul or vice-consul;
   (d) 'ship' includes every description of vessel used in navigation not propelled by oars;
   (e) 'ships belonging to His Majesty' includes ships the cost of which has been defrayed out of the Consolidated Revenue Fund of Canada, and ships described as the property of Canada by the one hundred and eighth section of The British North America Act, 1867;
   (f) 'form' means a form in the schedule to this Act. R.S., 'Form.' c. 72, s. 1; c. 73, s. 1; c. 74, s. 2; c. 75, s. 2; c. 77, s. 1;
   c. 79, s. 1; c. 80, s. 2; c. 81, s. 2; c. 86, s. 2; 54-55 V.,
   c. 40, s. 2; 61 V., c. 46, s. 2; 1 E. VII., c. 35, s. 2.

PART I.

REGISTRATION AND CLASSIFICATION OF SHIPS.

Interpretation.

3. In this Part, unless the context otherwise requires,— Definitions.
   (a) 'registrar' means the registrar of shipping; 'Registrar.'
   (b) 'mortgage' means the instrument creating security for a loan or other valuable consideration on a ship about to be built or being built. R.S., c. 72, ss. 8 and 32.
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   Application.

R.S., 1906.
Application of Part.

4. Nothing in this Part shall apply to ships belonging to His Majesty. R.S., c. 72, s. 2.

Measurement and Registration of Ships.

5. The following ships are exempt from the provisions in this Part contained relating to measurement and registration of ships:

(a) Ships having a whole or fixed deck, not propelled wholly or in part by steam, and not exceeding ten tons burthen; and,

(b) Ships not propelled wholly or in part by steam, and not having a whole or fixed deck, whatever their burthen. R.S., c. 72, s. 4.

6. No ship propelled either wholly or in part by steam, whatever her tonnage, and no ship not propelled wholly or in part by steam, of more than ten tons burthen and having a whole or fixed deck, although otherwise entitled by law to be deemed a British ship, shall, unless she is duly registered in the United Kingdom, or in Canada, or some other British possession under the Merchant Shipping Act, 1894, and amending Acts, or under the provisions of this Part, be recognized as a British ship, or be admitted to the privileges of a British ship in Canada. R.S., c. 72, s. 5.

7. No ship which was duly registered under the Act respecting the Registration of Inland Vessels and chaptered forty-one of the Consolidated Statutes of the late province of Canada, need be registered in pursuance of the provisions of this Part, except for the purpose of enabling her to proceed to sea as a British ship; but no ship which was required to be registered by the said Act of the late province of Canada shall, unless duly registered under the provisions of the said Act, be recognized in Canada as a British ship. R.S., c. 72, s. 5.

8. No officer of Customs shall grant to any ship required under the provisions of the Acts in the two last preceding sections mentioned, or under this Part, to be registered, a clearance for the purpose of enabling her to proceed on a voyage, unless the master of such ship, upon being required so to do, produces to him the proper certificate of registry. R.S., c. 72, s. 6.

9. If any such ship attempts to proceed on a voyage as a British ship without a clearance, any officer of Customs may detain such ship until such certificate is produced to him. R.S., c. 72, s. 6.

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10.
10. The Lieutenant Governor of any province of Canada when it appears to him that, by reason of special circumstances, it is desirable that permission should be granted to any British ship to pass, without being previously registered, from any port or place within the province of which he is Lieutenant Governor to any other port or place in His Majesty's dominions may grant a pass accordingly.

2. Such pass shall, for the time and within the limits therein mentioned, have the same effect as a pass granted by the Governor General, or as a certificate of registry.

3. Such Lieutenant Governor shall, without delay, forward to the Governor in Council, a copy of each pass granted by him. R.S., c. 72, s. 7.

Registrars and Surveyors.

11. The Governor in Council may appoint at and for every port at which he deems it expedient to authorize the registry of ships, the collector or other principal officer of Customs, as registrar for all the purposes of the Merchant Shipping Act, 1894, and amending Acts and of this Part. R.S., c. 72, s. 8.

12. The Governor in Council may appoint at every such port, and at any other port in Canada, an officer to superintend the survey and measurement of ships in conformity with the Merchant Shipping Act, 1894, and amending Acts, and with this Part.

2. The same person may be appointed both as registrar and surveyor at any such registry port. R.S., c. 72, s. 9.

13. Such surveyor shall be entitled to such fees for the measurement of ships about to be registered for the first time under this Part, or requiring measurement for the purposes of registry, and to such travelling expenses, when required to travel for any such purpose, as the Governor in Council, from time to time, sees fit to establish.

2. Such fees and travelling expenses shall be paid to such surveyor by the persons requiring his services.

3. Any surveyor may, in any case, withhold his certificate of measurement, or any other document that is required of him, until his fees and travelling expenses are paid.

4. Such fees shall be in lieu of all salary and other remuneration whatsoever for such services. R.S., c. 72, s. 10.

14. No fees shall be charged in Canada for registering vessels or recording transactions relating to the registry of vessels under this Part or under the Merchant Shipping Act, 1894, and amending Acts. R.S., c. 72, s. 11.

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Conflicting Claims.

15. When two or more persons claim to be builders or owners of any ship, or present the builder's certificate to the registrar at any port in Canada for the purpose of obtaining registry for such ship under the Merchant Shipping Act, 1894, and amending Acts, and are not agreed as to who is the builder or owner of the same, such registrar may refuse to grant registry for such ship, and may summon witnesses, administer oaths, demand any books or papers and receive any evidence relating to such ship. R.S., c. 72, s. 12.

Submission to Governor in Council.

16. A copy of such evidence taken, and a report thereon shall be submitted by such registrar to the Governor in Council, who shall issue such directions in the case as to the giving of security to the other claimant or claimants, or any other matter or thing, as he deems necessary, and registry shall be granted in pursuance of such directions and not otherwise. R.S., c. 72, s. 13.

New Certificate.

17. No new certificate of registry of a ship registered in Canada shall be granted in Canada, under the Merchant Shipping Act, 1894, without proof on oath that the certificate of registry of such ship has been lost, mislaid or destroyed. R.S., c. 72, s. 14.

Registration of Wrecked Ships.

18. If any British or foreign registered ship is either actually or constructively wrecked, and the register thereof is closed and the certificate of registry is delivered up to the proper officer and cancelled, or, if any ship, sailing under a pass from the Governor General, or under a pass from a lieutenant governor under this Part, is either actually or constructively wrecked on the voyage, and during the time and within the limits mentioned in such pass, the Governor in Council may direct that such ship may be registered as a British ship in any port in Canada at and for which there is a registrar, on proof being adduced to the satisfaction of the Governor in Council, that,

(a) such ship has been thoroughly repaired and made seaworthy;
(b) all the transactions connected with the wreck, condemnation and sale of such ship were in good faith; and,
(c) all the requirements of the law have been complied with.

2. No registrar shall register any such ship without the authority of the Governor in Council. R.S., c. 72, s. 15.

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Access to Register.

19. Every person may, upon payment of a fee of twenty cents, have access to the register of any ship registered in Canada, at the port of registry of such ship, at any reasonable time during the hours of official attendance of the registrar.

2. The registrar shall, from time to time, as directed by the Governor in Council, pay to the Minister of Finance all such fees, which shall form part of the Consolidated Revenue Fund. R.S., c. 72, s. 16.

Change of Master.

20. Subject to the provisions of this Part, collectors or other principal officers of Customs in Canada, not being registrars, shall have the same power and be under the same obligation as registrars of shipping under the Merchant Shipping Act, 1894, to endorse, from time to time, on the certificate of registry of any ship at any port in Canada where the said ship is, any change of master which takes place at that port. R.S., c. 72, s. 17.

21. Notwithstanding anything to the contrary contained in the Merchant Shipping Act, 1894, and amending Acts, if any registrar or collector or other principal officer of the Customs at any port or place in Canada receives conflicting directions from owners of any ship registered in Canada as to a change of the master of such ship, such registrar or collector or other principal officer may refuse to endorse a memorandum of the change of master on the certificate of registry of such ship, until he receives a declaration from the registered owners representing a majority of shares in such ship, or from their duly appointed agents. R.S., c. 72, s. 18.

22. Such declaration shall be made according to form A, or as near thereto as circumstances permit, and shall set forth the name of the person appointed in lieu of the former master, who shall be therein named, and shall be made and subscribed,—

(a) in the presence of the registrar or collector of Customs, if the declarant or declarants reside within five miles of the Custom-house of the port of registry;

(b) if beyond that distance, in the presence of any registrar or collector of Customs in His Majesty's dominions, or of any justice of the peace.

2. In addition to such declaration, the registrar or collector of Customs at the port where the change is requested to be endorsed, may require to be produced a certified copy of the register, or such other evidence as he deems necessary, as proof of the ownership of the ship. R.S.; c. 72, s. 18.

23. If the ship is at or near such port, the registrar or collector of Customs shall, on demand of a majority of the owners thereof, 1885

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near port of registry.

Registrars, etc., to keep records of changes of master.

Change of managing owner or ship's husband to be registered.

Record in office of registrar or collector.

thereof, require the master or any other person in possession of the certificate of registry to produce and deliver the same to him; and, in default of the same being forthwith produced and delivered up to him, he may detain the ship, and not allow her to proceed to sea until the same has been produced and delivered up to him. R.S., c. 72, s. 18.

24. Every registrar and every collector of Customs shall keep a record of every endorsement of a change of master made by him on the certificate of registry of a ship, and shall specify in such record,—

(a) the date of such endorsement;
(b) the name, the official number and port of registry of the ship;
(c) the name of the former master; and,
(d) the name of the new master, and whether or not he has a certificate of competency or a certificate of service and, if he has either of such certificates, the number thereof. R.S., c. 72, s. 19.

25. Every such record shall be kept in the office of the registrar or collector of Customs making the same, or his successor as such, and shall, at all times during the usual office hours, be open to all persons for inspection, without fee or reward. R.S., c. 72, s. 19.

26. Whenever the managing owner, or any of the managing owners, if there are more than one, of a ship registered in Canada is changed, or, if there is no managing owner, whenever the ship's husband is changed, the newly appointed managing owner or owners or ship's husband shall forthwith give notice of such change to the registrar of the ship's port of registry, who shall register the same accordingly. R.S., c. 72, s. 20.

Rules as to Names of Ships.

27. The following rules shall be observed with respect to the names of ships registered in Canada under this Part:

(a) A ship shall not be described by any name other than that by which she is, for the time being, registered;
(b) No change shall be made in the name of a ship without the previous permission of the Governor in Council, the application for which shall be made in writing; if the application is made on reasonable grounds, the Governor in Council may entertain the same, and may thereupon require notice thereof to be published in such form and manner as he thinks fit; and, upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern;

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(c) If, in any case, it is shown to the satisfaction of the Governor in Council that the name of any ship has been changed without his previous permission, the Governor in Council may direct that her name be altered to that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly;

(d) If a ship which has once been registered has ceased to be so registered, no person, unless he is ignorant of such previous registry, proof of which shall lie on him, shall apply to register, and no registrar shall knowingly register such ship, except by the name by which she was previously registered, unless he has the permission of the Governor in Council. R.S., c. 72, s. 21.

28. Any registrar or principal officer of Customs may detain any such ship until such rules are complied with. R.S., c. 72, s. 21.

Statement of Master in case of Casualty.

29. Whenever a shipping casualty happens, anywhere in the case of a ship registered in Canada, or within the limits of Canada in the case of any other British ship, the master, or, if the master is dead, the chief surviving officer, and also every other person belonging to the ship as the Minister, from time to time, directs, shall within twenty-four hours of his first landing in Canada, after the happening of such casualty, attend and submit himself for examination,—

(a) at the office of the principal officer of Customs residing at or near the place where such casualty occurred, if the same occurred on or near the coasts of Canada, or any island or place adjacent thereto;

(b) if the casualty occurred elsewhere, at the office of the principal officer of Customs residing at or near the place of such landing;

unless he has been previously examined or excused from attending for examination by any other principal officer of Customs residing at or near either of such places, or by any receiver of wreck in the United Kingdom. R.S., c. 72, s. 22.

Notice of Loss of Ship.

30. Whenever the managing owner of any ship registered in Canada has information that such ship is lost, or, in consequence of her non-arrival or otherwise, has reason to apprehend that she is lost, he shall forthwith send notice of such loss or apprehended loss to the Minister, and shall furnish to the Minister, upon his requisition, such information as he is required and is able to furnish respecting such ship and the loss thereof and the property and persons on board. R.S., c. 72, s. 23.
Return of the Registrar.

31. Every registrar shall, on or before the twentieth day of January in each year, make and forward to the Minister a return, in such form and containing such particulars as the Minister, from time to time, directs, of all existing ships of which the registry remained in his registry books, on the thirty-first day of December then last. R.S., c. 72, s. 24.

Licensing of small vessels.

32. The master, owner or managing owner, or one of the managing owners, if there are more than one, of every vessel not a ship within the meaning of this Part, which is employed in or owned for the purpose of fishing, trading or carrying loads of any kind in any of the waters of Canada, shall, within one month from the date of her being so employed or owned for such purpose by him, or of her being built or acquired for such purpose, take from the collector or other principal officer of the Customs at some port or place in Canada the license provided for by this Part. R.S., c. 72, s. 25.

33. The master, owner, managing owner, or one of the managing owners, if there are more than one, of every ship exempted from the provisions of this Part relating to measurement and registration shall also take a license from the collector or other principal officer of the Customs at some port or place in Canada. R.S., c. 72, s. 25.

34. It shall be the duty of the collector or other principal officer of the Customs at every port or place in Canada to furnish such license, without fee or reward, to every person complying with the provisions of this Part, who shall apply for the same at the Custom-house or office of such collector or other principal officer of the Customs, in office hours.

2. Such license shall be according to form C, and contain the particulars therein provided for. R.S., c. 72, s. 25.

35. Upon any such application being made to a collector or other principal officer of the Customs,—

(a) the collector or principal officer of Customs shall furnish the applicant gratis with a printed blank for a declaration, in form B;

(b) the applicant shall fill up the said form with true statements, in their proper places, of the length, breadth, depth and approximate tonnage of the ship or vessel, the names of the owners thereof, and, if the property in the ship or vessel is divided into shares, the number of shares held by each owner, and shall subscribe the same and return it to the officer;

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(c) the officer shall then fill up a license with the particulars stated in the declaration, adding thereto the name of the port and the number of the license, which shall be consecutive for each port, and he shall sign such license and hand the same to the applicant;

(d) the officer shall record the particulars contained in the license in a book to be kept by him for that purpose. R.S., c. 72, s. 26.

36. Every ship or vessel so required to be licensed shall, at all times, have the name of the port or place at which she was last licensed, and the number of her last license, painted on her bow or stern in letters not less than three inches long, of light colour, on a dark ground, and such port or place shall be considered, for the time being, her port of license. R.S., c. 72, s. 27.

37. Whenever the property in a ship or vessel so required to be licensed passes wholly into new hands, the master or the new owner or managing owner, or one of the new managing owners, if there are more than one, shall, within one month after such change of ownership as aforesaid, take out a new license at some port or place in Canada, and, upon receiving the same, shall deliver up the former license, if in his possession, to the collector or other principal officer of the Customs at such port or place. R.S., c. 72, s. 28.

38. Every officer of Customs authorized by this Part to license ships and vessels, shall, on or before the twentieth day of January in each year, make and forward to the Minister a return in such form and containing such particulars as the Minister, from time to time, directs, of all ships and vessels licensed by him during the year ending on the thirty-first day of December then last. R.S., c. 72, s. 30.

Security for advances on Ships in course of Construction.

39. A ship about to be built or being built may be recorded under a temporary name by the registrar at or nearest to the port at which she is about to be built or is being built. R.S., c. 72, s. 31.

40. Any builder desirous of raising money by a mortgage on any such ship shall furnish to the registrar at the port at or nearest to which she is about to be built or is being built, a full description of such ship, and a statement of the port at which she is intended to be registered, according to form D, and shall indicate the ship to be built or being built by painting on a board near the place of such building in his ship yard, on a dark ground, in white or yellow figures and letters of a length not less than four inches, the number given to him by the proper registrar.

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registrar of shipping for that purpose, the temporary name of the ship, and the name of the port at which she is intended to be registered. R.S., c. 72, s. 31.

41. A ship about to be built or being built and so recorded may be made security for a loan or other valuable consideration.

2. Such security shall be by mortgage in form E, or as near thereto as circumstances permit.

3. On the production of such mortgage, the registrar at the port at which the ship is recorded shall enter the same in a record book to be kept by him for that purpose. R.S., c. 72, s. 32.

42. Every such mortgage shall be recorded by the proper registrar in the order of time in which the same is produced to him for that purpose.

2. Such registrar shall, by memorandum under his hand, note on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record. R.S., c. 72, s. 33.

43. Whenever any recorded mortgage has been discharged the proper registrar shall, upon the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the record book to the effect that such mortgage has been discharged.

2. Upon such entry being made, the estate, if any, which passed to the mortgagee shall vest in the person or persons in whom the same would, under outstanding conveyances, have vested, if no such mortgage had ever been made. R.S., c. 72, s. 34.

44. If two or more mortgages are recorded in respect of the same ship, the mortgagees shall, notwithstanding any express, implied or constructive notice, have priority, according to the date at which each instrument is recorded in the record book, and not according to the date of each instrument. R.S., c. 72, s. 35.

45. Except in so far as is necessary for making such ship available as security for the mortgage debt, a mortgagee shall not, by reason of his mortgage, be deemed to be the owner of a ship, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship. R.S., c. 72, s. 36.

46. For the purpose of realizing the amount of his mortgage, every mortgagee may absolutely dispose of the ship in respect of which he is recorded as such mortgagee and give effectual receipts for the purchase money. R.S., c. 72, s. 37.
47. If there are more persons than one recorded as mortgagees of the same ship, no second or subsequent mortgagee shall, except under the order of a court capable of taking cognizance of such matters, sell such ship without the concurrence of every prior mortgagee. R.S., c. 72, s. 37.

48. Every bill of sale, when duly executed, shall be produced to the proper registrar, who shall enter the particulars thereof in the record book, and shall endorse on the bill of sale the fact of such entry having been made, with the date and hour thereof. R.S., c. 72, s. 37.

49. All bills of sale shall be entered in the record book in the order of their production to the registrar. R.S., c. 72, s. 37.

Transfer of Mortgage.

50. A recorded mortgage of any ship may be transferred to any person. 

2. The instrument creating such transfer shall be in form F, and, on the production of such instrument, the registrar shall enter in the record book the name of the transferee as mortgagee of the ship therein mentioned, and shall, by memorandum under his hand, record on the instrument of transfer the fact that the same has been recorded by him, stating the date and hour of such record. R.S., c. 72, s. 38.

Transmission of Mortgage.

51. If the interest of any mortgagee in any ship recorded under this Part becomes transmitted in consequence of death or insolvency, or in consequence of marriage of any female mortgagee, or in any way other than by a transfer according to the provisions of this Part, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted. R.S., c. 72, s. 39.

52. Such declaration shall be in form G, and shall describe the manner in which and the party to whom such property has been transmitted, and shall be made and subscribed,—

(a) in the presence of the registrar at the port at which such ship has been recorded under this Part, if the declarant resides at or within five miles of the Custom-house of the port; or,

(b) if beyond that distance, in the presence of any registrar, collector of Customs or justice of the peace. R.S., c. 72, s. 39.

53. Such declaration shall be accompanied, if such transmission has taken place by virtue of,—

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Insolvency. (a) the insolvency of any registered mortgagee, by such evidence as is, for the time being, receivable in courts of justice as proof of the title of persons claiming under any insolvency; or,

Marriage. (b) the marriage of a female mortgagee, by a copy of the register of such marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female mortgagee; or,

Death. (c) any testamentary instrument or by intestacy, in any province of Canada, excepting Quebec, by the probate of the will or the letters of administration, or an official extract therefrom, and, in the province of Quebec, by the will or any copy thereof that is evidence of such will by the laws of that province, or by any such document as, by the laws of such province is receivable in the courts of justice thereof as proof of the title of any person entitled upon an intestacy. R.S., c. 72, s. 40.

54. The registrar shall, upon the receipt of such declaration and the production of such evidence as aforesaid, enter the name of the person or persons entitled under such transmission in the record book as mortgagee or mortgagees of the ship in respect of which such transmission has taken place. R.S., c. 72, s. 41.

Certificates of Registry and Survey.

55. Whenever the building of a ship which has been recorded under this Part is duly completed, the first mortgagee whose claim is unsatisfied may furnish the builder's certificate for such ship; and thereupon the proper officer may grant a certificate of registry under the laws in force in Canada for that purpose. R.S., c. 72, s. 42.

56. All undischarged mortgages recorded under this Part shall be, by the proper registrar, transferred to and registered under such laws in the register book, in the order and according to the priority in which the same were entered of record under this Part, and the temporary name used under and for the purposes of this Part may be changed at the time of granting a certificate of registry. R.S., c. 72, s. 42.

57. The registry of all such mortgages shall appear according to their priority in the record book, as if the same had been made or granted under the laws providing for the giving of such certificate of registry; and a fresh instrument of mortgage may be granted for that purpose, according to any form prescribed by law, as a substitute for any mortgage granted under this Part. R.S., c. 72, s. 42.

58. No surveyor of shipping who is not also a registrar shall deliver up any certificate of survey of any ship which

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he has surveyed for measurement to any person except the registrar at the port at or for which he is surveyor, and at which such ship is recorded under this Part, until the registrar at such port has endorsed on the back of such certificate either a statement to the effect that there is no undischarged mortgage on such ship recorded in his office under this Part, or a statement of the amount and other particulars, and, if more than one, the number of the undischarged mortgages, if any, on such ship recorded in his office under this Part.

2. Every registrar shall endorse one of such statements, according to the facts of each case, on every certificate of measurement presented to him for that purpose by any surveyor of shipping. R.S., c. 72, s. 44.

59. If the registrar at any port at which any ship is recorded under this Part is also surveyor of shipping at or for such port, he shall endorse on every certificate of survey of every ship which he has surveyed for measurement, before he delivers the same to any person, either a statement to the effect that there is no undischarged mortgage on such ship recorded in his office under this Part, or a statement of the amount and other particulars, and, if more than one, the number of the undischarged mortgages, if any, on such ship recorded in his office under this Part. R.S., c. 72, s. 45.

Fees.

60. The Governor in Council may establish a scale of fees for recording ships and mortgages and other transactions, and for other services to be performed under this Part prior to the registry of any ship under the Merchant Shipping Act, 1894, and amending Acts. R.S., c. 72, s. 46.

Right of Owner.

61. Nothing in this Part shall take away the right of the owner to his action of account, or such other remedy as he has by law against the advancee. R.S., c. 72, s. 47.

Special for the Province of Quebec.

62. This Part shall not be construed in such a way as to affect the mode of executing deeds in the province of Quebec, but deeds and documents executed in the said province may be made and passed in the form and according to the manner prescribed in such province. R.S., c. 72, s. 48.

Inspection and Classification of Ships.

63. The Governor in Council may make such rules and regulations as he considers necessary for the inspection and classification of vessels built or registered within Canada, and regulations by Governor in Council for the inspection and classification of vessels built or registered within Canada, and regulated under this Act may, R.S., 1906.
may, from time to time, alter and amend the same, and appoint such officers as are necessary to carry out the provisions in this Part contained relating to such inspection and classification, and prescribe the duties of such officers who shall be under the control of the Minister. R.S., c. 72, s. 49.

64. The Governor in Council may, by such rules and regulations, establish a table of fees to be paid for such inspection and classification, and may, by such regulations, authorize the granting of certificates of classification in such manner as is therein prescribed.

2. All such rules and regulations shall be published in the Canada Gazette. R.S., c. 72, ss. 50, 51.

Penalties.

65. Every person in possession of the certificate of registry of a ship registered in Canada, who refuses or neglects to produce and deliver up the same to any registrar or collector of Customs, if thereunto required by him under this Part, shall incur a penalty of five hundred dollars. R.S., c. 72, s. 18.

66. Every managing owner of a ship registered in Canada, who fails to give to the registrar of the ship's port of registry notice of any change in the managing owner or owners of such ship, and every ship's husband who fails to give notice as aforesaid of any change in the ship's husband, when she has no managing owner, shall incur a penalty not exceeding one hundred dollars. R.S., c. 72, s. 20.

67. Every person who violates, or suffers any person under his control to violate any of the rules prescribed by this Part as to names of ships registered in Canada, or who omits to do, or suffers any person under his control to omit to do anything required by such rules, shall, for each offence, incur a penalty not exceeding four hundred dollars. R.S., c. 72, s. 21.

68. In the case of a ship registered in Canada, whenever a shipping casualty happens anywhere, and, in case of any other British ship, whenever a shipping casualty happens within the limits of Canada, every master of such ship, or, if the master is dead, the chief surviving officer and every such other person belonging to the ship, as the Minister from time to time directs who, within twenty-four hours of the first landing in Canada, unless he has been previously examined or excused from attending for examination by a receiver of wrecks in the United Kingdom or by some principal officer of Customs residing at or near the place of landing, if the casualty occurred elsewhere than in Canada, or at or near the place where such casualty occurred, if the same occurred on or near the coast of Canada or any island adjacent thereto, fails.
or neglects to attend or submit himself for examination at the office of the principal officer of Customs residing at or near either of such places respectively, shall incur a penalty not exceeding two hundred dollars. R.S., c. 72, s. 22.

69. Any managing owner of a ship registered in Canada, who, being informed that such ship is lost, or having reason, in consequence of her non-arrival or otherwise, to apprehend that she is lost, neglects to send forthwith notice of such loss or apprehended loss to the Minister, or to furnish the Minister, upon his requisition, with such information as he is required and able to furnish respecting such ship and the loss thereof and the property and persons on board, shall incur a penalty not exceeding two hundred dollars. R.S., c. 72, s. 23.

70. Every master, owner or managing owner of any ship or vessel required under this Part to be licensed, who neglects, without reasonable cause, the proof of which shall lie upon him, to apply for and take out the license required by this Part for such ship or vessel within the time allowed by this Part for that purpose, or who neglects to keep the name of her last port of license and the number of her last license painted on her bow or stern as aforesaid, shall incur a penalty of twenty dollars. R.S., c. 72, s. 29.

71. Every person who, being a party to any unsatisfied mortgage on any ship under this Part, takes out or attempts to take out a register for such ship at any port other than the port named on the board in the ship yard in which such ship was built, or in the statement and description in form D, furnished to the registrar by whom such ship was recorded under this Part, or in any mortgage on such ship under this Part, shall incur a penalty of two thousand dollars which shall be recoverable, with costs, by the person who first sues for the same in any court of competent jurisdiction, in any province in Canada in which the offender is served with process. R.S., c. 72, s. 43.

PART II.

MASTERS AND MATES.

Interpretation.

72. In this Part, unless the context otherwise requires,—

(a) 'ship' means any vessel used for the purposes of navigation and registered in Canada;

(b) 'sailing ship' means a ship propelled mainly by sails;

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(c) 'Sailing ship.'

Definitions.

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Steamship. 'Steamer' includes any ship propelled wholly or in part by steam or motive power other than sail or oars.

Voyage. (d) 'voyage' includes 'passage' or 'trip';
(e) 'sea-going ship' includes every ship employed in trading or going between a port or place in Canada and a port or place out of Canada, not being within the limits mentioned in the next following paragraph;
(f) 'coasting voyage' means a voyage between any port or place on the eastern coast of Canada and any other port or place on such coast, or in Newfoundland, Labrador, St. Pierre or Miquelon, or on the eastern coast of the United States not further south than Cape Hatteras, in the state of North Carolina, and also means a voyage between any port or place on the western coast of Canada and any other port or place on such coast or on the western coast of the United States not further south than the harbour of Portland, in the state of Oregon, and not further north than Cape Spencer, in the Territory of Alaska, or any inlet or bay having its entrance on the eastern side of such cape;
(g) 'inland waters of Canada' means all the rivers, lakes and other navigable waters within Canada, except salt-water bays and gulfs on the sea coast, and includes the river St. Lawrence as far seaward as a line drawn from Father Point, on the south shore, to Point Orient, on the north shore;
(h) 'minor waters of Canada' means all inland waters of Canada other than Lakes Ontario, Erie, Huron, including Georgian Bay, and Lakes Superior and Winnipeg, and includes all bays, inlets and harbours of or on the said lakes and bay;
(i) 'prescribed,' when used in this Part in relation to fees, means prescribed by this Part or by the scale of fees established thereunder;
(j) 'certificate of competency' means the certificate granted by the Minister under this Part to an applicant reported by one or more examiners to have passed the examination in that behalf, to the effect that he is competent to act as master or as first or second mate of a sea-going ship, or as master or mate of a ship trading on the inland waters of Canada, or on the coasting trade, as the case may be, as in the said certificate set forth. R.S., c. 73, s. 1; 54-55 V., c. 41, s. 1; 3 E. VII., c. 34, s. 1.

Nothing in this Part shall take away or impair any right or privilege held or enjoyed by any master or mate on the twenty-fourth day of October, one thousand nine hundred and three. 3 E. VII., c. 34, s. 2.

1896 Examinations.
Examinations.

74. Examinations may be instituted in Canada for British subjects, or for persons domiciled in Canada for at least three years, who intend to become masters or mates of second mates of sea-going ships, or who wish to procure the certificates of competency for sea-going ships.

2. Foreign subjects serving in sea-going ships registered in Canada shall be deemed to be domiciled in Canada while so serving. 57-58 V., c. 42, s. 3.

75. Examinations may be instituted in Canada for British subjects or for persons domiciled in Canada for at least three years who intend to become masters or mates of ships trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages, or who wish to procure certificate of competency or service.

2. Foreign subjects serving in ships registered in Canada and trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages, shall be deemed to be domiciled in Canada while so serving. 57-58 V., c. 42, s. 4.

76. Subject to the provisions of this Part, the Minister shall provide for such examinations at such places as he sees fit. When to be held. R.S., c. 73, s. 4.

77. The Governor in Council may appoint an examiner or examiners at any place or places to conduct such examinations, and may regulate the same, and determine the amount of the remuneration of such examiners.

2. No person shall be appointed an examiner in respect to masters or mates or second mates of sea-going ships, unless he has himself passed a satisfactory examination before two or more examiners, as to his fitness and competency to act as an examiner, and has received from them a certificate to that effect. Appointment of examiners, etc. R.S., c. 73, s. 4.

78. The Governor in Council may, from time to time, make rules for the conduct of such examinations, and as to the qualifications of the applicants; and such rules shall be observed by all examiners. Rules respecting examinations. R.S., c. 73, s. 5.

79. The Minister shall cause a copy of this Part, with the names of the various ports where boards of examiners have been appointed, and a copy of the rules made by the Governor in Council for the guidance of such examiners, to be lodged in all the principal Custom-houses in Canada. Copy of this Part and list of ports, etc., to be in Custom-houses. R.S., c. 73, s. 23.

80. All applicants for examination shall, previously to their examination, pay to such person as the Minister appoints for that 1897 Fees payable previously. R.S., 1906.
that purpose, the fee prescribed in that behalf. 54-55 V., c. 41, s. 2; 57-58 V., c. 42, s. 8.

81. In the event of any applicant failing to procure his certificate of qualification on his first examination, he shall be entitled to a second examination without payment of any additional fee.

2. If he fails to procure his certificate of qualification on such second examination, he shall pay, previous to any subsequent examination, the same fee as is by this Part required to be paid previous to a first examination for the certificate he seeks to procure. 54-55 V., c. 41, s. 2; 57-58 V., c. 42, s. 8.

Certificate of Competency.

82. The Minister may, subject to this Part, grant to every applicant who is duly reported by any one or more of the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship, a certificate to the effect that he is competent to act as master or as first or second mate of a sea-going ship, or as master or mate of a ship trading on the inland waters of Canada, or on the minor waters of Canada, or in the coasting trade, as the case may be.

2. Such certificate shall specify whether the same is for sailing ships or steamships, and, in the case of sailing ships, shall state whether for square-rigged ships or fore-and-aft rigged ships only, and, in the case of steamships, whether for passenger, freight, ferry or tug boats. 54-55 V., c. 41, s. 2.

83. The Minister may in every case in which he has reason to believe that such report has been unduly made, remit the case either to the same or any other examiner or examiners and require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate. 54-55 V., c. 41, s. 2.

84. The Governor in Council may, from time to time, make provision for affording facilities for imparting to seafaring men, desirous of becoming applicants for examination for certificates of competency, under this Part, such information as to the theory of navigation as will fit them for such examination, and may defray the expenses incurred for affording such facilities out of any money voted by Parliament for that purpose. R.S., c. 73, s. 24.

Certificate of Service.

85. Every person who, before the first day of January, one thousand eight hundred and seventy, served as master in a sea-going ship, in any province of Canada, or who has attained 1898

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the rank of lieutenant, master, passed mate or second master in
His Majesty's Royal Navy, and who produces satisfactory
evidence at his examination of his sobriety, experience, ability
and general good conduct on board ship, shall be entitled to a
certificate of service as master for sea-going ships, on payment
of the prescribed fee. R.S., c. 73, s. 8; 57-58 V., c. 42, s. 8.

86. Every person who, before the first day of January, one
thousand eight hundred and seventy, served as mate in a sea-
going ship, in any province in Canada, and who produces satis-
factory evidence at his examination of his sobriety, experience,
ability and general good conduct on board ship, shall be entitled to a
certificate of service as first or only mate for sea-
going ships, on payment of the prescribed fee. R.S., c. 73, s.
8; 57-58 V., c. 42, s. 8.

87. Every person who, before the first day of January, one
thousand eight hundred and eighty-four, served as master in a
sea-going ship registered in Canada, of over one hundred tons,
and not over one hundred and fifty tons registered tonnage,
and who has produced satisfactory evidence at his examination
of his sobriety, experience, ability and general good conduct,
and has passed the colour test, shall be entitled to a certificate
as master or mate, as the case may be, for sea-going ships
registered in Canada of over one hundred tons and not over
one hundred and fifty tons registered tonnage, on payment of
the prescribed fee. R.S., c. 73, s. 8; 57-58 V., c. 42, s. 8.

88. Every person who, before the first day of January, one
thousand eight hundred and eighty-three, served as master in
a ship trading on the inland waters of Canada, or on the minor
waters of Canada, or on coasting voyages, or, being a British
subject served in foreign vessels in like trade, and who pro-
duces satisfactory evidence at his examination of his sobriety,
experience, ability and general good conduct on board ship,
shall be entitled to a certificate of service as master for ships-
trading on the inland waters of Canada, or on the minor waters
of Canada, or on coasting voyages, as the case may be, on pay-
ment of the prescribed fee. 54-55 V., c. 41, s. 3; 57-58 V.,
c. 42, s. 8.

89. Every person who, before the first day of January, one
thousand eight hundred and eighty-three, served as mate in a
ship trading on the inland waters of Canada, or on the minor
waters of Canada or on coasting voyages, or, being a British
subject, served in foreign vessels in like trade, and who pro-
duces satisfactory evidence at his examination of his sobriety,
experience, ability and general good conduct on board ship,
shall be entitled to a certificate of service as mate, for ships-
trading on the inland waters of Canada, or on the minor waters
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of Canada, or on coasting voyages, as the case may be, on payment of the prescribed fee. 54-55 V., c. 41, s. 3; 57-58 V., c. 42, s. 8.

90. The Minister may issue such certificates of service to the various persons so respectively entitled thereto. 54-55 V., c. 41, s. 3; 57-58 V., c. 42, s. 8.

91. Every such certificate of service shall contain particulars of the name, place and time of birth of the person to whom the same is issued, and shall specify whether the holder is entitled to a certificate of service as master or mate, as the case may be, of sailing ships or of steamships, and shall state, in the case of sailing ships, whether of square-rigged ships, or of fore-and-aft rigged ships only, and, in the case of steamships, whether for passenger, freight, ferry or tug boats. 54-55 V., c. 41, s. 3; 57-58 V., c. 42, s. 8.

**Scale of Fees.**

92. The Governor in Council may establish a scale of fees to be charged for certificates to masters and mates. 57-58 V., c. 42, s. 8.

93. Until so established, the fees to be charged shall be,—

(a) for a certificate of competency as master, fifteen dollars;

(b) for a certificate of competency as mate of a sea-going ship, eight dollars;

(c) for a certificate of competency as mate of a ship trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages, six dollars:

(d) for a certificate of service as master, eight dollars;

(e) for a certificate of service as mate for a sea-going ship, five dollars; and,

(f) for a certificate of service as mate for a ship trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages, four dollars. 57-58 V., c. 42, s. 8.

94. All fees received under this Part shall be paid over to the Minister of Finance, and shall form part of the Consolidated Revenue Fund. R.S., c. 73, s. 22.

**Ships to have certified officers—Production of Certificates.**

95. No ship registered in Canada, over one hundred tons registered tonnage, shall go to sea from any port or place in Canada on any voyage not being a coasting voyage, unless the master and first mate or only mate thereof have obtained and possess valid certificates either.—

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(a) of competency or service for sea-going ships, appropriate to their several stations in such ship, or of a higher grade, from the Minister; or,

(b) of competency or service for sea-going ships, appropriate to their several stations in such ship, or of a higher grade, from the Board of Trade in the United Kingdom; or,

(c) of competency appropriate to their several stations in such ship, or of a higher grade, granted in any British possession, and declared by order of His Majesty in Council, published in the London Gazette, under the provisions of the Merchant Shipping Act, 1894, or of any Act of the Parliament of the United Kingdom containing such provisions, to be of the same force as certificates of competency for foreign sea-going ships granted under the Acts of the Parliament of the United Kingdom relating to merchant shipping. 57-58 V., c. 42, s. 5; 3 E. VII., c. 34, s. 1.

96. No sailing ship registered in Canada, over one hundred tons registered tonnage, and no steamship registered in Canada, shall go from any port or place in Canada on any coasting voyage, or be licensed or allowed to ply on any Canadian water, unless the master thereof has obtained from the Minister and possesses a valid certificate,—

(a) of competency or service as master of a ship trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages as the case may be, of the class and description to which such ship belongs, or of a higher class or description; or,

(b) of competency or service as master for sea-going ships, from the Minister; or,

(c) of competency as master for foreign going ships, from the Board of Trade in the United Kingdom; or,

(d) of competency as master granted in any British possession and declared by order of His Majesty in Council published in the London Gazette, under the provisions of the Merchant Shipping Act, 1894, or of any Act of the Parliament of the United Kingdom, containing such provisions, to be of the same force as a certificate of competency, as master for foreign going ships, granted under the Acts of the Parliament of the United Kingdom relating to merchant shipping. 57-58 V., c. 42, s. 6; 3 E. VII., c. 34, s. 1.

97. No ship registered in Canada over two hundred tons registered tonnage, and no steamship registered in Canada and allowed by law to carry more than forty passengers, shall go on any coasting voyage, or be licensed or allowed to ply on any Canadian water, unless such ship carries also a mate who has obtained from one of the authorities aforesaid a valid certificate.
certificate of competency or service as such mate or as the mate of a ship of a higher class or description. 57-58 V., c. 42, s. 6; 3 E. VII., c. 34, s. 1.

98. The master of every sea-going ship registered in Canada, of over one hundred tons register, shall produce to every officer of the Customs in Canada, to whom he applies for a clearance of such ship on any such voyage by sea, the certificate of competency or service for sea-going ships, which the said master and his first mate, or only mate, are hereby required to possess.

2. No officer of the Customs at any port in Canada shall clear any such ship, on any such voyage without such certificates being first produced to him. R.S., c. 73, s. 10.

99. Nothing in this Part contained shall render it compulsory on the part of any owner of any such ship to have on his ship a second mate holding a certificate as such to enable him to clear his ship for sea. R.S., c. 73, s. 10.

100. The foregoing provisions as to masters and mates shall not apply to pleasure yachts not carrying passengers or goods for hire, or to ships employed solely in fishing, or barges or other vessels having neither masts, sails nor rigging, and not being steamships. R.S., c. 73, s. 13.

101. The master of every ship trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages, required by this Part to be commanded by a master having a certificate of competency or of service, shall produce to every officer of the Customs in Canada to whom he applies for a license for the season, in respect of such ship, or for a clearance or for a transire coastwise for such ship, on any voyage, the certificate of competency or service which he is required by this Part to possess.

2. If such ship is also required to carry a mate having a certificate of competency or service, the master shall, at the same time, produce to such officer of the Customs the certificate of such mate. 57-58 V., c. 42, s. 7; 3 E. VII., c. 34, s. 1.

102. No officer of the Customs at any port in Canada shall clear any such ship or grant a transire coastwise for any such ship on any such voyage, or grant a license for the season in respect of any such ship, without such certificate being first produced to him. R.S., c. 73, s. 14.

103. The master of any steam tug, or other steamers required to have a certificated master, but so employed as not to require such clearance, transire or license as aforesaid, shall whenever
whenever thereunto required by any officer of the Customs, produce his certificate as master to such officer. R.S., c. 73, s. 14.

Certificates lost may be replaced.

104. Whenever any master or mate or second mate proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of any certificate, the Minister may, upon payment of one-half the fee charged for the original certificate, cause a copy or duplicate of the original certificate to be made out and certified as aforesaid, and to be delivered to him. R.S., c. 73, s. 15.

Suspension or Cancellation of Certificates.

105. The Board of Trade in the United Kingdom, or the Minister, may suspend or cancel the certificate, whether of competency or service of any master or mate or second mate of a sea-going ship who has received a certificate from such Minister, if, upon any investigation duly authorized by the Minister under Part X. of this Act,—

(a) such master or mate is found incompetent or guilty of any gross act of misconduct, drunkenness or tyranny; or,
(b) it is reported that the loss or abandonment of, or serious damage to any ship, or loss of life, was caused by the wrongful act or default of such master or mate; or
(c) it is shown, to the satisfaction of the said Board of Trade, or of the Minister, that such certificate was granted on false or erroneous information. 61 V., c. 45, s. 1.

106. The Minister may suspend or cancel the certificate of any master or mate who has received a certificate as master or mate of a ship trading on inland waters or on coasting voyages, if, upon any investigation made or authorized by the Minister,—

(a) such master or mate is found to be incompetent or to have been guilty of any act of misconduct, drunkenness or tyranny; or,
(b) it is found that the loss or abandonment of, or serious damage to any ship, or loss of life, was caused by the wrongful act or default of such master or mate; or,
(c) it is shown, to the satisfaction of the Minister, that such certificate was granted on false or erroneous information. R.S., c. 73, s. 18.

107. Every master or mate whose certificate is cancelled or suspended shall deliver it to the Minister, or as the Minister directs, unless he has already delivered it to any court or tribunal before whom his conduct was called in question in the course of the investigation upon which it is cancelled or suspended. R.S., c. 73, s. 19.

108. Delivery of cancelled certificate to Minister.
108. The Minister may grant to any person whose certificate has been cancelled, at any time subsequent to such cancellation, a new certificate of the same or of any lower grade. R.S., c. 73, s. 19.

Form and Registration of Certificates.

109. All certificates, whether of competency or service for sea-going ships, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the Department of Marine. 54-55 V., c. 41, s. 6.

110. A record of all certificates of competency or service for ships trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages, granted under this Part, shall be kept in a bound book in the said Department. 54-55 V., c. 41, s. 6.

111. Whenever notice of the cancelling, suspending, altering or otherwise affecting, by competent authority, of any such certificate is received by the Department, there shall thereupon be made a corresponding entry in the record of certificates. 54-55 V., c. 41, s. 6.

Evidence.

112. All documents purporting to be certificates granted by the Minister under this Part, and to be signed by him, shall be received in evidence, and shall be deemed to be such certificates without further proof, unless the contrary is shown. R.S., c. 73, s. 21.

113. A copy of any such certificate purporting to be certified by the Minister or the deputy of the Minister, shall be *prima facie* evidence of such certificate, and a copy purporting to be so certified of any entry made as aforesaid in respect of any such certificate shall be *prima facie* evidence of the entry and truth of the matter stated therein. R.S., c. 73, s. 21.

Temporary Certificates.

114. The Minister, upon the report of a duly appointed and qualified examiner of masters and mates, may grant a temporary certificate as master to an applicant sufficiently qualified by his knowledge and experience to take charge of a steamboat of not more than twenty tons, gross tonnage, and certificated to carry not more than ten passengers, plying within specified limits in the minor inland waters of Canada, and such steamboat and limits shall be described in the certificate. 61 V., c. 45, s. 2; 3 E. VII., c. 34, s. 3.

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115. Such temporary certificate may be issued and be in force for a term not exceeding one year, but may be suspended or cancelled for cause by the Minister. 61 V., c. 45, s. 2.

116. For every such temporary certificate the applicant shall pay the sum of five dollars. 61 V., c. 45, s. 2.

Offences and Penalties.

117. Every person who, having been engaged to serve as master or first mate or only mate of any sea-going ship registered in Canada, over one hundred tons registered tonnage, goes to sea on any voyage not being a coasting voyage, as such master or mate, without being at the time entitled to and possessed of a certificate either of competency or of service for sea-going ships, as in this Part required, or who employs any person as master, first mate or only mate of any such sea-going ship as aforesaid, without first ascertaining that he, at the time, is entitled to and possessed of such certificate, shall, for each such offence, incur a penalty not exceeding one hundred dollars. Penalty. 57-58 V., c. 42, s. 5; 3 E. VII., c. 34, s. 1.

118. If any master, mate or other officer of any sea-going ship registered in Canada over one hundred tons registered tonnage attempts to sail or takes such ship to sea, from any port in Canada on any such voyage, until the requirements of this Part have been fully complied with, such master, mate or other officer, shall, for every such offence, incur a penalty not exceeding one hundred dollars. R.S., c. 73, s. 10.

119. (a) Every master of any such ship who after having produced to the collector or other officer of the Customs in Canada to whom he applies for the clearance a certificate of competency or of service required to be possessed by the first or only mate of such ship, and having obtained his clearance by representing that the person possessing such certificate is engaged as first or only mate of the said ship for the voyage for which the clearance is obtained, afterwards proceeds to sea without having the said person or some other duly certificated mate on board as first or only mate; and,

(b) Every person who knowingly allows his certificate as mate to be produced as aforesaid, and does not proceed to sea with such ship as first or only mate on the voyage for which the clearance is obtained, or otherwise wilfully aids the master in any offence under this section;

shall incur a penalty of one hundred dollars. Penalty. 61 V., c. 45, s. 2.

2. The certificate of any such master or mate so offending may, in addition to such penalty, if issued under Canadian authority, be suspended by the Minister for a period not exceeding twelve months. R.S., c. 73, s. 10.

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Going to sea without certificate.

120. (a) Every person who, having been engaged to serve as master or mate of any ship, the master or mate whereof is by this Part required to have such certificate of competency or of service, goes on any voyage within the limits described by this Part as being included in the expression coasting voyage, as such master or mate, without being at the time entitled to and possessed of such certificate, or who employs any person as master or mate of any such ship, on any such voyage, without first ascertaining that he is at the time entitled to and possessed of such certificate; and,

(b) Every master of any ship trading on the inland waters of Canada, or on the minor waters of Canada, or on coasting voyages, who attempts to sail, or take such ship from any port in Canada, on any such voyage, for which a clearance or a transire coastwise or a license for the season is required, until the requirements of this Part have been fully complied with;

shall for every such offence, incur a penalty of one hundred dollars. R.S., c. 73, ss. 12 and 14; 57-58 V., c. 42, s. 7; 3 E. VII., c. 34, s. 1.

Inland waters.

Penalty.

121. The master of any steam tug, or other steamer required by this Part to have a certificated master, but so employed as not to require the clearance transire or license as aforesaid, who whenever thereunto required by any officer of the Customs, refuses or neglects to produce his certificate as master to any such officer, shall incur a penalty of one hundred dollars.

2. If any such steam tug, or other steamer required by this Part to be commanded by a certificated master plies on any Canadian water without having such certificated master on board and in charge, the owner thereof shall incur a penalty of one hundred dollars for every day on which such offence is committed. R.S., c. 73, s. 14.

Master of steam tug refusing to produce certificate to Customs.

Steam tug without a certificated master.

Penalty.

122. Every master or mate whose certificate has been cancelled or suspended and who fails to deliver such certificate to the Minister or in the manner directed by the Minister, unless he has already delivered the same to a court or tribunal before whom his conduct was called in question in the course of the investigation upon which it was cancelled or suspended, shall incur a penalty not exceeding two hundred dollars. R.S., c. 73, s. 19.

Failure to deliver certificate to Minister upon suspension.

Penalty.

123. Every person who,—

(a) makes, procures to be made or assists in making any false representation for the purpose of obtaining for himself or for any other person any certificate of competency or of service; or,

Forgery or fraud with respect to any certificate.

(b)
(b) forges, assists in forging, or procures to be forged; or,
(c) fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered any such certificate or any official copy of any such certificate; or,
(d) fraudulently makes use of any such certificate which is forged, altered, cancelled or suspended, or to which he is not justly entitled; or,
(e) fraudulently lends his certificate to or allows the same to be used by any other person;
is guilty of an indictable offence. R.S., c. 73, s. 16.

124. No person who holds a temporary certificate, and no person who employs him as holding such certificate, shall be liable to any of the penalties provided by this Part, if he is acting on the vessel and within the limits specified in the said certificate. 61 V., c. 45, s. 2.

125. All pecuniary penalties imposed under this Part may be recovered by summary conviction under Part XV. of the Criminal Code. 61 V., c. 45, s. 2.

PART III.

SEAMEN.

Interpretation.

126. In this Part, unless the context otherwise requires,—
(a) 'provinces' means the provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia;
(b) 'Canadian foreign sea-going ship' includes every ship registered in any of the provinces employed in trading or going by sea between some place or places in Canada and some place or places out of Canada;
(c) 'Canadian home-trade ship' includes every ship registered in either of the provinces, employed in trading or going from any place or places in any of the provinces to any other place or places in any other of the provinces;
(d) 'seaman' includes every person employed or engaged in any capacity on board any ship, except masters, pilots, and apprentices duly indentured and registered;
(e) 'Board of Trade' means the Lords of the Committee of Privy Council appointed for the consideration of matters relating to trade and foreign plantations;
(f) 'shipping master' means the officer appointed by the Governor in Council as superintendent of a shipping office and includes the chief officer of the Customs in any place where the Custom-house is the shipping office and no super-

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intendant has been appointed by the Governor in Council. R.S., c. 74, ss. 2, 6 and 8.

Application.

127. This Part applies exclusively to the provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, and shall not, except as hereinafter specially provided, apply to ships belonging to His Majesty. R.S., c. 74, ss. 3 and 4.

Shipping Offices and Shipping Masters.

128. The Governor in Council may establish a shipping office at each port in each of the provinces, where a Customs house is situated, and, as he deems advisable, at any other ports in the province. R.S., c. 74, s. 5.

129. The Governor in Council may, subject to the provisions of this Part, appoint for any such shipping office a superintendent called a shipping master, who may appoint any necessary deputies, clerks and servants, and shall, subject to the provisions of this Part, have complete control over the same, and shall be responsible for every act done by such deputies, clerks or servants.

2. In the province of British Columbia every shipping master may with the approval of the Minister, appoint two deputy shipping masters, and not more, to assist masters of vessels in the securing of crews.

3. All acts done by or before such deputies shall have the same effect as if done by or before such shipping masters. R.S., c. 74, s. 6; 4-5 E. VII., c. 40, s. 1.

130. No person who sells any spirituous liquors, and no tavern keeper or boarding-house keeper, shall be eligible for the situation of shipping master or deputy shipping master. R.S., c. 74, s. 7.

131. The Governor in Council may direct that at any place in any of the provinces in which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the Custom-house; and thereupon the same shall be there conducted accordingly.

2. In respect of such business, such Custom-house shall, for all purposes, be deemed to be a shipping office, and the chief officer of the Customs there, if no other shipping master has been appointed, shall, for all purposes, be a shipping master and be held to have been appointed as such within the meaning of this Part. R.S., c. 74, s. 8.

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132. All business transacted at any shipping office in any of the provinces shall be under the immediate control and supervision of the Minister. R.S., c. 74, s. 11.

133. Every shipping master and every deputy, clerk and servant appointed as aforesaid shall, before entering upon his duties, give such security for the due performance thereof as the Minister requires. R.S., c. 74, s. 9.

134. If, in any case, the Minister has reason to believe that any person appointed by any shipping master does not properly discharge his duties, he may cause an investigation to be made and direct the dismissal or suspension of such person, and may provide for the temporary performance of his duties until another person is properly appointed in his place, or during his suspension, as the case may be. R.S., c. 74, s. 9.

135. Every shipping master, deputy, clerk and servant so appointed, shall, before entering upon his duties, take and subscribe, before any justice of the peace, an oath in the form following, that is to say:—

'I, A. B., do swear that I will faithfully perform the office and duty of shipping master (or deputy shipping master, or as the case may be) according to the true intent and meaning of Part III. of the Canada Shipping Act; that I will not, either directly or indirectly, personally, or by means of any other person or persons on my behalf, receive any fee, reward or gratuity by reason of any function of my office as shipping master (or deputy shipping master, or as the case may be), except such as are allowed to me under the said Part, and that I will act without partiality, favour or affection, and to the best of my knowledge. So help me God.' R.S., c. 74, s. 10.

136. Every shipping master shall,—

(a) afford facilities for engaging seamen, by keeping registers of the names of seamen who apply to him for engagement, and registers of all seamen shipped or discharged by him, which registers shall be open for public inspection;

(b) superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned;

(c) provide means for securing the presence on board at the proper times of men who are engaged, when requested so to do; the expense of such service to be defrayed by the master, owner or agent of the ship requiring the presence of men on board;

(d) facilitate the making of apprenticeships to the sea service;

(e) perform such other duties relating to merchant seamen and merchant ships as are hereby, or are, under the powers herein contained, committed to him. R.S., c. 74, s. 11.
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137. No person other than the shipping master or deputy shipping master shall hire, engage, supply or provide a seaman to be entered on board any ship, not being a Canadian home-trade ship, or a ship in the merchant service of any foreign country to which this Part, under the provisions thereof, does not apply. R.S., c. 74, s. 12.

138. No person shall employ any person other than a shipping master or deputy shipping master for the purpose of hiring, engaging, supplying or providing seamen to be entered on board any ship, not being a Canadian home-trade ship or a ship in the merchant service of a foreign country, to which this Part, under the provisions thereof, does not apply. R.S., c. 74, s. 14.

139. No owner, part owner, master, person in charge of any ship, ship's husband or consignee, shall knowingly receive or accept to be entered on board such ship, or permit to remain on board the same, any seaman who has been hired, engaged, supplied or provided to be entered on board thereof, contrary to the provisions of this Part, or who has been engaged or hired to be entered on board any other ship. R.S., c. 74, s. 13.

140. Every shipping master and deputy shipping master shall, before hiring, engaging, supplying or providing any seaman whom he has any reason to suspect of having deserted from his last ship in any of the provinces, within the then last six months, to be entered on board any ship, require such seaman to produce his certificate of discharge from his last ship, in any of the provinces, or other satisfactory proof that he was lawfully discharged from and lawfully quitted such last ship, in any of the provinces, and shall by all lawful means in his power prevent, so far as he can, the effecting before him of any engagement of a seaman whom he has any reason to suspect of having deserted from his last ship in any of the provinces. R.S., c. 74, s. 11.

141. Except in the province of British Columbia, every shipping master or deputy shipping master shall be entitled to a fee of,—

(a) fifty cents on each engagement of a seaman effected before him in any of the provinces under this Part; and,

(b) thirty cents on each discharge of a seaman shipped in any of the provinces effected before him under this Part.

2. In the province of British Columbia every such shipping master and deputy shipping master may, until otherwise provided by the Governor in Council, take and receive from the master of any vessel any remuneration agreed upon between them for the hiring or supplying of seamen for any such vessel, not exceeding ten dollars for any seaman hired or supplied.

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3. Any shipping master or the deputy, clerk or servant of any shipping master may refuse to proceed with any engagement or discharge unless the fee payable thereon is first paid. R.S., c. 74, s. 16; 4-5 E. VII., c. 40, s. 1.

142. Every owner or master of a ship engaging or discharging any seaman in a shipping office, or before a shipping master or a deputy shipping master in any of the provinces, shall pay to the shipping master or deputy shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct and retain, in respect of each such engagement or discharge from the wages of all persons so engaged or discharged a sum not exceeding one-half the amount so paid to the shipping master or deputy shipping master: Provided that the sum which the owner or master of a ship engaging or discharging any seaman in a shipping office, in the province of British Columbia may deduct from the seaman's wages, shall not exceed, as to each such seaman, in the case of engagement, twenty-five cents, and, in case of discharge, fifteen cents. R.S., c. 74, s. 17; 4-5 E. VII., c. 40, s. 1.

143. Every shipping master appointed under this Part shall make, sign and transmit to the Minister on, or as soon as possible after the last day of June, and the last day of December in each year, a return of all the fees received by him and his deputy under this Part during the half year ending on such day. R.S., c. 74, s. 19.

144. The Governor in Council may, from time to time, dispense with the transaction before a shipping master or a deputy shipping master, or in a shipping office, of any matters required by this Part to be so transacted, and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or deputy shipping master, or in a shipping office. R.S., c. 74, s. 20.

145. Every shipping master and deputy shipping master appointed under this Part, shall give all the assistance in his power towards carrying into effect the objects of the Act of the Parliament of the United Kingdom passed in the session held in the twenty-second and twenty-third years of the reign of Her late Majesty Queen Victoria, and chaptered forty, intituled An Act for the Establishment of a Reserve Volunteer Force of Seamen and for the Government of the same, in such manner as the Board of Trade, at the instance of the Lords Commissioners of the Admiralty, directs.

2. Every such shipping master and deputy shipping master shall, for such purpose, have the power to call for such answers or information concerning reserve men from the masters of and other persons belonging to British merchant ships as are necessary. R.S., 1906.
necessary or desirable in order to enable him to render such assistance as aforesaid, or to make any returns which the Board of Trade or the Lords Commissioners of the Admiralty require. R.S., c. 74, s. 21.

**Apprenticeships.**

146. Every shipping master appointed under this Part shall, when applied to for the purpose, give to any person desirous of apprenticing a boy to the merchant service, and to every master or owner of a ship requiring an apprentice such assistance in that behalf as is in his power, and may receive from any person availing himself of such assistance, such fees as are determined in that behalf by the Minister. R.S., c. 74, s. 22.

147. The apprenticeship of any boy to the sea service in any of the provinces shall be by indenture between the apprentice and the master or owner of the ship requiring such apprentice. R.S., c. 74, s. 23.

148. Every person to whom any boy is bound as an apprentice shall, within seven days after the execution of the indenture, take or transmit the same to the shipping master nearest to the residence of the person to whom the boy is bound, and the said shipping master shall cause such indenture to be copied into a book to be kept in his office, which shall be open to public inspection free of any charge, and shall endorse on the indenture that it has been so recorded, and shall re-deliver the same to the master of the apprentice. R.S., c. 74, s. 23.

149. The shipping master shall be entitled to charge and receive the sum of one dollar for recording such indenture. R.S., c. 74, s. 23.

150. Whenever any such indenture is assigned or cancelled, or whenever any such apprentice dies or deserts, the master of the apprentice shall, within thirty days after such assignment, cancellation, death or desertion, if the same happens within Canada, or, if the same happens elsewhere, so soon afterwards as circumstances permit, notify the same to the said shipping master, to be recorded. R.S., c. 74, s. 23.

151. The master of every Canadian foreign sea-going ship shall, before carrying any apprentice to sea from any place in any of the provinces, cause such apprentice to appear before the shipping master before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof, if any.

2. The name of such apprentice, with the date of the indenture and of the assignments thereof, if any, and the name of

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the port or ports at which the same have been registered, shall be entered on the indenture. R.S., c. 74, s. 24.

Engagement of Seamen and Agreement.

152. The master of every Canadian home-trade ship of or above eighty tons registered tonnage shall enter into an agreement with every seaman whom he carries as one of his crew, in the manner hereinafter mentioned.

2. Every such agreement shall be in form II, or as near thereto as circumstances permit, and shall be dated at the time of the first signature thereof, signed by the master before any seaman signs the same, and shall contain as terms thereof particulars of,—

(a) the nature and, as far as practicable, the duration of the intended voyage or engagement;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman;

(g) any regulations provided by form M as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct which the parties agree to adopt. R.S., c. 74, s. 25.

153. Every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law.

2. Such agreement shall be made and signed either before a shipping master in the manner hereinafter directed with respect to Canadian foreign sea-going ships, or in presence of a respectable witness who shall attest each signature on such agreement. R.S., c. 74, s. 25.

154. Any seaman who has signed such agreement may, at the termination of the agreement, if the master thinks fit, be discharged before a shipping master in the manner herein directed with respect to Canadian foreign sea-going ships.

2. At any period, during such engagement, and before its termination, the master may discharge any such seaman on payment of his wages and with his consent, if such discharge is made in the presence of and with the sanction of a duly appointed shipping master. R.S., c. 74, s. 25.

155. The master of every Canadian foreign sea-going ship shall enter into an agreement with every seaman whom he carries. R.S., 1906.
carries to sea, from any port or place in any of the provinces as one of his crew.

2. Every such agreement shall be in form II, or as near thereto as circumstances permit, and shall be dated at the time of the first signature thereof, signed by the master before any seaman signs the same, and shall contain the particulars required by this Part to be inserted as terms in the shipping agreement of a seaman carried as one of the crew of a Canadian home-trade ship.

3. Such agreement shall be signed by the master and each seaman in the presence of a duly appointed shipping master; and such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature. R.S., c. 74, s. 26.

156. In the case of substitutes engaged in any of the provinces in the place of seamen who have duly signed the agreement and whose services are lost by death, desertion or other unforeseen cause previously to the vessel putting to sea, the engagement shall, when practicable, be made before a shipping master appointed under this Part.

2. Whenever such last mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen who have shipped as substitutes; and such seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures. R.S., c. 74, s. 26.

157. Except additions made, as in this Part directed for shipping substitutes or persons engaged subsequently to the first departure of the ship, every erasure, interlineation, or alteration in any such agreement with seamen, shall be inoperative, unless proved to have been made with the consent of all the persons interested therein by the written attestation of,—

(a) a shipping master, justice of the peace, Customs officer or other public functionary, if made in His Majesty’s dominions; or,

(b) a British consular officer, or, where there is no such officer, two respectable British merchants, if made out of His Majesty’s dominions. R.S., c. 74, s. 33.

158. A clause may be inserted in the agreement providing for the sale of the vessel during the voyage intended, and for the discharge of the crew in the event of such sale, and shall state the amount of wages to be paid to the seamen upon such sale. R.S., c. 74, s. 26.

159. In the case of ships registered in any of the provinces making short voyages from any port or place in any of the provinces

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vinces by sea to ports and places out of Canada, averaging less than two months’ duration, running agreements with the crew may be made to extend to two or more voyages, or for a specified time: Provided that no such agreement shall extend beyond six months from the date of such agreement, or the first arrival of the ship at her port of destination in any of the provinces after the termination of such agreement or the discharge of cargo consequent upon such arrival. R.S., c. 74, s. 27.

160. Every person who enters into such agreement, whether engaged upon the first commencement thereof or otherwise in any of the provinces, shall enter into and sign the same in the manner hereby required for other ships trading by sea to ports or places out of Canada.

2. Every person engaged thereunder, if discharged in any of the provinces, shall be discharged in the manner required by this Part for the discharge of seamen belonging to other ships trading by sea to ports or places out of Canada. R.S., c. 74, s. 27.

161. Any seaman may bring forward evidence to prove the contents of any agreement under this Part, or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof. R.S., c. 74, s. 35.

162. Any seaman who has signed an agreement under this Part and is afterwards discharged before the commencement of the voyage, or before one month’s wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he has earned, due compensation for the damage thereby caused to him, not exceeding one month’s wages, and may, on adducing such evidence as the court hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned. R.S., c. 74, s. 36.

163. In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master and every agent charged with the loading of the ship, or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same: Provided that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances. R.S., 1906.
cumstances, the so sending thereof to sea is reasonable and justifiable. 52 V., c. 22, s. 8.

164. The master of every ship shall furnish and pay for every blank form required by this Part to be used by him. R.S., c. 74, s. 130.

Advance Notes.

165. The ship’s husband or the owner, part owner, master or person in charge of any Canadian foreign sea-going ship, or Canadian home-trade ship, shall not pay in advance, or give any note or acceptance in writing or otherwise in the nature of and purporting to be an advance note for any part of the wages of any seaman hired, engaged, supplied or provided to be entered on board the said ship, until after the ship’s articles have been duly signed by the said seaman and by the master or owner of the said ship.

2. Such note or acceptance may be made payable to the order of such seaman and shall be given only to the seaman himself.

3. No such note or acceptance shall be made or be payable at any time sooner than five days after the final sailing of the ship with such seaman on board.

4. All payments of wages contrary to the provisions of this section shall be null and void; and the amount thereof shall be recoverable by the seaman as if such payments had not been made or advanced. R.S., c. 74, s. 29.


166. The master of every Canadian foreign sea-going ship of which the crew has been engaged before a shipping master in Canada shall, before finally leaving Canada, sign and send to the shipping master before whom the crew was engaged, a full and accurate statement of every change which takes place in his crew before finally leaving Canada.

2. Such statement shall be admitted as evidence, subject to all just exceptions. R.S., c. 74, s. 30.

Production of Certificate of Competency.

167. The master of every Canadian foreign sea-going ship over one hundred tons register, shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed, the certificates of competency or service, which the said master and his first mate or only mate, are required by law to possess.

2. If the shipping master is the chief officer of Customs at the port, he shall not clear any such ship of over one hundred tons register without such certificates being first produced to him, and shall not clear any ship of any tonnage register until R.S., 1906.
all the requirements of this Part have been complied with to his satisfaction. R.S., c. 74, s. 31.

Certificate from Shipping Master.

168. The shipping master, whenever he is not the chief officer of Customs at the port, in the case of any ship of any tonnage register, on all the requirements of this Part being complied to his satisfaction, and any such ship of over one hundred tons register, on the production of the said certificates in addition to complying with all the requirements of this Part to his satisfaction, shall give the master of the ship a certificate to that effect or to the effect that the agreement is in his office partially signed, waiting an engagement of a portion of the crew, as the case may be. R.S., c. 74, s. 31.

169. No officer of Customs shall clear any ship of any tonnage register without the production of the shipping master’s certificate to the effect that all the requirements of this Part have been complied with, or to the effect that the agreement is in his office partially signed waiting an engagement of a portion of the crew, as the case may be, and shall not clear any such ship of over one hundred tons register, without the production of such certificate, and the certificates of competency or service above mentioned.

2. At any port at which the chief officer of Customs acts as shipping master, such officer of Customs shall not clear any ship outwards until all the requirements of this Part have been complied with to his satisfaction. R.S., c. 74, s. 32.

Allotment of Wages.

170. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of payments to be made.

2. Allotment notes may be in form I. R.S., c. 74, s. 37.

171. Unless the seaman is shown to the satisfaction of the court, as provided in this Part, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, or, in case of the wife, that she has deserted her children or so misconducted herself as to be undeserving of support from her husband, the wife, or the father or mother, or the grandfather or grandmother, or any child or grandchild, or any brother or sister, of any seaman in whose favour an allotment note of part of the wages of such seaman is made, may sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note,—

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(a) either in the summary manner in which seamen are, by this Part, enabled to sue for and recover wages not exceeding two hundred dollars; or,

(b) in any court in any of the provinces having jurisdiction to the amount, within the limits of whose jurisdiction such owner or agent has been served with process, or the agreement and allotment note or either of them were or was made if such owner or agent has been duly served with process in any place in any of the provinces within or without such limits. R.S., c. 74, s. 38.

Proof. 172. In any such proceeding to recover the sums so allotted, it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some authorized agent. R.S., c. 74, s. 38.

Presumption in favour of seamen. 173. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court by,—

(a) the official statement of the change in the crew caused by his absence made and signed by the master, as by this Part is required; or,

(b) a duly certified copy of some entry in the log-book to the effect that he has left the ship; or,

(c) a credible letter from the master of the ship to the same effect; or,

(d) such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid. R.S., c. 74, s. 38.

Discharge and Payment of Wages.

174. Except in cases where some competent court otherwise directs, all seamen discharged in any of the provinces from ships registered in any of the provinces other than Canadian home-trade ships, shall be discharged and receive their wages in the presence of the shipping master.

2. In the case of Canadian home-trade ships, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner. R.S., c. 74, s. 39.

Master to deliver account of wages. 175. Every master shall before paying off or discharging any seaman in any of the provinces from a ship registered in any of the said provinces, not being a Canadian home-trade ship of less than eighty tons, deliver to him, or if he is to be discharged before a shipping master, to such shipping master, a full and true account of his wages, in form J, and of all deductions.
tions to be made therefrom on any account whatsoever. R.S., c. 74, s. 40.

176. The master of any ship registered in any of the provinces other than a Canadian home-trade ship of less than eighty tons, shall, upon paying off or discharging any seaman in any of the provinces, sign and give to him a certificate of his discharge in form K, specifying the period of his service and the time and place of his discharge.

2. Such master shall make and sign on such certificate a report of the conduct, character and qualifications of the person discharged during the period he has been in his employment, or state thereon that he declines to give any opinion upon such particulars or upon any of them. R.S., c. 74, s. 41.

177. Every shipping master in Canada may hear and decide any question whatsoever between a master or owner of a ship registered in Canada and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceedings, which are taken in the matter before any court of justice in Canada, be deemed to be conclusive as to the rights of the parties.

2. Any document purporting to be such submission or award shall be prima facie evidence thereof.

3. Such shipping master may charge a fee not exceeding four dollars as remuneration therefor. R.S. c. 74 s. 42.

178. In any proceeding relating to the wages, claims or discharge of any seaman belonging to any ship registered in any of the provinces carried on before any shipping master under the provisions of this Part, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers or other documents in their respective possession or power, relating to any matter in question in such proceedings, and may call before him and examine on oath on any such matter any of such persons then at or near the place. R.S. c. 74, s. 43.

Legal Rights to Wages.

179. In the case of ships registered in any of the provinces, the right to wages and provisions of a seaman engaged in any of the said provinces shall be taken to commence either at the time at which he commences work, or at the time specified for his commencement of work or presence on board, whichever first happens. R.S., c. 74, s. 44.

180. No seaman engaged under this Part for any ship registered in any of the provinces shall, by any engagement made in any of the provinces, forfeit his lien upon the ship, or R.S., 1906.
or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled.

2. Every stipulation in any agreement made in any of the provinces inconsistent with any provision of this Part and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he has or obtains in the nature of salvage, shall be wholly inoperative: Provided that this subsection shall not apply to the case of any stipulation made by the seamen belonging to any ship which, according to the terms of the agreement, is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship. R.S., c. 74, s. 45.

181. No right to wages of any seaman or apprentice on board of any ship registered in any of the provinces shall be dependent on the earning of freight.

2. Every such seaman or apprentice who would be entitled to demand and recover any wages, if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned: Provided that, in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores, shall bar his claim. R.S., c. 74, s. 46.

182. If any seaman or apprentice to whom wages are due under the last preceding section dies before the same are paid, such wages shall be paid and applied in the manner in this Part specified, with regard to the wages of seamen who die during a voyage. R.S., c. 74, s. 47.

183. Whenever the services of any seaman belonging to any ship registered in any of the provinces, terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, or by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage, granted as in this Part mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period. R.S., c. 74, s. 48.

184. No seaman or apprentice belonging to any ship registered in any of the provinces shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, or, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him. R.S., c. 74, s. 49.
185. Whenever a seaman belonging to any ship registered in any of the provinces is, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is, by reason of such illness, incapable of performing his duty. R.S., c. 74, s. 50.

186. Excepting cases in which the seaman by the agreement is paid by a share of the profits of the adventure, the master or owner of every ship registered in any of the provinces shall pay every seaman belonging to such ship, his wages, if demanded, within three days after the delivery of the cargo, or five days after the seaman's discharge, whichever first happens. R.S., c. 74, s. 51.

Mode of Recovering Wages.

187. Any seaman or apprentice belonging to any ship registered in any of the provinces, or any person duly authorized on his behalf, may, whenever wages due to him to an amount not exceeding two hundred dollars over and above the costs of any proceeding for the recovery thereof becomes payable, sue for the same, in a summary manner before any judge of the Superior Court of the province of Quebec, any judge of the sessions of the peace, any judge of a county court, stipendiary magistrate, police magistrate, or any two justices of the peace acting in or near the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any master or owner or other person upon whom the claim is made is or resides.

2. Such judge, magistrate or justices may, upon complaint on oath made to him or them by such seaman or apprentice, or on his behalf, summon such master or owner or other person to appear before him or them to answer such complaint. R.S., c. 74, s. 52.

188. Upon appearance of such master or owner, such judge, magistrate or justices may examine upon oath the parties and their respective witnesses, touching the complaint and the amount of wages due, and may make such order for the payment of any wages found due as appears reasonable and just.

2. If the master or owner does not appear, then, on due proof of such master or owner having been duly summoned, such judge, magistrate or justices may examine on oath the complainant and his witnesses, touching the complaint and amount of wages due and may make such order for the payment of any amount of wages found due as appears reasonable and just.

3. Any order for the payment of wages made under the provisions of this section shall be final. R.S., c. 74, s. 53.

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189. If such order is not obeyed within twenty-four hours next after the making thereof, such judge, magistrate or justices may issue a warrant to levy the amount of the wages awarded to be due by distress and sale of the goods and chattels of the person on whom such order is made, together with all the charges and expenses incurred by the seaman or apprentice in the making and hearing of the complaint and all costs, charges and expenses incurred by the distress and levy, and in the enforcement of the order.

2. Any surplus, after the amount of the wages awarded and all such charges and expenses are deducted, shall be paid to the person on whom such order is made. R.S., c. 74, s. 54.

190. If sufficient distress cannot be found, such judge, magistrate or justices may cause the amount of such wages and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof.

2. If such ship is not within the jurisdiction of such judge, magistrate or justices, then they may cause the person on whom the order for payment is made to be apprehended and committed under each such condemnation to the common gaol of the locality, or, if there is no gaol there, then to that which is nearest to the locality, for a term not exceeding three months and not less than one month. R.S., c. 74, s. 55.

191. No suit or proceedings for the recovery of wages under the sum of two hundred dollars shall be instituted by or on behalf of any seaman or apprentice belonging to any ship registered in any of the provinces in the Exchequer Court on its Admiralty side, or in any superior court in any of the provinces, unless,—

(a) the owner of the ship is insolvent within the meaning of any Act respecting insolvency, for the time being in force in Canada; or,
(b) the ship is under arrest or is sold by the authority of the Exchequer Court on its Admiralty side, or any superior court; or,
(c) any judge, magistrate or justices, acting under the authority of this Part, refer the case to be adjudged by such court; or,
(d) neither the owner nor the master is nor resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore. R.S., c. 74, s. 56.

192. If any suit for the recovery of a seaman’s wages is instituted against any such ship or the master or owner thereof in the Exchequer Court on its Admiralty side, or in any superior court in any of the provinces, and it appears to the court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint...
complaint to a judge, magistrate or two justices of the peace under this Part, the judge shall certify to that effect, and thereupon no costs shall be awarded to the plaintiff. R.S., c. 74, s. 57.

193. No seaman belonging to any Canadian foreign seagoing ship who is engaged for a voyage or engagement which is to terminate in any of the provinces shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required, and with the written consent of the master, or proves such ill-usage on the part of the master, or by his authority, as to warrant reasonable apprehension of danger to the life of such seaman, if he remained on board.

2. If any seaman, on his return to any of the provinces, proves that the master or owner has been guilty of any conduct or default which, but for this section, would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages, such compensation, not exceeding eighty dollars, as the court hearing the case thinks reasonable. R.S., c. 74, s. 58.

194. Every master of a ship registered in any of the provinces shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages, and for the recovery of disbursements properly made by him on account of the ship and for liabilities properly incurred by him on account of the ship, which, by this Part or by any law or custom, any seaman, not being a master, has for the recovery of his wages. 57-58 V., c. 43, s. 1.

195. If, in any proceeding in any court possessing Admiralty jurisdiction in any of the provinces touching the claim of a master to wages or such disbursements and liabilities as aforesaid, any right of set-off or counter-claim is set up, such court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceedings, and may direct payment of any balance which is found to be due. 57-58 V., c. 43, s. 1.

Wages and Effects of deceased Seamen.

196. Whenever any seaman or apprentice belonging to or sent home in any Canadian foreign sea-going ship employed on a voyage which is to terminate in any of the provinces dies during such voyage, the master shall take charge of all money, clothes and effects which he leaves on board, and shall, if he considers it necessary in order to prevent contagion or disease, dispose of the clothes in such way as he thinks fit, and shall thereupon sign an entry in the log-book containing a statement,—

\[(a)\] of the amount of money and a description of the effects left by the deceased, and, if any effects were disposed of

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197. The master shall, on arrival at any port in any of the provinces at which there is a shipping master, within three days after his arrival, deliver to such shipping master a full and true account of such effects, money and wages, with an account of any deductions made therefrom;

and shall cause such entry to be attested by a mate and by one of the crew. R.S., c. 74, s. 60.

198. If any master fails to take such charge of the money or other effects of any such seaman or apprentice dying during a voyage, or to make such entry thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages or effects of any such seaman or apprentice dying during a voyage, or to give such account in respect thereof as is by this Part in such cases required, he shall be accountable to the legal representative of such seaman or apprentice and shall pay and deliver the same accordingly.

2. If any such money, wages or effects are not duly paid, delivered or accounted for by the master, the owner of the ship shall pay, deliver and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly. R.S., c. 74, s. 61.

199. All money, wages and effects of any such seaman or apprentice dying during a voyage, shall be recoverable in the same court and by the same modes of proceeding by which seamen are, by this Part, enabled to recover wages due to them.

2. Any shipping master who fails to report the receipt of such accounts, wages, money and effects to the Minister, or who fails to deliver or pay over such wages, money and effects as directed, shall be liable to be dismissed from his office. R.S., c. 74, s. 61.

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200. Whenever any such seaman or apprentice dies in any of the provinces, and is, at the time of his death, entitled to claim from the master or owner of any such ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master at the port where such seaman or apprentice was discharged or was to have been discharged, or to the Minister, or as the Minister directs. R.S., c. 74, s. 62.

201. In cases of wages or effects of deceased seamen and apprentices who belonged, at the time of their death, to ships registered in any of the provinces, received by any shipping master on behalf of the Government of Canada, to which no claim is substantiated within six years after the receipt thereof by such shipping master on behalf of the Government of Canada, it shall be in the absolute discretion of the Governor in Council, if any subsequent claim is made, either to allow or to refuse the same. R.S., c. 74, s. 63.

202. The Governor in Council may, subject to the provisions of this Part, from time to time, order and direct that any moneys arising from the unclaimed wages and effects of deceased seamen and apprentices, which, in the opinion of the Governor in Council, it is not necessary to detain for the purpose of satisfying claims, shall be paid to the Minister of Finance to form part of the Consolidated Revenue Fund.

2. Such moneys shall be applied as the Governor in Council directs. R.S., c. 74, s. 63.

Leaving Seamen Abroad.

203. Whenever any Canadian foreign sea-going ship is transferred or disposed of at any place out of His Majesty's dominions, and any seaman or apprentice belonging thereto does not, in the presence of some British consular officer, or, if there is no such consular officer there, in the presence of one or more respectable British merchants residing at the place and not interested in the said ship, signify his consent in writing to complete the voyage, if continued, and whenever the service of any seaman or apprentice belonging to any such ship terminates at any place out of His Majesty's dominions, the master shall give to each such seaman or apprentice a certificate of discharge and, in the case of any certificated mate, whose certificate he has retained, shall return such certificate to him. R.S., c. 74, s. 64.

204. Such master shall also, besides paying the wages to which such seaman or apprentice is entitled,—

(a) either provide him with adequate employment on board some other British ship bound to the port in Canada or any other port in His Majesty's dominions at which he was to be sent home at the expense of the owner.

Wages and effects of a seaman dying in Canada, to whom to be paid and delivered.

Mode of dealing with unclaimed wages of deceased seamen.

Governor in Council may order payment to Minister of Finance.

Application of moneys.

On discharge of seamen abroad, certificate of discharge to be given.

Seamen to be sent home at the expense of the owner.

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was originally shipped, or to such other port as is agreed upon by him; or,

(b) furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid, such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home. R.S., c. 74, s. 64.

205. If the master refuses or neglects to comply with the provisions of the last preceding section, such expenses, if defrayed by such consular officer or any other person, and the particulars of such payment, provision or deposit endorsed by him or them upon the agreement of the ship which the seaman or apprentice is leaving, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged, and upon the owner for the time being thereof, and may be recovered with costs,—

(a) from such owner at the suit of the consular officer or other person defraying such expenses; or,

(b) if the same has been allowed to the consular officer out of the public moneys, as a debt due to His Majesty; by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages.

2. Such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due him. R.S., c. 74, s. 64.

206. Every master of a Canadian foreign sea-going ship, who leaves any seaman or apprentice on shore at any place out of Canada under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or, in the absence of such functionaries, to the merchants by whom such certificate is signed, or, if there is but one respectable merchant resident at such place, to such merchant, a full and true account of the wages due to such seaman or apprentice, and shall pay the same in money whenever practicable so to do, or, if impracticable, by a bill drawn upon the owner.

2. Such account, when delivered to the consular officer, shall be in duplicate.

3. Whenever payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the holder or endorsee thereof the amount for which the same is drawn.

4. It shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same.

5. Any bill purporting to be drawn and endorsed in pursuance and as by this section required shall, if produced out of the custody of the Minister or of any shipping master, and any endorsement on any such bill purporting to be made in pursuance

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suance of this section and to be signed by one of the functionaries aforesaid shall be received in evidence, and such endorsement shall be *prima facie* evidence of the facts therein stated. R.S., c. 75, s. 68.

207. The Governor in Council may, on the production of the bills of the disbursements, with the proper vouchers and such other evidence as the Governor in Council requires, pay, out of any moneys applicable to the relief of distressed seamen and granted by the Parliament of Canada for such purpose, any reasonable expenses incurred by the Board of Trade of the United Kingdom, or by any officers of His Majesty in any British possession other than Canada, or in any foreign country, on account of subsistence or transport back to Canada of any seamen or apprentices who have been domiciled in Canada for twelve months and who have been found in distress, either on account of shipwreck or otherwise, in any place out of Canada.

2. Persons serving in ships registered in Canada shall, for the purpose of this section, be deemed to be domiciled in Canada while so serving. 57-58 V., c. 43, s. 2.

208. If any seaman or apprentice belonging to any Canadian foreign sea-going ship is discharged or left behind at any place out of Canada, without full compliance on the part of the master with all the provisions in that behalf in this Part contained, and becomes distressed and is relieved under the provisions of this Part, all expenses incurred for his subsistence, necessary clothes, conveyance back to Canada, and burial in case he dies abroad before reaching Canada, shall be a charge upon the ship to which he belonged. R.S., c. 74, s. 70.

209. The Minister may, in the name of His Majesty, besides suing for any penalties which have been incurred, sue for and recover the said wages and expenses with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, in the same manner as other debts due to His Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him.

2. In any such proceeding, production of the account to be furnished as hereinbefore provided in such cases, together with proof of payment by the Board of Trade of the United Kingdom, or by the Government of Canada, of the charges incurred on account of any such seaman or apprentice, shall be sufficient evidence that he was relieved, conveyed home or buried, as the case may be, at the expense of the Government of the United Kingdom or of the Government of Canada. R.S., c. 74, s. 70.

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Provisions,

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Provisions, Health and Accommodation.

210. Any three or more of the crew of any ship registered in any of the provinces may complain to any officer in command of any of His Majesty's ships or any shipping master in Canada, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined.

2. If, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship. R.S., c. 74, s. 71.

211. Upon every such examination, the officer making or directing the same shall enter a statement of the result of the examination in the log-book, and shall send a report thereof to the Minister.

2. Such report, if produced out of the custody of the Minister or any officer of the Government, shall be received in evidence in any legal proceedings. R.S., c. 74, s. 71.

212. If the officer to whom any such complaint is made certifies in such statement that there was no reasonable ground for such complaint, each of the persons so complaining shall be liable to forfeit to the owner, out of his wages, a sum not exceeding one week's wages. R.S., c. 74, s. 72.

213. Whenever, during the voyage, the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced, or if it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use, the seaman shall receive, by way of compensation for such reduction or bad quality, according to the time of its continuance, in addition to and to be recoverable as wages,—

(a) if his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement an amount not exceeding eight cents a day; or,
(b) if his allowance is reduced by more than one-third of such quantity, sixteen cents a day; or,
(c) in respect of the bad quality of such provisions or of their unfitness for use, an amount not exceeding twenty-four cents a day:

Provided that it is shown to the satisfaction of the court before which the case is tried, that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case requires.

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2. There shall be no allowance by way of compensation to any seaman,—
   (a) where any such reduction is made in accordance with any regulations for reduction by way of punishment contained in the agreement; or,
   (b) for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty; or is lawfully under confinement for misconduct either on board or on shore. R.S., c. 74, s. 73.

214. Every master of a ship registered in any of the provinces shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness, whenever any dispute arises about such quantities. R.S., c. 74, s. 74.

Expenses in Case of Illness and Death.

215. If the master or any seaman or apprentice of any Canadian foreign sea-going ship,—
   (a) receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or to some port in Canada, if shipped in Canada, or in some other British possession, and of his conveyance to such port, and the expense of his burial; or,
   (b) is, on account of any illness, temporarily removed from his ship for the purpose of preventing infection or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal and of providing the necessary advice with attendance and medicines and of his subsistence while away from the ship;

shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman or apprentice.

2. The expenses of all medicines and surgical and medical advice and attendance given to any master, seaman or apprentice of any Canadian foreign sea-going ship whilst on board his ship, shall be defrayed in like manner by the owner of such ship without any such deduction. R.S., c. 74, s. 75.

216. In all other cases, any reasonable expenses duly incurred by the owner for any seaman or apprentice in respect of any illness, or in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted.

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deducted from the wages of such seaman or apprentice. R.S., c. 74, s. 75.

217. If any such expenses in respect of the illness, injury or hurt of any seaman or apprentice belonging to any Canadian foreign sea-going ship as are to be borne by the owner are paid by any consular officer or any other person on behalf of His Majesty, or if any other expenses in respect of the illness, injury or hurt of any seaman or apprentice whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf are so paid, such expenses shall be repaid to the officer or other person by the master of the ship.

2. In case the same shall not be so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master or from the owner of the ship for the time being, as a debt due to His Majesty, by ordinary process of law, or in the manner provided in this Part for the recovery of seamen’s wages.

3. In any proceeding for the recovery thereof, the production of a certificate of the facts signed by such officer or other person, together with such vouchers as the case requires, shall be sufficient proof that such expenses were duly paid by such consular officer or other person. R.S., c. 74, s. 76.

Accommodation for Seamen and Apprentices on board Canadian Foreign Sea-going Ships.

218. Every place in any Canadian foreign sea-going ship occupied by seamen or apprentices and appropriated to their use shall have, for every such seaman or apprentice, a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet, measured on the deck or floor of such place. R.S., c. 74, s. 77.

219. Every such place shall be such as to make the space aforesaid available for the proper accommodation of the men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and, as far as practicable, shall be properly shut off and protected from the effluvium caused by cargo or bilge water. R.S., c. 74, s. 77.

220. No such place shall be deemed to be such as to authorize a deduction from registered tonnage, under the provisions hereinafter contained, unless there is or are in the ship one or more properly constructed privy or privies for the use of the crew which shall be of such number and of such construction as are approved by the surveyor hereinafter mentioned. R.S., c. 74, s. 77.
221. Every such place shall, whenever the ship is registered or re-registered, be inspected by one of the surveyors appointed by the Governor in Council under the Merchant Shipping Act, 1894, who shall, if satisfied that the same is in all respects such as is required by this Part, give to the collector of Customs a certificate to that effect, and thereupon such space shall be deducted from the registered tonnage. R.S., c. 74, s. 77.

222. No such deduction from tonnage shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every such place, with the words Certified to accommodate seamen, appropriately filled in, a figure or figures indicating the number of men which it is constructed to accommodate. R.S., c. 74, s. 77.

223. Every such place shall be kept free from stores or goods of any kind, which are not the personal property of the crew, in use during the voyage. R.S., c. 74, s. 77.

224. Upon any complaint concerning any such place, one of the surveyors appointed by the Governor in Council may inspect such place, and, if he finds that any of the provisions of this Part with respect to the same are not complied with, he shall report such non-compliance to the collector of Customs at the port where the ship is registered; and thereupon the registered tonnage shall be altered and the deduction aforesaid in respect of space disallowed, until it is certified by such surveyor, or by some other surveyor appointed by the Governor in Council, that the provisions of this Part in respect of such place are fully complied with. R.S., c. 74, s. 77.

225. If any such place in any such ship is not kept free from goods and stores, the master shall be deemed to be in fault, and shall, for every such failure to comply with the provisions of this Part regarding seamen's accommodation, pay to each seaman lodged in such place the sum of twenty-four cents a day for each day after complaint made to him by any two or more of such seamen during which any goods or stores, which are not the personal property of the crew, are stored or kept therein. R.S., c. 74, s. 77.

Power of Making Complaints.

226. If any seaman or apprentice whilst on board, in any of the provinces, any ship registered in any of the provinces states to the master that he desires to make complaint to a justice of the peace or naval officer in command of any of His Majesty's ships against the master or any of the crew, the master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, as soon as the service of the ship will permit, and, if the ship is not then at such a place, Seamen to be allowed to go ashore to make complaint to a justice.

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place, so soon after her arrival at such a place in any of the provinces as the service of the ship will permit, allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint. R.S., c. 74, s. 78.

**Inspection of Ships ordered by Court.**

227. Whenever, in any proceeding against any seaman or apprentice belonging to any ship registered in any of the provinces for desertion, or for neglecting or refusing to join or to proceed to sea or on any voyage in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth the seamen belonging to such ship, or, if the number of men exceeds twenty, by at least five such seamen, that such ship is, by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea or on such voyage, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth or untruth of such allegation, and shall, for that purpose, receive the evidence of the person or persons making the same, and have power to summon any other witnesses whose evidence such court thinks it desirable to hear; and the court shall thereupon, if satisfied that the allegation is groundless, adjudicate accordingly, otherwise the court shall cause such ship to be surveyed. R.S., c. 74, s. 79.

228. No seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for any such survey, unless, previously to his quitting his ship, he has complained to the master of the circumstances so alleged in justification. R.S., c. 74, s. 79.

229. For the purposes of such survey, the court may appoint and require any person having no interest in the ship, her freight or cargo whom the court deems competent to deal with the special circumstances of the case, to survey the ship, and to answer any question concerning her which the court thinks fit to put. R.S., c. 74, s. 79.

230. Such person shall survey the ship and make his report in writing to the court, including an answer to every question put to him by the court. R.S., c. 74, s. 79.

231. The court shall cause such report to be communicated to the parties, and, unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the questions before it in accordance with such opinions. R.S., c. 74, s. 79.

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232. For the purpose of such survey, the person appointed to make the same may, in the execution of his duty, go on board the ship at any reasonable time, and may inspect the same or any part thereof, or any of the machinery, boats or other equipments, or cargo thereof, or any provisions or other articles on board thereof, the inspection of which appears to him to be requisite for the purpose of the inquiry he is required to make, and, if, for any reason, he considers it necessary so to do, may require the ship to be so dealt with that he may be able to inspect every part of the hull thereof, but shall not, in making such survey, unnecessarily detain or delay the ship from proceeding to sea or on her voyage. R.S., c. 74, s. 79.

233. The costs of the survey shall be determined by the court, and shall be paid by the master or owner of the ship, or by the recognized consignee or agent thereof, if such recognized consignee or agent has sufficient moneys in his hands received on account of such ship. R.S., c. 74, s. 79.

234. Every recognized consignee or agent of a ship, not being the owner or master of such ship, may, out of any moneys in his hands received on account of such ship, retain the amount of the costs so paid by him, together with any reasonable expenses he has incurred by reason of such payment and liability. R.S., c. 74, s. 79.

235. If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea or on her voyage, or that the accommodation is sufficient, as the case may be, the costs of the survey may be deducted by the master or owner out of the wages due or to become due to the person or persons upon whose demand, or in consequence of whose allegation, the survey was made. R.S., c. 74, s. 79.

Protection of Seamen from Imposition.

236. No wages due or accruing to any seaman or apprentice belonging to any ship registered in any of the provinces, shall be subject to attachment from any court; and every payment of wages to any such seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages or any attachment or encumbrance thereon. R.S., c. 74, s. 80.

237. No assignment or sale of such wages or of salvage made prior to the accruing thereof shall bind the person making the same.

2. No power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable. R.S., c. 74, s. 80. Power of attorney. 1933

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No debt exceeding $1 recoverable till end of voyage.  

238. No debt exceeding in amount one dollar incurred by any seaman belonging to any ship registered in any of the provinces, after he has engaged to serve, shall be recoverable until the service agreed for is concluded. R.S., c. 74, s. 81.

No debt over $1 recoverable by tavern keeper.  

239. No debt exceeding the sum of one dollar, incurred by any seaman or apprentice shall be recoverable in any court or be pleadable by way of set-off by any keeper of a tavern, or house of public entertainment or lodging house. R.S., c. 74, s. 82.

Wearing apparel, etc., of seaman not liable for lodging beyond $1.  

240. The wearing apparel of any seaman or apprentice shall not be kept by any keeper of a tavern, house of public entertainment or lodging house, in pledge for any debt or expenses incurred to any greater amount than one dollar; and, on the payment or tender of such sum or of any less sum due, such wearing apparel shall be immediately given up, whatever is the amount due by such seaman or apprentice. R.S., c. 74, s. 83.

No person to go on board a merchant ship without leave of the master.  

241. No person other than an owner, agent of an owner, or consignee of the ship or cargo, or a person in the employment of either of them, or an officer or person in His Majesty's service or employment, harbour master, deputy harbour master, health officer, Custom-house officer, pilot, shipping master or deputy shipping master shall, without the permission or against the orders of the master or person in charge of such ship, go aboard of any merchant ship arriving or about to arrive from sea at the place of her destination before her actual arrival in dock, or at any quay or place of her discharge, or while she remains in port. R.S., c. 74, s. 86.

Change of Master.  

242. If, during the progress of a voyage, the master of any Canadian foreign sea-going ship is superseded in any of the provinces, or, for any other reason, quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody.

2. Such successor shall immediately, on assuming the command of the ship, enter in the log-book a list of the documents so delivered to him. R.S., c. 74, s. 106.

Log-book.  

243. The master of every Canadian foreign sea-going ship shall keep a log-book, and every entry to be made in such log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same date as the occurrence

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244. The master of such ship, whether he does or does not make in such log-book the entries usually made in ships’ log-books, shall make or cause to be made therein entries of,—

(a) every legal conviction of any member of his crew, and the punishment inflicted;
(b) every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with the statement concerning the reading over such entry and concerning the reply, if any, made to the charge;
(c) every offence for which punishment is inflicted on board, and the punishment inflicted;
(d) the conduct, character and qualifications of each of his crew, or the fact that he declines to give an opinion on such particulars;
(e) every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted, if any;
(f) every case of death happening on board and the cause thereof;

(g) every birth happening on board, with the sex of the infant, and the names of the parents;

(h) every marriage which takes place on board, with the names and ages of the parties;

(i) the name of every seaman and apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner and cause thereof;

(j) the amount of wages due to any seaman who enters His Majesty’s service during the voyage;

(k) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom;

(l) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it;

(m) every collision with any other ship, and the circumstances under which the same occurred. R.S., c. 74, s. 108.

245. Every entry required to be made in log-books shall be signed,—

(a) in case of illness, injury or death, by the master and by the mate or some other member of the crew, and the surgeon or medical practitioner on board, if any; 1935

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(b) in case of wages due to or of the sale of the effects of any seaman or apprentice who dies, by the master and by the mate and some other member of the crew;
(c) in case of wages due any seaman who enters His Majesty’s service, by the master and by the seaman or by the officer authorized to receive the seaman into such service; and,
(d) in all other cases, by the master and the mate or some other member of the crew. R.S., c. 74, s. 110.

246. All entries made in any log-book, as hereinbefore directed, shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions. R.S., c. 74, s. 112.

Inquiry into causes of Death on board.

247. Whenever any case of death happens on board any Canadian foreign sea-going ship, the shipping master shall, on the arrival of such ship at the port in any of the provinces where the crew is discharged, inquire into the cause of such death; and, if, in the course of such inquiry, it appears to him that any such death has been caused by violence or other improper means, he shall either report the matter to the Minister, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice. R.S., c. 74, s. 107.

Offences, Penalties and Forfeitures.

248. Every person who,—
(a) knowingly employs any person other than a shipping master or deputy shipping master for the purpose of hiring, engaging, supplying or providing seamen to be entered on board any ship, not being a Canadian home-trade ship or ship in the merchant service of a foreign country to which this Part by the provisions thereof does not as to hiring, engaging, supplying or providing seamen to be entered on board thereof, apply; or,
(b) not being a shipping master or deputy shipping master, hires, engages, supplies or provides a seaman to be entered on board any such ship,—
shall, notwithstanding several seamen are included in the same contract, or several seamen are received or permitted to remain at the same time, for each and every seaman hired, engaged, supplied or provided to be entered on board such ship contrary to the provisions of this Part, incur a penalty not exceeding forty dollars for each offence. R.S., c. 74, ss. 12, 14 and 15.

249. Every person, other than a shipping master or deputy shipping master, who exacts or receives from the master of any

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such ship, any sum of money as a reward for procuring, contrary to the provisions of this Part, a seaman to serve on board such ship, shall incur a penalty not exceeding eighty dollars and not less than twenty dollars. R.S., c. 74, s. 12.

250. Every shipping master or deputy shipping master, and every clerk or servant in any shipping office who demands or receives any remuneration, either directly or indirectly, for hiring or supplying any seaman for any ship, over and above the lawful fees payable under this Part, shall, for every such offence, incur a penalty not exceeding forty dollars, and shall also be liable to be dismissed from his office by the Governor in Council. R.S., c. 74, s. 18.

251. Every owner, part owner, master, person in charge of any ship, ship's husband or consignee, who knowingly receives or accepts to be entered on board such ship or permits to remain on board the same, any seaman who has been hired, engaged, supplied or provided to be entered on board thereof contrary to the provisions of this Part, or who has been engaged or hired to be entered on board any other ship, shall incur a penalty not exceeding forty dollars for each offence, notwithstanding that several seamen are received or accepted to be entered on board such ship or are permitted to remain on board at the same time. R.S., c. 74, ss. 13 and 15.

252. Every master or other person belonging to a British merchant ship, who, when duly called upon for the purpose of giving assistance by any shipping master or deputy shipping master appointed under this Part, omits or refuses to give any answer or information concerning reserve men towards carrying into effect the objects of the Act of the Parliament of the United Kingdom, passed in the session held in the twenty-second and twenty-third years of the reign of Her late Majesty Queen Victoria, chaptered forty, which it is in his power to give, shall incur a penalty not exceeding twenty dollars. R.S., c. 74, s. 21.

253. (a) Every person to whom any boy is bound as an apprentice, who, within seven days after the execution of the indenture, fails to take or transmit such indenture to the shipping master nearest to the residence of the person to whom the boy is bound; or,
(b) The shipping master who fails to cause such indenture to be copied in a book kept in his office and open to public inspection free of any charge, or to endorse on the indenture that it has been so recorded, or to redeliver the same to the master of the apprentice; and,
(c) The master of any apprentice, whenever any such indenture is assigned or cancelled, or any such apprentice dies or deserts, who, within thirty days after such assignment, cancellation, death or desertion, if the same happens within R.S., 1906.
within Canada, or if the same happens elsewhere, so soon afterwards as circumstances permit, fails to notify the same to the said shipping master; shall incur a penalty not exceeding forty dollars. R.S., c. 74, s. 23.

254. The master of every Canadian foreign sea-going ship who, before carrying any apprentice to sea from any place in any of the provinces, fails to cause such apprentice to appear before the shipping master before whom the crew is engaged and to produce the indenture by which such apprentice is bound and the assignment or assignments thereof, if any, and to have the name of the apprentice with the date of the indenture and of the assignments thereof, if any, and the name of the port or ports at which the same has been registered, entered on the indenture, shall, for each offence, incur a penalty not exceeding twenty dollars. R.S., c. 74, s. 24.

255. The master of every Canadian foreign sea-going ship of which the crew has been engaged before a shipping master in Canada who, before finally leaving Canada, fails to sign and send to the shipping master before whom the crew was engaged, a full and accurate statement of every change which takes place in his crew before finally leaving Canada shall, for each offence, incur a penalty not exceeding twenty dollars. R.S., c. 74, s. 30.

256. Every master of a ship registered in any of the provinces, of over eighty tons register, exclusively employed in trading between any port or place in any of the provinces and any port or place in any other of the provinces who carries any seaman to sea, apprentices excepted, without entering into an agreement with him in the form and manner, and at the place and time in such case required, shall, for each such offence, incur a penalty not exceeding twenty dollars. R.S., c. 74, s. 28.

257. If any ship of any tonnage register attempts to go from any port or to sea without complying with all the requirements of this Part, the master of such ship shall incur a penalty not exceeding two hundred dollars. R.S., c. 74, ss. 31 and 32.

258. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making, or procures to be made any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement made under this Part, is guilty of an indictable offence. R.S., c. 74, s. 34.

259. Every master who makes a wilfully false statement in any credible letter intended for use in any proceeding on an allotment note for the recovery of a seaman’s wages, to the effect
effect that a seaman has left his ship and has ceased to be entitled to the wages out of which any allotment is to be paid, shall incur a penalty of one hundred dollars. R.S., c. 74, s. 38.

260. Any master, or owner or consignee of any ship registered in any of the provinces, other than a Canadian home-trade ship, who discharges any seaman belonging thereto, or except in cases where some competent court otherwise directs, pays the wages of such seaman within any of the provinces otherwise than in the presence of a shipping master, shall incur a penalty not exceeding forty dollars. R.S., c. 74, s. 39.

261. Every master who, before paying off or discharging any seaman in any of the provinces from a ship registered in any of the provinces, other than a Canadian home-trade ship of less than eighty tons, fails to deliver to such seaman, or, if such seaman is to be discharged before a shipping master, to such shipping master, a full and true account of his wages and of all deductions to be made therefrom shall, for each offence, incur a penalty not exceeding twenty dollars. R.S., c. 74, s. 40.

262. The master of any ship registered in any of the provinces, other than a Canadian home-trade ship of less than eighty tons, who, upon the discharge in any of the provinces of any seaman belonging to his ship, or upon payment of the wages of any such seaman, if he requires the same, fails to sign and deliver to such seaman a certificate of his discharge in form K, specifying the period of his service and the time and place of his discharge, with a report thereon of the conduct, character and qualifications of the person discharged, during the period he has been in his employment, or stating thereon that he declines to give any opinion upon such particulars or upon any of them, shall, for each such offence, incur a penalty not exceeding forty dollars. R.S., c. 74, s. 41.

263. Every owner, agent, master, mate or other member of the crew, who, when called upon by the shipping master to produce any log-book, papers or other documents in his possession or power relating to any matter in question in any proceeding as to the wages, claims or discharge of any seaman belonging to any ship registered in any of the provinces, carried on before such shipping master under this Part, or to appear and give evidence, does not produce any such log-book, papers or other document, or does not appear and give evidence, shall, unless he shows a reasonable excuse for such default, incur for each such offence a penalty not exceeding twenty dollars. R.S., Penalty. c. 74, s. 43.

264. If any master of a Canadian foreign sea-going ship fails to take charge of the money or other effects of any seaman or apprentice dying during a voyage which was to terminate in 1221/4 1939 any

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any of the provinces, or to make in the log-book the entry thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages or effects of any such seaman or apprentice dying during a voyage, or to give such account in respect thereof as in this Part respectively directed, he shall, for every such offence, incur a penalty not exceeding treble the value of the money or effects not so accounted for, or, if such value is not ascertained, not exceeding two hundred dollars, and, if the owner of the ship fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty. R.S., c. 74, s. 61.

265. Every master or other person belonging to any Canadian foreign sea-going ship, who wrongfully forces on shore and leaves behind or otherwise wilfully and wrongfully leaves behind in any place on shore or at sea, in or out of His Majesty's dominions, any seaman or apprentice belonging to such ship before the return of the ship to Canada, or the completion of the voyage for which such person was engaged, is guilty of an indictable offence. R.S., c. 74, s. 65.

266. Every master of a Canadian foreign sea-going ship, who,—

(a) discharges any seaman or apprentice in any place situate in the United Kingdom or in any British possession other than Canada, without previously obtaining the sanction in writing of a public shipping master or other officer duly appointed by the Government in that behalf, or, in the absence of such functionary, of the chief officer of Customs resident at or near the place where the discharge takes place and without having such sanction endorsed on the agreement; or,

(b) discharges any seaman or apprentice at any place out of His Majesty's dominions without previously obtaining the sanction so endorsed as aforesaid of the British consular officer there, or, in his absence, of two respectable merchants resident there; or,

(c) leaves behind any seaman or apprentice at any place situate in the United Kingdom or in any British possession other than Canada, on any ground whatsoever, without previously obtaining a certificate in writing so endorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause is unfitness or inability to proceed to sea, or desertion or disappearance; or,

(d) leaves behind any seaman or apprentice at any place out of His Majesty's dominions, on shore or at sea, on any ground whatsoever, without previously obtaining the certificate endorsed in the manner and to the effect last aforesaid of the British consular officer there, or, in his absence,
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absence, of two respectable merchants, if there are any
at or near the place where the ship then is,
is guilty of an indictable offence.  R.S., c. 74, s. 66.

267. Upon the trial of any information, indictment or other
proceeding against any person for discharging or leaving be-
hind any seaman or apprentice contrary to the provisions of
this Part, it shall lie upon such person either to produce the
sanction or certificate hereby required by this Part in that
behalf, or to prove that he had obtained the same previously to
having discharged or left behind such seaman or apprentice, or
that it was impracticable for him to obtain such sanction or
certificate.  R.S., c. 74, s. 67.

268. Every master of a Canadian foreign sea-going ship
who refuses or neglects to deliver a full account of the wages
due to any seaman or apprentice left on shore at any place out
of Canada, under a certificate of his unfitness or inability to
proceed on the voyage, and to pay the amount thereof in money
or by bill as by this Part required, shall, for every such offence
or default, be liable, in addition to the payment of the wages,
to a penalty not exceeding forty dollars.
2. Every such master who delivers a false account of such
wages shall, for every such offence, be liable, in addition to
the payment of wages, to a penalty not exceeding eighty
dollars.  R.S., c. 74, s. 68.

269. Every master of any ship registered in any of the
provinces who, upon it being signified to him by any officer in
command of any of His Majesty's ships, or any shipping master
in Canada, on any examination made in that behalf, that the
provisions or water for the use of the crew are of bad quality,
unfit for use or deficient in quantity, does not therupon pro-
vide other provisions or water or, in case of deficiency, procure
the requisite quantity of any such provisions or water, or uses
any provisions or water which have been signified as aforesaid
to be of bad quality and unfit for use, shall, in every such case,
incur a penalty not exceeding eighty dollars.  R.S., c. 74, s. 71.

270. Every master of a ship registered in any of the pro-
vinces who fails to keep on board proper weights and measures
for the purpose of determining the quantities of the several
provisions and articles served out, or to allow the same to be
used at the time of serving out such provisions and articles, in
the presence of a witness, whenever any dispute arises about
such quantities, shall, for every such offence, incur a penalty
not exceeding forty dollars.  R.S., c. 74, s. 74.

271. If, in any respect except as aforesaid, the provisions
of this Part relating to accommodation for seamen and appren-
tices on board Canadian foreign sea-going ships are not ob-
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served with respect to any place in any such ship, the owner shall be deemed to be in fault, and shall, for every failure to comply with such provisions, incur a penalty not exceeding eighty dollars. R.S., c. 74, s. 77.

Master refusing to allow seamen to go ashore to make complaint to a justice. 

272. Every master of any ship registered in any of the provinces who, upon statement to him made by any seaman or apprentice whilst on board such ship, in any of the provinces that he desires to make complaint to a justice of the peace, or naval officer in command of any of His Majesty's ships, against such master or any of the crew, fails,—

(a) if the ship is then at a place where there is any such justice or any such officer as aforesaid, as soon as the service of the ship will permit; or,

(b) if the ship is not then at such a place, so soon after her first arrival at such a place in any of the provinces as the service of the ship will permit;

to allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint, shall incur a penalty not exceeding forty dollars. R.S., c. 74, s. 78.

Overcharging seamen for board or lodging.

273. Every person who demands and receives of and from any seaman or apprentice belonging to any ship registered in any of the provinces payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided and boarded therein, shall incur a penalty not exceeding forty dollars. R.S., c. 74, s. 84.

Detaining seaman's effects.

274. Every person who receives or takes into his possession or under his control any moneys, documents or effects of any seaman or apprentice belonging to any ship registered in any of the provinces, and does not return the same, or pay the value thereof when required so to do by such seaman or apprentice, after deducting therefrom what is justly due and owing in respect of the board and lodging of such seaman or apprentice, or who absconds therewith, shall incur a penalty not exceeding forty dollars over and above the amount or value of such moneys, documents or effects, after such deductions as aforesaid, to be forthwith paid to such seaman. R.S., c. 74, s. 85.

Going on board ship without permission.

275. If any person other than the owner, agent of the owner, or consignee of the ship or cargo or a person in the employment of either of them, or an officer or person in His Majesty's service or employment, harbour master, deputy harbour master, health officer, Custom-house officer, pilot, shipping master or deputy shipping master, goes on board of any merchant ship before her actual arrival in dock, or at the quay or place of her discharge or while she remains in port, without

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the permission and against the orders of the master or person in charge of such ship, he shall be liable,—

(a) if he is unarmed at the time, for every such offence, to
imprisonment for a term not exceeding three years, and if
not less than six months; and,

(b) if at the time armed with or carrying about his person Armed.
any pistol, gun or other firearm, or offensive weapon, for
and, every such offence, to imprisonment for any term not ex-
ceeding five years and not less than two years. R.S., c. 74.


276. The master or person in charge of such ship may take
any person so offending into custody and deliver him up forth
with to any constable or peace officer, to be by him taken before
any judge of the Superior Court of the province of Quebec,
judge of the sessions of the peace, judge of a county court, or
any stipendiary magistrate or police magistrate, to be dealt
with according to the provisions of this Part. R.S., c. 74, s. 86.

277. Every person found loitering near any ship, and not
giving a satisfactory account of his business there, shall, on
summary conviction, be liable,—

(a) if unarmed at the time, to a penalty not exceeding one
hundred dollars and not less than fifty dollars, and im-
prisonment, with hard labour, for a term not exceeding
twelve months and not less than three months;

(b) if armed at the time with or carrying about his person Armed.
any pistol, gun or other fire-arm or offensive weapon, to
imprisonment for a term not exceeding three years and not
less than two years. R.S., c. 74, s. 87.

278. Any judge of the Superior Court of the province of
Quebec, judge of the sessions of the peace, justice of the peace,
stipendiary magistrate or police magistrate, may order any boat
or other water craft in or on which any such person is so found
loitering, to be detained until payment of the penalty which
such person is condemned to pay.

2. If such penalty is not paid before the expiration of the
term of imprisonment to which such person has been condemned,
the boat so detained shall be sold by public auction, and the
proceeds of the sale thereof shall be appropriated to the pay-
ment of the penalty. R.S., c. 74, s. 88.

279. Every person who being on board any ship at any time
after her arrival from sea at any port in any of the provinces,
solicits any seaman to become a lodger at the house of any
person letting lodgings for hire, or who takes from and out of
such ship any chest, bedding or other effects of any seaman
without the permission of the master or person in charge of
such ship, shall, for every such offence, be liable, on summary
conviction, to imprisonment with hard labour for a term not

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Penalty. Exceeding ninety days and not less than sixty days. R.S., c. 74, s. 89.

280. Every master of any Canadian foreign sea-going ship who, during the progress of a voyage is superseded in any of the provinces, or, for any other reason, quits the ship, and is succeeded in the command by some other person, shall, if he fails to deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, incur a penalty not exceeding four hundred dollars. R.S., c. 74, s. 106.

281. The master of any Canadian foreign sea-going ship on which a log-book is not kept in the manner required by this Part, or in which, if kept, any entry in this Part directed to be made in such log-book is not made at the time and in the manner by this Part directed, shall, for each such offence, incur the specific penalty in this Part mentioned in respect thereof, and, where there is no specific penalty, a penalty not exceeding twenty dollars. R.S., c. 74, s. 111.

282. Every person who makes or procures to be made, or assists in making any entry in any log-book in respect of any occurrence happening previously to the arrival of the ship at the final port of discharge in any of the provinces more than twenty-four hours after such arrival shall, for each such offence, incur a penalty not exceeding one hundred dollars. R.S., c. 74, s. 111.

283. Every person who wilfully destroys or mutilates or renders illegible any entry, or makes any false entry or omission in any such log-book, is guilty of an indictable offence. R.S., c. 74, s. 111.

284. The master or keeper of any tavern or house of public entertainment, or house of ill-fame or any other house who refuses or neglects to comply, within the time specified therein, with any order in writing of any justice of the peace, made under the authority of this Part, commanding him to furnish such justice of the peace with a correct list of every person lodged or harboured in his house, stating his name and surname as far as is known to such master or keeper of such tavern or other house of public entertainment or house of ill-fame, how long he has lodged in the said house, and the name of the ship on board whereof he has declared himself to have arrived at the port or place, or, who knowingly delivers a false account of any such person, shall incur a penalty of forty dollars for each such offence. R.S., c. 74, s. 120.

285. Any person being in or having charge of any tavern, inn, ale-house, beer-house, seaman's boarding-house or other house

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House or place of entertainment, house of ill-fame, shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, who refuses, or, after due demand, fails to admit into the same, or offers any obstruction to his admission thereto, any police officer or constable required under the provisions of this Part to give assistance to the master or any mate, or the owner, ship's husband or consignee of any ship in apprehending with or without a warrant any seaman or apprentice duly engaged to serve in such ship and neglecting or refusing to proceed to sea therein, or found otherwise absenting himself therefrom without leave, shall for every such offence, incur a penalty not exceeding fifty dollars and not less than ten dollars. R.S., c. 74, s. 124.

Discipline.

286. Every master of, or any seaman or apprentice belonging to, any ship registered in any of the provinces, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, is guilty of an indictable offence. R.S., c. 74, s. 90.

287. Any seaman who has been lawfully engaged or bound to any ship registered in any of the provinces, under a duly signed agreement as required by this Part, and any apprentice who has executed indentures to the sea service in any of the provinces, shall be liable, on summary conviction,—(a) for desertion, to imprisonment for any term not exceeding twelve weeks and not less than eight weeks with hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned; and, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he earns in any other ship in which he is employed until his next return to any of the provinces, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him; (b) for neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea, or on any voyage in his ship, or for absence without leave at any time within twenty-four 1945

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twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason, from the ship or from his duty not amounting to desertion or not treated as such by the master, to imprisonment for any term not exceeding ten weeks and not less than four weeks, with or without hard labour; and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and, in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute:

(c) for quitting the ship without leave after her arrival in her port of delivery, and before she is placed in security, to forfeit out of his wages a sum not exceeding one month's pay;

(d) for wilful disobedience to any lawful command, to imprisonment for any term not exceeding four weeks and not less than two weeks, with or without hard labour; and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay;

(e) for continued wilful disobedience to lawful commands or continued wilful neglect of duty, to imprisonment for any term not exceeding twelve weeks and not less than four weeks, with or without hard labour; and also, at the discretion of the court, to forfeit for every twenty-four hours continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute;

(f) for assaulting any master or mate, to imprisonment for any term not exceeding twelve weeks and not less than six weeks, with hard labour;

(g) for combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, to imprisonment with hard labour for any term not exceeding twelve weeks and not less than six weeks;

(h) for wilfully damaging the ship or embezzling or wilfully damaging any of her stores or cargo, to forfeit out of his wages a sum equal in value to the loss thereby sustained, and also, at the discretion of the court, to imprisonment with hard labour for any term not exceeding twelve weeks and not less than six weeks;

(i) for any act of smuggling of which he is convicted and whereby loss or damage is occasioned to the master or owner, to pay to such master or owner such sum as is sufficient to reimburse the master or owner for such loss or damage; and to have the whole or a proportionate part of

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his wages retained in satisfaction or on account of such liability, without prejudice to any further remedy. R.S., c. 74, s. 91.

288. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the log-book, and shall be signed by the master and also by the mate or one of the crew.

2. The offender, if he is still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit and a statement that a copy of the said entry has been so furnished, or that the same has been so read over, and the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid.

3. In any legal proceeding, such entries shall, if practicable, be produced or proved, and, in default of such production or proof, the court hearing the case may, in its discretion, refuse to receive evidence of the offence. R.S., c. 74, s. 92.

289. Every seafaring person whom the master of any Canadian foreign sea-going ship is, under the authority of any Act of the Parliament of the United Kingdom or of any Act of the Parliament of Canada, compelled to take on board and convey, and every person who goes to sea in any such ship without the consent of the master or owner or other person entitled to give such consent shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he was a member of the crew and had signed the agreement. R.S., c. 74, s. 93.

290. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to proceed to sea in any ship registered in any of the provinces in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship’s husband or consignee may in any place in any of the provinces, with or without the assistance of the local police officers or constables, who shall give such assistance if required, arrest him without first procuring a warrant; and may thereupon, in any case, and shall, in case such seaman so requires, and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours, or, if he does not so require, R.S., 1906.
require, or if there is no such court at or near the place, at once convey him on board.

2. If any such arrest appears to the court before which the case is brought to have been made on improper or insufficient grounds, the master, mate, owner, ship's husband or consignee who makes the same or causes the same to be made shall incur a penalty not exceeding eighty dollars.

3. Such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such arrest. R.S., c. 74, s. 94.

291. Whenever any seaman or apprentice belonging to any ship registered in any of the provinces is brought before any court in any of the provinces, on the ground of his having neglected or refused to join or proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or owner or his agent so requires, instead of committing the offender to prison, cause him to proceed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by him so conveyed, and may, in such case, order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he may afterwards earn. R.S., c. 74, s. 95.

292. If any seaman or apprentice is imprisoned in any of the provinces on the ground of his having neglected or refused to join or to proceed to sea in any ship registered in any of the provinces in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and, if, during such imprisonment and before his engagement is at an end, his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by him so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated. R.S., c. 74, s. 96.

293. Whenever a question arises in any of the provinces whether the wages of any seaman or apprentice, belonging to any ship registered in any of the provinces, are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he

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he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, and that an entry of the desertion has been duly made in the log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can show otherwise to the satisfaction of the court that he had sufficient reasons for leaving the ship. R.S., c. 74, s. 97.

294. Whenever, in any proceeding in any of the provinces relating to seamen's wages, it is shown that any seaman or apprentice belonging to any ship registered in any of the provinces has, in the course of the voyage, been convicted of any offence by any competent tribunal, and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman or apprentice, not exceeding twelve-dollars, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction or punishment. R.S., c. 74, s. 98.

295. Whenever any seaman belonging to any ship registered in any of the provinces contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Part shall, in fixing the same, be taken to be an amount bearing the same proportion to the whole wages or share as a month or such other stated period of time, as the case may be, bears to the whole time spent in the voyage: and, if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share. R.S., c. 74, s. 99.

296. All clothes, effects, wages and emoluments which, under this Part, are forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and such wages or emoluments may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly, subject to such reimbursement.

2. Such wages, when so recovered, shall be paid to the Minister of Finance, to form part of the Consolidated Revenue Fund of Canada.

3. In all cases of forfeiture of wages under this Part other than for desertion, the forfeiture shall, in the absence of any specific

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specific directions to the contrary, inure to the benefit of the master or owner by whom the wages are payable. R.S., c. 74, s. 100.

297. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice belonging to any ship registered in any of the provinces may be determined in any proceeding, in any of the provinces, lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as by forfeiture, has not been made the subject of any criminal proceeding. R.S., c. 74, s. 101.

298. If any seaman, on or before being engaged in any of the provinces in any ship registered in any of the provinces wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding twenty dollars; and such penalty may be deducted from any wages he earns by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Part. R.S., c. 74, s. 102.

299. Whenever any seaman belonging to any Canadian foreign sea-going ship commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the log-book, and a copy of such entry shall be furnished, or the same shall be read over to the offender; and an entry of such reading over, and the reply, if any, made by the offender, shall be made in the manner and subject to the conditions specified in this Part with respect to the offences against discipline specified in and punishable under this Part. R.S., c. 74, s. 103.

300. The master or owner of every such ship shall, if the offender is discharged in Canada, and the offences and such entries in respect thereof as aforesaid are proved to the satisfaction of the shipping master before whom the offender is discharged, deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if, before the final discharge in Canada of the crew of any such ship, any such offender has entered into any of His Majesty's ships, or has been discharged abroad, and the offence and such entries have been proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of Customs or other person by whose sanction he has been so discharged, and the fine has thereupon been deducted as aforesaid, and an entry

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of such deduction has then been made in the log-book, if any, and signed by such officer or other person, under the provisions of the Merchant Shipping Act, 1894, then, on the return of the ship to Canada, pay over such fine to the shipping master before whom the crew is discharged.

2. Every master or owner who neglects or refuses to pay over any such fine in manner aforesaid, shall, for each such offence, incure a penalty not exceeding six times the amount of the fine retained by him.

3. No act of misconduct for which any such fine has been inflicted and paid shall be otherwise punished under the provisions of this Part. R.S., c. 74, s. 103.

Enticing to desert and harbouring Deserters.

301. Every person who, by any means whatsoever, persuades or attempts to persuade any seaman or apprentice belonging to any ship to neglect or refuse to join or to proceed to sea in or to desert from his ship, or to absent himself from his duty, shall be liable, for the first offence, to imprisonment with hard labour for a term not exceeding six months, and not less than three months; and for any subsequent offence, to imprisonment, with hard labour, for a term not exceeding twelve months and not less than six months. R.S., c. 74, s. 104.

302. Every person, who wilfully harbours or secretes any such seaman or apprentice, knowing or having reason to believe that such seaman or apprentice has deserted from or wilfully neglected or refused to join his ship shall be liable to imprisonment with hard labour for a term not exceeding six months and not less than three months, and, for any subsequent offence, for a term not exceeding twelve months and not less than six months. R.S., c. 74, s. 104.

Punishment of Stowaways.

303. Every person who secretes himself, and goes to sea in any ship registered in any of the provinces without the consent of either the owner, consignee or master, or of a mate, or of any other person in charge of such ship, or of any other person entitled to give such consent, shall be liable to a penalty not exceeding eighty dollars, or to imprisonment, with or without hard labour, for any term not exceeding four weeks. R.S., c. 74, s. 105.

Procedure.

304. No conviction for any offence shall be made in any summary proceeding under this Part, unless such proceeding is commenced,—

(a) within six months after the commission of the offence:

or,

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(b) R.S., 1906.
(b) if both or either of the parties to such proceeding are during such six months, out of the provinces, or not within the jurisdiction of any court capable of dealing with the case, then within two months after they both first shall be at one time within any of the provinces, or within such jurisdiction, R.S., c. 74, s. 113.

305. No order for the payment of money shall be made in any summary proceeding under this Part, unless such proceeding is commenced,—

(a) within six months after the cause of complaint arises; or,

(b) if both or either of the parties are, during such time, out of the provinces, then within six months after they both shall be at one time within any of the said provinces. R.S., c. 74, s. 113.

306. Any judge of the Superior Court of the province of Quebec, judge of the sessions of the peace, judge of a county court, police magistrate or stipendiary magistrate, shall, for the purposes of all proceedings under this Part, have all the powers of two justices of the peace under the Criminal Code, and may try and determine in a summary way all offences punishable under this Part, whether by fine, penalty or imprisonment, or by both fine or penalty and imprisonment.

2. Any two justices of the peace shall have the like jurisdiction. R.S., c. 74, ss. 114 and 115.

307. All the provisions of Part XV. of the Criminal Code respecting summary proceedings shall apply to and govern proceedings against any person for any offence under this Part. R.S., c. 74, s. 115.

308. In all cases of complaints made by or on behalf of any seaman under this Part, such seaman shall, in any case where he has been examined, receive such part of any penalty imposed as the judge, magistrate or justices before whom the case is heard adjudges him to receive for any moneys or effects which appear to have been deposited by him with any such offender as aforesaid. R.S., c. 74, s. 117.

309. All penalties imposed by this Part may be recovered with costs, and shall be paid over to the Minister of Finance to be disposed of as the Governor in Council directs, except such part of any penalty as a judge, magistrate or justices before whom the case is heard adjudges to any seaman.

2. Such penalties, shall, in case of non-payment, be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of the convicting judge, magistrate or justices directed to a constable or other peace officer.

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3. The overplus, if any, after deducting the penalty and costs of suit, together with the expenses of the distress and sale, shall be returned to the owner.

4. For want of sufficient distress, the offender shall be committed for a term not exceeding six months by warrant, under the hand and seal of the judge, magistrate or justices to the common gaol of the locality, or, if there is no common gaol there, then to that common gaol which is nearest to that locality. R.S., c. 74, s. 116.

310. There shall be no appeal from any conviction or order adjudged or made under this Part, for any offence against this Part; and no conviction under this Part shall be quashed for want of form. R.S., c. 74, s. 118; 53 V., c. 16, s. 1.

311. No warrant of commitment under this Part shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted, and there is a good and valid conviction to sustain the same. R.S., c. 74, s. 118.

312. The proceedings upon any conviction or order shall not be stayed, by reason of any application to remove such conviction or order to a superior court or of any notice of such application, unless the court or judge to whom the application is made or is to be made shall order such stay of proceedings upon special cause shown. 53 V., c. 16, s. 1.

313. In case no judge, having jurisdiction in respect of writs of certiorari, is resident at or near the place where any conviction or order is made, a county court judge of the county or district wherein such place is situate, shall have power to hear and determine any application for a stay of proceedings upon such conviction or order. 53 V., c. 16, s. 1.

314. Any justice of the peace at any port or place in any of the provinces, on complaint before him on oath that any seaman or apprentice in the sea service is concealed or secreted in any dwelling-house or out-house, or on board of any ship or elsewhere, shall grant a warrant, under his hand and seal, addressed to a constable or constables there, commanding him or them to make diligent and immediate search, in or about such dwelling-house or out-house, or on board such ship, or in such other place or places as are specified in the warrant, and to bring before him every such seaman or apprentice found concealed, whether named in the warrant or not. R.S., c. 74, s. 119.

315. Any justice of the peace, at any port or place in any of the provinces, on information before him under oath that any seaman or other person has deserted, or is suspected of having deserted, or of having been overplus repaid to the owner. Imprisonment in default of distress. No appeal from conviction under this Part. No nullity for defect in form. No stay of proceedings by application to remove case to superior court. Jurisdiction in case of certiorari. Justices may grant warrant to search for seamen unlawfully harboured or secreted. Justice may order tavern keepers, etc., to furnish R.S., 1906.
having deserted from any of His Majesty’s ships or from any ship in the merchant service, and is lodged or harboured in any tavern or house of public entertainment, or in any house of ill-fame or in any other house, may issue an order in writing to the master or keeper of such tavern, house of public entertainment, house of ill-fame or other house, commanding such master or keeper to furnish him with a correct list of every such person, stating,—

(a) his name and surname, as far as is known to such master or keeper of such tavern or other house of public entertainment or house of ill-fame;
(b) how long he has lodged in the said house; and,
(c) the name of the ship on board whereof he has declared himself to have arrived at the port or place. R.S., c. 74, s. 120.

316. Whenever the person giving such information on oath seeks to obtain such order against any person who is not a master or keeper of such tavern or house of public entertainment or house of ill-fame, such order shall not be given by any justice of the peace unless the person giving the information deposes on oath that he verily believes,—

(a) that such person, not so being master or keeper of such tavern or house of entertainment or house of ill-fame, then harbours or conceals such deserter or person suspected of desertion; and,
(b) knows that the person who has so deserted is unlawfully and improperly absenting himself from his duty on board the vessel to which he belongs. R.S., c. 74, s. 121.

317. Every constable and officer, not being a paid policeman, employed in the execution of any warrant for the apprehension of, or in search of, or for the delivery of any person against whom a warrant is issued by virtue of the foregoing sections of this Part, may demand from the person at whose request such warrant was issued, a reasonable recompense for the time he has been employed, subject to be taxed by the justice of the peace who issued such warrant.

2. In cases within the jurisdiction of the Exchequer Court on its Admiralty side, such recompense shall be taxed according to the legal procedure of that court.

3. On refusal of payment, such recompense shall be recoverable in a summary way by warrant of distress and sale of such person’s goods and chattels, which warrant every such justice of the peace shall grant under his hand and seal, on proof of such refusal of payment. R.S., c. 74, s. 122.

318. In any proceeding before any court under this Part, if an application is made on behalf of the defendant or of the prosecutor, upon sufficient cause, to adjourn the case to 1954
319. The examination of any seaman liable to be obliged to leave the province in which any offence against this Part is prosecuted, or of any witness sick, infirm or about to leave such province, may be taken de bene esse before any commissioner or other proper authority, in the like manner as depositions in civil cases are taken. R.S., c. 74, s. 123.

320. Any police officer or constable required under this Part to give assistance to the master or any mate, or the owner, ship’s husband or consignee of any ship in apprehending, with or without a warrant, any seaman or apprentice duly engaged to serve in such ship and neglecting or refusing to proceed to sea therein, or found otherwise absenting himself therefrom without leave, may, at any time, enter into any tavern, inn, ale-house, beer-house, seaman’s boarding-house or other house or place of entertainment, or into any shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, or into any house of ill-fame. R.S., c. 74, s. 124.

321. Nothing in this Part shall authorize or justify the execution of any warrant or process of justices of the peace within the jurisdiction of the Exchequer Court on its Admiralty side in any of the provinces, unless such execution has been previously authorized by the judge or a local judge of such court having jurisdiction within the province. R.S., c. 74, s. 125.

Foreign Ships.

322. The foregoing provisions of this Part relating to the shipping of seaman shall extend and apply to ships in the merchant service of every foreign country, and to all persons in relation to such ships in the same manner as the same extend and apply to ships in the British merchant service, and to similar persons in relation to such last mentioned ships, unless there is something in the terms of some existing treaty between His Majesty and such foreign country to prevent the said provisions or any of them from so extending and applying. R.S., c. 74, s. 126.
323. In so far as is consistent with the provisions of any Act of the Parliament of the United Kingdom in force in Canada, and with the terms of existing treaties between His Majesty and foreign powers respectively, and the rights, privileges and immunities secured to the consuls, vice-consuls, commercial and other duly accredited agents, subjects and citizens of such foreign powers respectively, the foregoing provisions of this Part relating to desertion of seamen and apprentices shall extend and apply to ships in the merchant service of foreign countries and to all persons in relation to such ships, in the same manner as the same extend and apply to ships in the British merchant service, and to similar persons in relation to such last-mentioned ships. R.S., c. 74, s. 127.

324. The oath of the master of any such foreign merchant ship, or of any officer or person employed on board thereof, or on board any other ship of the same country that, to the best of his belief and understanding, any seaman or other person is bound to serve on board such ship, according to the law of the country to which such ship belongs, or of the place where such seaman or other person was hired, shall be prima facie evidence that he is legally bound to serve on board such ship within the meaning of this Part, although he has not regularly entered into or signed articles of agreement, and is not bound by articles of indenture in the manner required by law with regard to seamen and others engaged or bound to serve on board British ships. R.S., c. 74, s. 128.

325. No judge, magistrate or justice of the peace shall,—
(a) entertain or act upon any complaint or information under this Part, by or against any person belonging to or connected with any such foreign merchant ship, who is not a subject of His Majesty; or,
(b) exercise jurisdiction under this Part over or at the instance of any such person;

without the consent of both parties to such complaint or information, or the consent in writing of the consul, vice-consul, or commercial or other duly accredited agent of the country to which such ship belongs, unless the parties to such complaint or information are subjects or citizens of a country or countries by the terms of treaties in force between His Majesty's Government and the government or governments of which country or countries it is stipulated that the assistance of British courts and magistrates shall be granted to the subjects or citizens of such countries, or one of such parties is a subject or citizen of any such country, and the other is a subject of His Majesty. R.S., c. 74, s. 129.

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326. In this Part, unless the context otherwise requires,—

(a) 'seaman' includes every person employed or engaged in any capacity on board any ship, except masters and pilots;

(b) 'ship subject to this Part' includes every ship registered in Canada propelled by steam and of more than twenty tons registered tonnage, or propelled otherwise than by steam and of more than fifty tons registered tonnage, and employed in navigating the inland waters of Canada;

(c) 'inland waters of Canada' includes all the rivers, lakes and other navigable waters within Canada, except salt water bays, arms of the sea, and gulfs on the sea coast, and includes the River St. Lawrence as far seaward as a line drawn from Cape Chatte on the south shore to Point de Monts on the north shore. R.S., c. 75, s. 2; 1 E. VII., c. 33, s. 1.

327. This Part shall not apply to barges and scows navigating rivers and canals. R.S., c. 75, s. 3.

328. The master of every ship subject to this Part shall enter into an agreement with every seaman whom he carries as one of his crew, in the manner hereinafter mentioned.

2. Every such agreement shall be in form P, or as near thereto as circumstances admit, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain as terms thereof particulars of,—

(a) the nature, and as far as practicable, the duration of the intended voyage or engagement;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) any regulations as to conduct on board and as to fines, or other lawful punishments for misconduct which the parties agree to adopt. R.S., c. 75, s. 4.

329. Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman.

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man in each case as to advances, and may contain any other stipulations which are not contrary to law.

2. Every such agreement shall be made and signed in presence of a respectable witness, or a shipping master or a chief officer of Customs, who shall attest each signature on such agreement. R.S., c. 75, s. 4.

330. Any shipping master or chief officer of Customs before whom any agreement is signed under this Part as witness thereto, shall append his title of office to his signature as such witness.

2. Every such officer shall be entitled to be paid the sum of forty cents upon each engagement of a seaman effected before him, and the sum of twenty cents upon each discharge of a seaman effected before him as in this Part mentioned, and may refuse to sign such engagement or discharge as a witness thereto, unless the fee payable therefor is first paid. R.S., c. 75, s. 11.

331. Except as to additions made for shipping substitutes or persons engaged subsequently to the first departure of the ship, every erasure, interlineation or alteration in any agreement with seamen required by this Part shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested therein, by the written attestation,—

(a) of a shipping master, justice of the peace, officer of Customs or other public functionary, if made in His Majesty's dominions; or,

(b) of a British consular officer, or, where there is no such officer, of two respectable witnesses, if made out of His Majesty's dominions. R.S., c. 75, s. 7.

332. Any seaman who has signed any such agreement may, at the termination of his engagement, if the master thinks fit, be discharged before any shipping master or chief officer of Customs in Canada.

2. At any period during any such engagement, and before its termination, the master may discharge any such seaman on payment of his wages, and with his consent; and any such discharge may be made, if the master thinks fit, before any shipping master or chief officer of Customs in Canada. R.S., c. 75, s. 4.

333. In the case of ships subject to this Part making short voyages, running agreements with the crew may be made to extend over two or more voyages, or for a specified time, but no such agreement shall extend beyond eight months from the date of such agreement, or the first arrival of the ship at her port of destination after the termination of such agreement, or the discharge of cargo consequent upon such arrival. R.S., c. 75, s. 5.
334. Every person entering into such agreement, whether engaged upon the first commencement thereof, or otherwise, shall enter into and sign the same in the manner hereinbefore required; and every person engaged thereunder, when discharged, may be discharged in the manner hereinbefore provided for. R.S., c. 75, s. 5.

335. Any seaman may bring forward evidence to prove the contents of any agreement under this Part or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof. R.S., c. 75, s. 9.

336. Any seaman who has signed an agreement under this Part and is afterwards discharged before the commencement of the voyage, or before one month’s wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he has earned, due compensation for the damage thereby caused to him, not exceeding one month’s wages, and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged, recover such compensation as if it were wages duly earned. R.S., c. 75, s. 10.

337. Whenever the service of any seaman belonging to any ship subject to this Part, terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, and whenever such service terminates before such period as aforesaid, by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage granted by competent authority, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period. R.S., c. 75, s. 12.

338. No seaman belonging to any ship subject to this Part shall be entitled to wages for any period during which he unlawfully refuses or neglects to work, when required, whether before or after the time fixed by the agreement for his beginning work, or, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him. R.S., c. 75, s. 13.

339. Whenever a seaman belonging to any ship subject to this Part, is, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is, by reason of such illness, incapable of performing his duty. R.S., c. 75, s. 14.
Seaman not to sue for wages in court out of Canada, except in certain cases.

340. No seaman belonging to any ship subject to this Part, who is engaged for a voyage or engagement which is to terminate in Canada, shall be entitled to sue in any court out of Canada for wages, unless he is discharged with the written consent of the master or proves such ill-usage on the part of the master or by his authority, as to warrant reasonable apprehension of danger to the life of such seaman if he remained on board, but if any seaman, on his return to Canada, proves that the master or owner has been guilty of any conduct or default which, but for this section, would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover, in addition to his wages, such compensation, not exceeding eighty dollars, as the court hearing the case thinks reasonable. R.S., c. 75, s. 15.

Master or owner bound to produce agreement to certain officers.

341. The master or owner of every ship subject to this Part shall, at all times when required so to do by the Minister or by any person in that behalf duly authorized by the Minister, or by any inspector of steamboats or Custom-house officer or officer of river police, produce and exhibit any agreement then in force and subsisting between the master of such ship and the seamen whom he carries as his crew. R.S., c. 75, s. 16.

Implication of seaworthiness of ship in every contract of service.

342. In every contract of service, express or implied between the owner of a ship and the master or any seaman thereof, and in every instrument whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master and every agent charged with the loading of the ship, or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same: Provided that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state, where owing to special circumstances, the so sending thereof to sea is reasonable and justifiable. 52 V., c. 22, s. 8.

Mode of Recovering Wages.

343. Any seaman or apprentice belonging to any ship subject to this Part, or any person duly authorized on his behalf, may, whenever wages due to him to an amount not exceeding two hundred dollars over and above the costs of any proceeding for the recovery thereof becomes payable, sue for the same in a summary manner before any judge of the Superior Court for the province of Quebec, judge of the sessions of the peace, judge of a county court, stipendiary magistrate, police magistrate, or any two justices of the peace acting in or near the place

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place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any master or owner or other person upon whom the claim is made is or resides.

2. Such judge, magistrate or justices may, upon complaint on oath made to him or them by such seaman or apprentice, or on his behalf, summon such master or owner, or other person to appear before him or them to answer such complaint. R.S., c. 75, s. 30."

344. Upon appearance of such master or owner to answer such summons, such judge, magistrate or justices may examine upon oath the parties and their respective witnesses touching the complaint and the amount of wages due, and may make such order for the payment of any wages found due as appears reasonable and just.

2. If the master or owner does not appear, then, on due proof of such master or owner having been duly summoned, such judge, magistrate or justices may examine on oath the complainant and his witnesses touching the complaint and the amount of wages due, and may make such order for the payment of any amount of wages found due as appears reasonable and just.

3. Any order for the payment of wages made under the provisions of this section shall be final. R.S., c. 75, s. 31.

345. If such order is not obeyed within twenty-four hours next after the making thereof, such judge, magistrate or justices may issue a warrant to levy the amount of the wages awarded to be due by distress and sale of the goods and chattels of the person on whom such order is made, together with all charges and expenses incurred by the seamen or apprentices in the making and hearing of the complaint and all costs, charges and expenses incurred by the distress and levy and in the enforcement of the order.

2. Any surplus, after the amount of wages awarded and all such charges and expenses are deducted, shall be paid to the person on whom the order is made. R.S., c. 75, s. 32.

346. If sufficient distress cannot be found, such judge, magistrate or justices may cause the amount of such wages and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof. R.S., c. 75, s. 33.

347. If such ship is not within the jurisdiction of such judge, magistrate or justices, they may cause the person on whom the order for payment is made to be apprehended and committed to the common gaol of the locality, or, if there is no gaol there, then to that which is nearest to the locality, for a term.
term not exceeding three months and not less than one month, under each such condemnation. R.S., c. 75, s. 33.

348. No suit or proceedings for the recovery of wages under the sum of two hundred dollars shall be instituted by or on behalf of any seaman or apprentice belonging to any ship subject to this Part, in the Exchequer Court on its Admiralty side or in any superior court, unless,—

(a) the owner of the ship is insolvent within the meaning of any Act respecting insolvency for the time being in force in Canada; or,

(b) the ship is under arrest, or is sold by the authority of any such court as aforesaid; or,

(c) any judge, magistrate or justices, acting under the authority of this Part, refers the case to be adjudged by such court; or,

(d) neither the owner nor the master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore. R.S., c. 75, s. 34.

349. If any suit for the recovery of a seaman’s wages is instituted against any such ship, or the master or owner thereof, in the Exchequer Court on its Admiralty side, or in any superior court in Canada, and it appears to the court, in the course of such suit, that the plaintiff might have had as effectual a remedy for the recovery of his wages by complaint to a judge, magistrate or two justices of the peace under this Part, then the judge shall certify to that effect, and thereupon no costs shall be awarded to the plaintiff. R.S., c. 75, s. 35.

350. The master of any ship subject to this Part, shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages, and for the recovery of disbursements properly made by him on account of the ship, and for liabilities properly incurred by him on account of the ship, as by this Part or by any law or custom any seaman, not being a master, has for the recovery of his wages. 56 V., c. 24, s. 1.

351. If, in any proceeding in the Exchequer Court on its Admiralty side touching the claim of a master to wages, any right of set-off or counter-claim is set up, such court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance which is found to be due. 56 V., c. 24, s. 1.

Change of Master.

352. If, during the progress of a voyage, the master of any ship subject to this Part, is superseded in Canada, or, for any other

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other reason, quits the ship and is succeeded in command by some other person, he shall deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof, which are in his custody. R.S., c. 75, s. 29.

**Offences and Penalties.**

**353.** Every master of any ship subject to this Part, who carries any seaman as one of his crew without entering into an agreement with him, in the form and manner and at the place and time in such case required, shall for each such offence, incur a penalty not exceeding twenty dollars. R.S., c. 75, s. 6. Penalty.

**354.** Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making or procures to be made any false entry in, or delivers, assists in delivering, or procures to be delivered a false copy of any agreement under this Part, is guilty of an indictable offence. R.S., c. 75, s. 8.

**355.** Every master or owner of any ship subject to this Part who, when thereunto required by the Minister or any person in that behalf duly authorized by the Minister, or any inspector of steamboats, or Custom-house officer, or officer of river police, refuses or omits to produce and exhibit to any such person making such request any agreement then in force and subsisting between the master of such ship and the seamen whom he carries as his crew, shall incur a penalty of twenty dollars. R.S., c. 75, s. 16.

**356.** Every master of a ship subject to this Part, who, during the progress of a voyage, is superseded in Canada, or, for any other reason, quits the ship and is succeeded in command by some other person, neglects or omits to deliver to his successor the certificate of registry and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, shall incur a penalty not exceeding four hundred dollars. R.S., c. 75, s. 29.

**357.** Any person being in or having charge of any tavern, inn, ale-house, beer-house, seamen’s boarding-house or other house or place of entertainment, or house of ill-fame, shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, who refuses, or, after due demand, fails to admit into the same, or offers any obstruction to the admittance thereto, of any police officer or constable required under this Part to give assistance to the master or any mate, or the owner, ship’s husband or consignee of any ship, in apprehending, with or without a warrant any seaman duly engaged to serve in such ship, and neglecting or refusing to proceed

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Penalty.

358. Every master of and every seaman belonging to any ship subject to this Part, who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction or serious damage of any ship subject to this Part, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act, proper and requisite to be done by him for preserving such ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, is guilty of an indictable offence. R.S., c. 75, s. 17.

Offences of seamen and penalties.

359. Every seaman, who has been lawfully engaged or bound to any ship subject to this Part, by an agreement duly signed as required by this Part, shall be liable on summary conviction,—

(a) for desertion, to imprisonment for any term not exceeding twelve weeks and not less than four weeks, with hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board and all or any part of the wages or emoluments which he has then earned; and, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments earned in any other ship in which he is employed, until his next return to Canada, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him;

(b) for neglecting or refusing, without reasonable cause, to join his ship, or to proceed on any voyage in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship, or from his duty, not amounting to desertion or not treated as such by the master, to imprisonment for any term not exceeding ten weeks and not less than four weeks, with or without hard labour; and also, in the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and, in addition, for every twenty-four hours' of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute;
(c) for quitting the ship without leave after her arrival in her port of delivery, and before she is placed in security, to forfeit out of his wages a sum not exceeding one month's pay;

(d) for wilful disobedience to any lawful command, to imprisonment for any term not exceeding four weeks and not less than two weeks, with or without hard labour, and also at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay;

(e) for continued wilful disobedience to lawful commands, or continued wilful neglect of duty, to imprisonment for any term not exceeding twelve weeks, and not less than four weeks, with or without hard labour, and also, in the discretion of the court, to forfeit, for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or the amount of any expenses which have been properly incurred in hiring a substitute;

(f) for assaulting any master or mate, to imprisonment for any term not exceeding twelve weeks and not less than six weeks, with hard labour;

(g) for combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, to imprisonment, with hard labour, for any term not exceeding twelve weeks and not less than six weeks:

(h) for wilfully damaging the ship, or embezzling, or wilfully damaging any of her stores or cargo, to forfeit out of his wages a sum equal in value to the loss thereby sustained, and also, in the discretion of the court, to imprisonment, with hard labour, for any term not exceeding twelve weeks and not less than six weeks; and,

(i) for any act of smuggling of which he is convicted and whereby loss or damage is occasioned to the master or owner, to pay such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and to have the whole or a proportionate part of his wages retained in satisfaction or on account of such liability, without prejudice to any further remedy. R.S., c. 75, s. 18.

360. Whenever, either at the commencement or during the progress of any voyage, any seaman neglects or refuses to proceed in any ship subject to this Part, in which he is duly engaged to serve, or is found otherwise absenting himself there from without leave, the master or any mate, or the owner, ship's husband or consignee may, in any place in Canada, with or without the assistance of the local police officers or constables, who shall give such assistance, if required, arrest him without first procuring a warrant, and may thereupon, in any case, and

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and shall, in case such seaman so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law, and may for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours, or at once convey him on board, if he does not require to be brought before such court, or if there is no such court at or near the place.

2. If any such arrest appears to the court before which the case is brought to have been made on improper or insufficient grounds, the master, mate, owner, ship’s husband or consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding eighty dollars.

3. Such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension. R.S., c. 75, s. 19.

361. Whenever any seaman belonging to any ship subject to this Part is brought before any court in Canada on the ground of his having neglected or refused to join or proceed in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to proceed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by him so conveyed, and may, in such case, order any costs and expenses properly incurred by him or on behalf of the master or owner by reason of the offence, to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he afterwards earns. R.S., c. 75, s. 20.

362. If any seaman is imprisoned on the ground of his having neglected or refused to join or proceed in any ship subject to this Part in which he is engaged to serve, or of his having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and, if, during such imprisonment, and before his engagement is at an end, his services are required on board his ship, any justice of the peace may, at the request of the master or of the owner or his agent, cause such seaman to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by him so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated. R.S., c. 75, s. 21.

363. Whenever a question arises whether the wages of any seaman belonging to any ship subject to this Part, are

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forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that such seaman was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement; and, thereupon, the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman can produce a proper certificate of discharge, or can otherwise show, to the satisfaction of the court, that he had sufficient reasons for leaving his ship. R.S., c. 75, s. 22.

364. Whenever, in any proceeding relating to seamen's wages, it is shown that any seaman belonging to any ship subject to this Part, has, in the course of the voyage, been convicted of any offence by any competent tribunal, and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding twelve dollars, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction or punishment. R.S., c. 75, s. 23.

365. Whenever any seaman belonging to any ship subject to this Part contracts for wages by the voyage, or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Part shall be taken to be an amount bearing the same proportion to the whole wages or share, as a month or other the period hereinbefore mentioned in fixing the amount of such forfeiture, as the case may be, bears to the whole time spent in the voyage.

2. If the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share. R.S., c. 75, s. 24.

366. All clothes, effects, wages and emoluments which, under this Part, are forfeited for desertion, shall be applied, in the first instance, in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and such wages or emoluments may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited, and, in any legal proceeding relating to such wages, the court may order the same to be paid accordingly.

2. Such wages when so received shall, subject to such reimbursement, be paid to the Minister of Finance to form part of the Consolidated Revenue Fund of Canada.

3. In all cases of forfeiture of wages under this Part, other than for desertion, the forfeiture shall, in the absence of any specific

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specific directions to the contrary, enure to the benefit of the master or owner by whom the wages are payable. R.S., c. 75, s. 25.

367. Any question concerning the forfeiture of or deductions from the wages of any seaman belonging to any ship subject to this Part, may be determined in any proceeding in Canada, lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding. R.S., c. 75, s. 26.

368. If any seaman, on or before being engaged in any ship subject to this Part, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding twenty dollars.

2. Such penalty may be deducted from any wages he earns by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Part. R.S., c. 75, s. 27.

369. Every person who, by any means whatsoever, persuades or attempts to persuade any seaman belonging to any ship subject to the provisions of this Part to neglect or refuse to join or to desert from his ship, or to absent himself from his duty, shall be liable for the first offence to imprisonment, with hard labour, for a term not exceeding six months and not less than one month, and, any subsequent offence, to imprisonment, with hard labour, for a term not exceeding twelve months and not less than two months. R.S., c. 75, s. 28.

370. Every person who wilfully harbours or secretes any such seaman who has deserted from his ship, or who has wilfully neglected or refused to join his ship, knowing or having reason to believe such seaman to have so done, shall, for every such seaman so harboured or secreted, be liable to imprisonment with hard labour for a term not exceeding six months and not less than one month, and, for any subsequent offence, for a term not exceeding twelve months and not less than two months. R.S., c. 75, s. 28.

Procedure.

371. No conviction for any offence shall be made in any summary proceeding under this Part, unless such proceeding is commenced,—

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(a) within six months after the commission of the offence; or,

(b) if both or either of the parties to such proceeding are during such six months, out of Canada, or not within the jurisdiction of any court capable of dealing with the case, then within two months after they both first shall be at one time within Canada, or within such jurisdiction. R.S., c. 75, s. 36.

372. No order for the payment of money shall be made in any summary proceeding under this Part, unless such proceeding is commenced,—

(a) within six months after the cause of complaint arises; or

(b) if both or either of the parties are, during such six months, out of Canada, then, within six months after they both first shall be at one time within Canada. R.S., c. 75, s. 36.

373. Any judge of the Superior Court for the province of Quebec, judge of a superior court in the provinces of Saskatchewan or Alberta, judge of the Territorial Court of the Yukon Territory, judge of the sessions of the peace, judge of a county court, police magistrate, or stipendiary magistrate shall, for the purposes of all proceedings under this Part, have all the powers of two justices of the peace, under the Criminal Code, and may try and determine in a summary way all offences punishable under this Part, whether by fine, penalty or imprisonment, or by both fine or penalty and imprisonment.

2. Any two justices of the peace shall have the like jurisdiction. R.S., c. 75, ss. 37 and 38; 1 E. VII., c. 33, s. 2; 4-5 E. VII., c. 27, s. 8.

374. All the provisions of Part XV. of the Criminal Code respecting summary proceedings before justices of the peace shall apply to and govern proceedings under this Part. R.S., c. 75, s. 38.

375. All penalties imposed by this Part may be recovered, with costs, and shall be paid over to the Minister of Finance, to be disposed of as the Governor in Council directs.

2. Such penalties, in case of non-payment, shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of the convicting judge, magistrate or justices of the peace, directed to a constable or other peace officer; and the overplus, if any, after deducting the penalty and costs of suit, together with the expenses of the distress and sale, shall be returned to the owner.

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3. For want of sufficient distress, the offender shall be committed for a term not exceeding six months by warrant under the hand and seal of the judge, magistrate and justices, to the common gaol of the locality, or, if there is no common gaol there, then to that common gaol which is nearest to that locality. R.S., c. 75, s. 39.

376. There shall be no appeal from any conviction or order adjudged or made under this Part by or before any judge of the Superior Court of the province of Quebec, judge of a superior court in the province of Saskatchewan or Alberta, judge of the Territorial Court of the Yukon Territory, or any judge of the county court, judge of the sessions of the peace, police magistrate, stipendiary magistrate or any two justices of the peace, for any offence against this Part. R.S., c. 75, s. 41; 1 E. VII., c. 33, s. 2.

377. No conviction under this Part shall be quashed for want of form, or be removed by certiorari or otherwise into any superior court. R.S., c. 75, s. 41.

378. No warrant of commitment under this Part shall be held void by reason of any defect therein, if it is therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same. R.S., c. 75, s. 41.

379. Any justice of the peace, at any port or place in Canada, on complaint before him on oath that any seaman under this Part is concealed or secreted in any dwelling-house or out-house, or on board of any ship or elsewhere, shall grant a warrant under his hand and seal, addressed to a constable or constables there, commanding him or them to make diligent and immediate search on board such ship, in or about such dwelling-house or out-house, or such other place or places as are specified in the warrant, and to bring before him every such seaman found concealed, whether named in the warrant or not. R.S., c. 75, s. 42.

380. Any police officer or constable required under this Part to give assistance to the master or any mate, or the owner, ship's husband or consignee of any ship in apprehending, with or without a warrant, any seaman duly engaged to serve in such ship, and neglecting or refusing to proceed to sea therein, or being found otherwise absenting himself therefrom without leave, may, at any time, enter into any tavern, inn, ale-house, beer-house, seamen's boarding-house, or other house or place of entertainment, or into any shop or other place wherein liquors or refreshments are sold or reputed to be sold, whether legally or illegally, or into any house of ill-fame. R.S., c. 75, s. 43.
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PART V.

SICK AND DISTRESSED MARINERS.

Interpretation.

381. In this Part, unless the context otherwise requires,—Definitions.
(a) 'sick mariner' includes any master, mate, engineer, seaman, sailor, steward, fireman or other person employed on board of any vessel on which duty has been paid under this Part, who from sickness, accident or any other cause, is in need of medical or surgical assistance and treatment;
(b) 'Sick Mariners' Fund' means the fund in the Department of the Minister of Finance, formed of all duties levied under this Part and paid to him. R.S., c. 76, ss. 1 and 4.

Hospital.

382. The Governor in Council may, from time to time, designate and appoint any hospital in Canada receiving aid from the public funds of Canada, but not for any longer period than such hospital continues to receive such aid, to be, during pleasure, an hospital for the reception, care and medical or surgical treatment, or both, of sick mariners under this Part. R.S., c. 76, s. 2.

383. The Governor in Council may, from time to time, with the consent of the governors, trustees, directors or other persons having the control and management of any hospital not receiving aid from the public funds of Canada, designate and appoint such hospital to be, during pleasure, an hospital for the reception, care and medical or surgical treatment, or both, of sick mariners under this Part. R.S., c. 76, s. 3.

Duty on Ships.

384. There shall be levied and collected on every ship arriving in any port in the provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island or British Columbia, a duty of two cents for every ton which such ship measures, registered tonnage. R.S., c. 76, s. 4.

385. Such duty shall be paid by the master or person in command of such ship, or by some person on his behalf, to the collector or other chief officer of the Customs at the port at which such ship is entered, and at the time of making such entry.

2. Such entry shall contain on its face the tonnage of such ship.

3. Except as in this Part mentioned, no entry shall be validly made, or have any legal effect whatsoever, unless the duty is so paid. R.S., c. 76, s. 4.

No clearance unless duty paid.

386. No collector or other chief officer of the Customs shall grant a clearance to any ship on which such duty or any part thereof is due and unpaid. R.S., c. 76, s. 4.

Application of duties.

387. The moneys so received shall be paid by such collector or chief officer to the Minister of Finance, and shall form the Sick Mariners’ Fund, for the purposes of this Part, and for no other purposes. R.S., c. 76, s. 4.

Vessels of 100 tons or under.

388. Ships of the burthen of one hundred tons or less, shall be liable to the payment of the said duty once in each year, but not oftener.

2. Ships of the burthen of more than one hundred tons register, shall be liable to the payment of the said duty three times in one year, but not oftener. R.S., c. 76, s. 4.

Vessel of more than 100 tons.

Exemption from duty.

389. Except in the case of a ship arriving at a port in Quebec from a port in Ontario, no ship arriving at any port in any one of the provinces of Canada from any port not within the same province, shall be exempt from the payment of the said duty, by reason merely of her voyage being one not requiring entry or clearance at the Custom-house, unless the duty has been paid at some other port on the same voyage.

2. If the ship does not require entry, the duty shall be paid immediately on her arrival. R.S., c. 76, s. 4.

If ship does not require entry.

390. No ship engaged in the coasting trade of Canada and arriving at any port in any of the said provinces from any other port in the same province, or arriving at any port in the province of Quebec from any port in the province of Ontario, shall be subject to the payment of the said duty: Provided that no ship arriving at any port in Canada from any place out of Canada, and afterwards continuing her voyage to another port in Canada, shall be exempt from the payment of the said duty at the last mentioned port, unless she has paid it at the first mentioned or some other port on the same voyage. R.S., c. 76, s. 4.

Further exemption.

391. No ship which is not registered in Canada, and which is employed exclusively in fishing or on a fishing voyage shall be subject to the payment of or shall pay any duty imposed under this Part. 50-51 V., c. 40, s. 1.

Proviso.

392. The master or person in charge of any fishing ship registered in Canada may pay in any year such duty in respect to such ship before leaving on a fishing voyage at its first port of outfit in respect to such voyage. R.S., c. 76, s. 4.

Fishing vessels exempted.

393. Every collector or other chief officer of the Customs shall transmit quarterly, on the thirtieth day of September, 1972

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the thirty-first day of December, the thirty-first day of March and the thirtieth day of June in each year, to the Minister, accounts of the sums received by him and paid over to the Minister of Finance under this Part. R.S., c. 76, s. 4.

Rights of Seamen of Ships paying the Duty.

394. The master or person in command of any ship paying such duty may send to the marine hospital at Quebec, or to the marine or seamen's hospital at or for any other port in any of the provinces aforesaid, or to any hospital so designated and appointed as aforesaid, at any hour of the day, and, in case of accident or emergency, at any hour of the night, any sick mariner belonging to his ship.

2. Such sick mariner so sent with a written recommendation from such master or person in command of such ship, endorsed as approved by the collector of the Customs at the port, or other officer appointed for the purpose by the Minister, shall be gratuitously received into such hospital, and receive therein such medical and surgical attendance and such other treatment as the case requires, so long as the same is required. R.S., c. 76, s. 5.

395. At any port at which such duty is received, and at or for which there is no marine or seamen's hospital, or other hospital so designated and appointed as aforesaid, the collector or other chief officer of the Customs, upon being required so to do at any hour of the day, and, in case of accident or emergency, at any hour of the night, by the master or person in command of any ship paying such duty at such port, shall make without delay the best provision in his power for the medical and surgical assistance and treatment of every sick mariner belonging to such ship at the nearest public hospital if there is one at a safe and convenient distance, and, if not, then at some public or private house. R.S., c. 76, s. 6.

396. The master or person in charge of any fishing vessel paying duty of the burthen of one hundred tons registered tonnage or less, registered in Canada, on which such duty in respect to such ship has been paid, and the mariners employed thereon shall be entitled, if they are sick, to the rights and benefits conferred by this Part on seamen of ships paying duty, in any port where there is a collector of Customs, during any year for which such duty has been paid.

2. If such ship is of the burthen of more than one hundred tons registered tonnage, such payment shall entitle the said rights and benefits only the master and mariners employed upon the voyage in respect of which such payment has been made; but the payment of the said duty three times in any calendar year in respect of such ship, shall entitle the master and

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and mariners thereof to the said rights and benefits during the remainder of such year in any such port. R.S., c. 76, s. 4.

Payment of Expenses.

397. The Governor in Council may, from time to time, out of the sick mariners' fund, pay to the collector or chief officer of the Customs, at any port at which such duty as aforesaid is received, and at or for which there is no marine or seamen's hospital designated and appointed under this Part, such sums of money as such collector or other chief officer of the Customs from time to time proves, to his satisfaction, that he has lawfully and in good faith expended or become liable for on account of any provisions under this Part, for medical or surgical assistance or treatment of sick mariners. R.S., c. 76, s. 9.

398. The Governor in Council may, by warrant under his hand, pay, from time to time, for the purpose of this Part, out of the sick mariners' fund, to the managers or directors of the marine hospital at Quebec, and to the managers or directors of any hospital designated and appointed as hereinbefore provided, for the reception, care and medical or surgical treatment or both of sick mariners under this Part, but not exclusively devoted to that purpose, such sum or sums as he deems a reasonable compensation for the care and treatment of the sick mariners sent to such hospital. R.S., c. 76, s. 8.

399. The Governor in Council may, whenever he deems it necessary, appropriate from the sick mariners' fund such sums as he deems requisite towards the temporary relief, in such manner as he deems advisable, of shipwrecked, destitute or otherwise distressed seamen not entitled to relief under any of the provisions of the Merchant Shipping Act, 1894. R.S., c. 76, s. 10.

400. Any shipwrecked, destitute or otherwise distressed seamen may, by authority from the Minister, be temporarily boarded and lodged and taken care of at any marine or seamen's hospital devoted exclusively to the reception, care and treatment of sick mariners. R.S., c. 76, s. 11.

401. All expenses incurred in any one of the provinces aforesaid, for the care and medical and surgical treatment of sick mariners including the cost of the maintenance and support of marine and seamen's hospitals, devoted exclusively to such purposes, shall be defrayed out of the sick mariners' fund. R.S., c. 76, s. 12.

402. The Governor in Council shall appoint the superintendents and other officers of such hospitals and shall from time to time fix their salaries or remuneration. R.S., c. 76, s. 12.

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403. No sick mariners belonging to ships exempted from or not paying the duty levied under this Part shall be entitled to rights or benefits of sick mariners under this Part.

2. No mariner belonging to any such ship shall be gratuitously received and treated in any hospital designated and appointed under this Part, nor shall any provision be made by any collector or other chief officer of Customs for their medical or surgical care or treatment in any other hospital or house, out of any money collected under this Part, unless by the special authority of the Minister. R.S., c. 76, s. 7.

404. Every person entrusted with the expenditure of any portion of the moneys hereby appropriated shall make up detailed accounts of such expenditure, showing the sums advanced to the accountant, the sum actually expended, the balance, if any, remaining in his hands, and the amount of the moneys hereby appropriated to the purpose for which such advance has been made, remaining unexpended in the hands of the Minister of Finance. R.S., c. 76, s. 13.

405. Every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the thirtieth day of September, the thirty-first day of December, the thirty-first day of March and the thirtieth day of June in each year during which such expenditure is made, and shall be attested before a judge of a superior court or a justice of the peace, and shall be transmitted to the Minister within ten days next after the expiration of the said periods respectively. R.S., c. 76, s. 13.

Duties and Powers of the Minister.

406. Subject to the approval of the Governor in Council the Minister shall have the management of all marine and seamen's hospitals and pest houses for the use of sick mariners, and may renew leases of lands on which any such hospitals or pest houses are erected, and may make all necessary contracts for repairing and maintaining the same, and for the cure, care, attendance and support of the patients therein, and may also make such regulations as he deems advisable for the government of the same, for regulating the visiting of seamen ill of any infectious diseases, and for their removal to any pest house or other building.

2. Until proper buildings are erected at the several ports, the Minister may hire and make use of any building which is convenient for the purposes aforesaid, or any of them. R.S., c. 76, s. 14.

407. The Minister shall make an annual report and statement to the Governor General of the receipts and expenditures under this Part, to be laid before Parliament within the first fifteen days of the next session thereof. R.S., c. 76, s. 16.

408. All marine and seamen’s hospitals, devoted exclusively to the reception, care and treatment of sick mariners, shall be vested in His Majesty, and under the exclusive control and management of the Minister. R.S., c. 76, s. 15.

PART VI.
PILOTAGE.

Interpretation.

409. In this Part, unless the context otherwise requires,—
(a) ‘pilot’ means any person who, not belonging to a ship, has the conduct thereof;
(b) ‘boat’ means every description of vessel used in navigation not being a ship;
(c) ‘pilot boat’ means any ship or boat employed in the pilotage service of any district;
(d) ‘license’ includes a branch;
(e) ‘licensed pilot’ includes a branch pilot;
(f) ‘pilot flag’ means a flag of large dimensions, compared with the size of the pilot boat, and of two colours, the upper horizontal half white, and the lower horizontal half red;
(g) ‘pilot light’ means a white light;
(h) ‘exempted ships’ means ships exempted by this Part from the compulsory payment of pilotage dues;
(i) ‘pilot fund’ means any fund established by a pilotage authority, or by pilotage authorities, for the relief of superannuated or infirm licensed pilots, or of their wives, widows or children, or of any two or more of such classes of persons collectively;
(j) ‘pilotage dues’ means the remuneration payable in respect of pilotage;
(k) ‘pilotage authority’ means any persons authorized to appoint or license pilots, or to fix or alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage;
(l) expressions referring to the pilotage authorities of pilotage districts generally, as applied to the pilotage district of Quebec, mean and include only the Minister;
(m) expressions referring to the pilotage authorities of the district for which pilots are licensed, as applied to pilots for and above the harbour of Quebec, mean and include only the Minister;

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(n) 'Quebec Pilots Corporation' means the Corporation of Pilots for and below the harbour of Quebec;
(o) 'the Court' means the Montreal Pilots Court, created by the Governor in Council for the pilotage district of Montreal. R.S., c. 80, ss. 2, 59, 80 and 51; 63-64 V., c. 36, s. 1; 3 E. VII., c. 48, s. 1; 4-5 E. VII., c. 34, s. 2.

Application.

410. Nothing in this Part shall apply to,—
(a) ships belonging to His Majesty; or,
(b) ships wholly employed in His Majesty's service, while so employed, the masters of which have been appointed by His Majesty's Government, either in the United Kingdom or in Canada. R.S., c. 80, s. 3.

Pilotage Districts and Authorities.

411. The pilotage district of Quebec shall comprise the river St. Lawrence from the basin of Portneuf inclusively to an imaginary line drawn from the eastern anchorage ground off Barnaby Island to the eastern anchorage ground under Cape Columbia on the north shore, together with those parts of all rivers, waters, creeks, bays and coves within the said limits where the tide ebbs and flows. R.S., c. 80, s. 4.

412. The river Saguenay shall be within the pilotage district of Quebec. 4-5 E. VII., c. 34, s. 1.

413. The Minister shall be the pilotage authority of the pilotage district of Quebec, and all the powers vested in the Harbour Commissioners of Quebec, previously to the twentieth day of July in the year one thousand nine hundred and five, as such pilotage authority, shall continue to be vested in the Minister: Provided that nothing in this Part shall authorize the Minister to sit as a tribunal for the trial of offences of which pilots may be accused before the pilotage authority; but the Minister may, in any case not provided for by Part X. of this Act, designate a tribunal or officer to try any such offence. 4-5 E. VII., c. 34, s. 2.

414. The pilotage district of Montreal shall comprise,—
(a) that part of the river St. Lawrence, from the basin of Portneuf exclusively, to the province line, now dividing the provinces of Ontario and Quebec, and the several rivers falling into the St. Lawrence within the said limits; and,
(b) so far as relates to pilots and their apprentices, pilotage, pilot dues and pilot boats for and above the harbour of Quebec, that part also of the pilotage district of Quebec comprising the river St. Lawrence, between St. Patrick's Hole 1977 and the

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Hole and the basin of Portneuf, both inclusive, and that part of all rivers, waters, creeks, bays and coves, within the last mentioned limits where the tide ebbs and flows. R.S., c. 80, s. 5.

**415.** The Minister shall be the pilotage authority of the pilotage district of Montreal, and all the powers vested in the Montreal Harbour Commissioners, previously to the twenty-fourth day of October of the year one thousand nine hundred and three, shall continue to be vested in the Minister. 3 E. VII., c. 48, s. 1.

**416.** The Governor in Council may, by order in council, fix the limits of any other pilotage district, in any places not included within either of the pilotage districts of Quebec or Montreal. R.S., c. 80, ss. 96 and 13.

**417.** The Halifax Pilot Commissioners shall be the pilotage authority of the pilotage district of Halifax.

1. The Board of such Commissioners shall consist of,—
   (a) three persons appointed by the Governor in Council;
   (b) two persons elected by the city council for the city of Halifax; and,
   (c) two persons elected by the executive committee of the Chamber of Commerce of the city of Halifax. R.S., c. 80, s. 6.

**418.** The St. John Pilot Commissioners shall be the pilotage authority of the pilotage district of St. John.

1. The Board of such Commissioners shall consist of,—
   (a) three persons appointed by the Governor in Council;
   (b) two persons elected by the mayor, aldermen and commonalty of the city of St. John; and,
   (c) two persons elected by the council of the St. John Board of Trade. R.S., c. 80, s. 9.

**419.** Except as in this Part otherwise provided, every vacancy happening among the pilot commissioners appointed by the Governor in Council shall be filled by the Governor in Council by an instrument under the Great Seal of Canada. R.S., c. 80, ss. 7 and 10.

**420.** Whenever there is a vacancy in the Halifax Board of Pilot Commissioners, among the commissioners elected by the city council for the city of Halifax, or in the St. John Board of Pilot Commissioners, among commissioners elected by the mayor, aldermen and commonalty of the city of St. John, or among the commissioners appointed by the Governor in Council, by reason of the refusal or neglect by the city council for the city of Halifax or the mayor, aldermen and commonalty of the city of St. John to elect, or by reason of the person elected refusing
refusing to accept office, the city council for the city of Halifax, and the mayor, aldermen and commonalty of the city of St. John, as the case may be, shall, within fourteen days after due notice of such vacancy is to them given, elect a person to fill such vacancy. R.S., c. 80, ss. 7 and 10.

421. Whenever there is a vacancy in either of such boards of pilot commissioners among the commissioners elected by the executive committee of the Halifax Chamber of Commerce, or the council of the St. John Board of Trade, or among the commissioners appointed by the Governor in Council, by reason of the refusal or neglect of the executive committee of the Halifax Chamber of Commerce, or the council of the St. John Board of Trade, to elect, or by reason of the person elected refusing to accept office, the executive committee of the Halifax Chamber of Commerce or the council of the St. John Board of Trade, as the case may be, shall, within fourteen days after due notice of such vacancy, elect a person to fill such vacancy. R.S., c. 80, ss. 7 and 10.

422. The name of every person so elected to fill a vacancy shall be, forthwith after his election, certified to the Minister under,—

(a) the seal of the city of Halifax, if elected by the council of the city of Halifax;
(b) the seal of the city clerk for the city of Halifax, if elected by the executive committee of the Chamber of Commerce of the city of Halifax;
(c) the seal of the city of St. John, if elected by the mayor, aldermen and commonalty of the city of St. John; or,
(d) the seal of the St. John Board of Trade, if elected by the council of the said Board of Trade. R.S., c. 80, ss. 7 and 10.

423. In case the council for the city of Halifax, the executive committee of the Chamber of Commerce of the city of Halifax, the mayor, aldermen and commonalty of the city of St. John, or the council of the St. John Board of Trade, as the case may be, should refuse or neglect to fill any such vacancy, for the fourteen days aforesaid, or to certify to the Minister the names of the persons by them elected, the Governor in Council may, within thirty days after the expiration of the said fourteen days, by an instrument under the Great Seal, appoint a person to fill such vacancy. R.S., c. 80, ss. 7 and 10.

424. In case any person appointed to fill a vacancy as aforesaid refuses to accept office, the Governor in Council may, by an instrument under the Great Seal, appoint in the place of the person so refusing some other person to fill such vacancy. R.S., c. 80, ss. 7 and 10.

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425. R.S., 1906.
425. If any pilotage commissioner for the pilotage district of Halifax, or for the pilotage district of St. John, is at any time absent for twelve months from the province in which the pilotage district for which he was appointed or elected is situate, without having resigned his office, and without leave from the authority by which he was appointed or elected, his office shall ipso facto be vacant.

2. Upon written notice of the fact given by any member of the said pilotage authority to the authority by which any such vacancy is to be filled, it shall be filled under the provisions of this Part, as if it had been occasioned by the death or resignation of such absentee. R.S., c. 80, s. 12.

426. The Halifax pilot commissioners and the survivor or survivors of them and their successors so, from time to time, elected and appointed, shall be a body corporate by the name of the Halifax Pilot Commissioners. R.S., c. 80, s. 8.

427. The St. John pilot commissioners and the survivor or survivors of them and their successors so, from time to time, elected and appointed, shall be a body corporate by the name of the St. John Pilot Commissioners. R.S., c. 80, s. 11.

428. Any three of such commissioners shall be a quorum for the transaction of business and the exercise of the powers conferred by this Part. R.S., c. 80, ss. 8 and 11.

429. The Governor in Council may constitute pilotage authorities for any pilotage district established in any places not included within either of the pilotage districts of Quebec, Montreal, Halifax or St. John and such pilotage authorities shall consist of not less than three or more than five persons a majority of whom respectively shall be a quorum for the transaction of business and the exercise of all the powers conferred by this Part. R.S., c. 80, s. 13.

430. The Governor in Council may, from time to time, make the payment of pilotage dues compulsory or not compulsory, within the limits of any pilotage district fixed by the Governor in Council under this Part. R.S., c. 80, s. 13.

431. The pilotage authority of any district other than the pilotage authority of Quebec may, with the sanction of the Governor in Council, appoint a secretary and treasurer, and pay him such salary or remuneration, out of pilotage dues or fees for licenses received by it, as it sees fit, and may, with such sanction and out of such funds, pay any other necessary expenses of conducting the pilotage business of the district. R.S., c. 80, s. 14.

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432. Notwithstanding anything in this Part, the Governor in Council may, upon the recommendation of the shipping interest of the port or of the council of the board of trade, when it appears to him to be in the interest of navigation, appoint the Minister to be the pilotage authority for any pilotage district, or for any part thereof; and the said Minister shall thereupon supersede the then existing pilotage authority for that district or part of a district: Provided that nothing in this Part shall authorize the Minister to sit as a tribunal for the trial of offences of which pilots may be accused before the pilotage authority; but such Minister may, in any case not provided for by Part X. of this Act designate a tribunal or officer to try any such offence. 4 E. VII., c. 29, s. 1.

General powers of Pilotage Authorities.

433. Subject to the provisions of this Part, or of any Act for the time being in force in its pilotage district, every pilotage authority shall, within its district, have power, from time to time, by by-law confirmed by the Governor in Council, to,—

(a) determine the qualification in respect of age, time of service, skill, character and otherwise required of persons applying to be licensed as pilots;

(b) make regulations respecting the approval, licensing, management and maintenance of pilot boats, and respecting the distribution of the earnings of pilots and pilot boats, and to require that decked pilot boats be provided with life boats to be used in conveying pilots to and from ships, and also with such numbers of life preservers as such pilotage authority deems advisable;

(c) provide for aiding in the establishment of and participating in the profits of companies for the support of pilot boats;

(d) license pilots and, except in the pilotage district of Quebec, apprentices, and, except in the pilotage districts of Quebec, Montreal, Halifax and St. John, grant certificates to masters and mates to act as pilots, as hereinafter provided;

(e) fix the terms and conditions of granting licenses to pilots and, except in the pilotage district of Quebec, apprentices, and, except in the pilotage districts of Quebec, Montreal, Halifax and St. John, the terms and conditions of granting such pilotage certificates, as are in this Part mentioned, to masters and mates, and the fees payable for such licenses and certificates and to regulate the number of pilots;

(f) make regulations for the government of the pilots, and the masters and mates, if any, holding certificates from such pilotage authority, and for ensuring their good conduct and constant attendance to and effectual performance of their duty on board and on shore, and for the government of pilotage affairs.

Powers of pilotage authorities.

Determine qualification of pilots.

Regulations as to pilot boats.

Aid companies for support of pilot boats.

Licenses and certificates.

Terms and conditions of licenses.

Regulations for government of pilots.
Punishment for breach of regulations.
Fix and alter pilotage dues.

Compulsory retirement of aged pilots.
And of infirm or intemperate pilots.
Decision of disputes.
Establish and regulate pilot funds, except in Montreal and Quebec.

Determine beneficiaries of fund.
Repeal and alter by-laws.

Rates of pilotage for or below

434. The rates of pilotage now in force for and below Quebec shall not be altered unless at any time the share of the net

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net income of the Quebec Pilots Corporation annually accruing to each member of the said corporation acting and practising as a pilot for and below the harbour of Quebec, has been less than six hundred dollars on an average for three consecutive years immediately preceding; in which case it shall be the duty of the Minister to submit to the Governor in Council, for approval, a by-law establishing such increased rates of pilotage or pilotage dues, as are deemed necessary for the purpose of securing to each such pilot an average annual share of not less than six hundred dollars of such net income, and, in like manner thereafter, to submit for approval a further by-law whenever such annual average share for three successive years, for each pilot shall not amount to six hundred dollars.

2. Nothing in this Part shall be construed to give power to the Minister to make regulations respecting the management or maintenance of pilot boats, or respecting the administration or distribution of the earnings of pilots and pilot boats. R.S., c. 80, s. 15; 4-5 E. VII., c. 34, s. 2.

435. The Minister may, from time to time, by by-law confirmed by the Governor in Council and published in the Canada Gazette, make provision for granting a second-class pilotage license, in the pilotage district of Montreal to such indentured apprentices as are found competent to perform a limited or subordinate class of pilotage duties, and from time to time may fix and alter the pilotage dues payable to the holders of such second-class licenses.

2. Such second-class licenses shall remain in force until the holders thereof become qualified to be licensed as pilots, unless sooner withdrawn or suspended for cause.

3. The employment of a pilot holding a second-class license shall, however, not be compulsory. R.S., c. 80, ss. 16 and 18.

436. Every pilotage authority may, in any by-law made according to the provisions of this Part, impose a reasonable penalty not exceeding in any case forty dollars for the breach of such by-law, with, in cases of continuing breach, a further penalty not exceeding four dollars for every twenty-four hours during which such breach continues; but in no such by-law shall a minimum penalty be imposed. R.S., c. 80, s. 17.

437. Every by-law made by any pilotage authority in the exercise of the powers conferred upon it by this Part shall be valid and effectual when confirmed by the Governor in Council and published in the Canada Gazette.

2. Every breach of any such by-law shall be deemed an offence against this Part. R.S., c. 80, s. 18.

438. A copy of every by-law made by the Minister under Special provision for this Part shall be furnished to the Quebec Pilots Corporation, twenty days before such by-law is submitted to the Governor in 1983 Council R.S., 1906.
and below Quebec.

Existing pilotage authorities to retain powers.

Existing by-laws continued in force.

Pilotage authorities to make annual reports stating

Names and ages of pilots.

Service of pilots.

Pilotage dues.

Amount of dues received.

Receipts and expenditure.

Other particulars.

Council for the purpose of being confirmed. R.S., c. 80, s. 19; 4-5 E. VII., c. 34, s. 2.

Every pilotage authority not subject to being replaced by the Governor in Council shall perpetually retain all power and jurisdiction consistent with the provisions of this Part, which it lawfully possesses; and every other pilotage authority shall, until replaced by the Governor in Council, retain all such lawfully possessed powers and jurisdiction. R.S., c. 80, s. 20.

Every by-law, rule, regulation, law or ordinance made by any pilotage authority before the first day of March, one thousand eight hundred and eighty-seven, shall continue to have the same force and effect as heretofore, until repealed or altered by a by-law of the proper pilotage authority duly made and confirmed under this Part. R.S., c. 80, s. 21.

Returns by Pilotage Authorities.

Every pilotage authority shall, on or before the tenth day of January in every year, transmit to the Minister, in such form as he requires, pilotage returns containing particulars with regard to pilotage within its district, made up to the thirty-first day of December previous, with regard to,—

(a) the name and age of every pilot, apprentice, master or mate licensed, certificated or authorized to act by such authority, and of every pilot or apprentice acting either mediately or immediately under such authority, whether so licensed or authorized, or not;

(b) the service for which each pilot, apprentice, master or mate is licensed or certificated;

(c) the rates of pilotage dues for the time being in force, including therein the amounts and description of all charges upon shipping made in respect of pilotage;

(d) the total amount received for pilotage dues, distinguishing the amounts received from British ships and from foreign ships, and the amount received in respect of different classes of ships paying different rates of pilotage dues for the time being in force, and the amounts received for the several classes of service rendered by pilots;

(e) the receipt and expenditure of all moneys received by or on behalf of such authority, in respect of pilots or pilotage; and,

(f) such other particulars as the Minister, from time to time, requires to be included in any such return. R.S., c. 80, s. 22.

Apprentices—Quebec.

Persons desirous of becoming pilots for and below the harbour of Quebec, shall continue as heretofore to pass their indentures R.S., 1906.
indentures of apprenticeship with the Quebec Pilots Corporation, and, for that purpose, the said corporation shall continue to be subject to the provisions of the Act passed in the twelfth year of Her late Majesty's reign, intituled An Act to consolidate the laws relating to the powers of the Trinity House of Quebec, and for other purposes, as amended or altered by subsequent legislation, and to the by-laws made by the Trinity House of Quebec, by the Quebec Harbour Commissioners, and by the Minister relative to pilots taking apprentices, and shall continue to have power to cause such apprentices to serve in turn on board ships piloted or on board the schooners of the corporation. R.S., c. 80, s. 23; 4-5 E. VII., c. 34, s. 1.

443. The number of pilots for the pilotage district of Quebec shall not exceed one hundred and twenty-five; and the pilotage authority for the district of Quebec may prescribe the number of apprentices to be indentured to the Quebec Pilots Corporation.

2. The Quebec Pilots Corporation shall, in each year, make a return of the number of its apprentices to the said pilotage authority. R.S., c. 80, s. 24.

444. Whenever the period of apprenticeship of any apprentice indentured to the said Quebec Pilots Corporation has been interrupted for less than four months in all, on account of sickness, involuntary absence or other legitimate cause, the Quebec Harbour Commissioners shall grant to said apprentice, if found otherwise qualified and entitled a license as pilot, on proof that he has served a regular apprenticeship of seven years in all: Provided he has made up for the time lost by such interruption, by an additional period or periods of service, after the lapse of seven years from the commencement of his apprenticeship, and has made four voyages to Europe. R.S., c. 80, s. 25.

Licensing of Pilots.

445. Every pilot, on being licensed by any pilotage authority, shall receive a license containing his name and usual place of abode, a description of his person and a specification of the limits within which he is qualified to act, which may be in form Q.

2. The collector of Customs at the principal port of the district within which any pilot is licensed to act, shall on his request, and without fee or reward, register the license of such pilot, and add his name to the list posted up at the Custom-house, and no pilot shall be entitled to act as such until his license is so registered. R.S., c. 80, s. 26.

446. Every licensed pilot who acts beyond the limits for which he is qualified by his license, shall be considered an unlicensed pilot. R.S., c. 80, s. 26.

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447. Every licensed pilot shall, on receiving his license, be furnished with a copy of this Part, and a copy of the tariff of dues and of the by-laws established within the districts for which he is licensed; and he shall produce such copies to the master of any ship or other person employing him, when required so to do. R.S., c. 80, c. 27.

448. Every pilot who has received a license from a duly constituted authority in that behalf, may retain the same, under and subject to the provisions of this Part, and shall, for the purposes of this Part, while so retaining the same, be a pilot licensed by the pilotage authority of the district to which his license extends. R.S., c. 80, s. 28.

Production of License.

449. Every licensed pilot shall, while acting in that capacity, be provided with his license, and shall produce the same, whether requested to produce it or not, to every person by whom he is employed, or to whom he offers his services as pilot, at the time when he enters into the employment of, or offers his services to such person; and shall, at all times, produce his license at the request of every person by whom he is employed as pilot. R.S., c. 80, s. 29.

Forfeiture, Surrender or Withdrawal of License.

450. Every branch pilot or licensed pilot who passes two full and consecutive years without acting as a pilot, except in case of sickness, unavoidable absence or special permission from the pilotage authority of his district, shall forfeit his license. R.S., c. 80, s. 30.

451. Every licensed pilot suspended or deprived of his license or compelled to retire, shall produce or deliver up his license to the authority by whom he is so suspended or deprived or compelled to retire.

2. On the death of any licensed pilot, the person into whose hands his license comes shall, without delay, deliver it to the pilotage authority of the pilotage district for which he was licensed. R.S., c. 80, s. 31.

Age limit for active pilot.

452. Every licensed pilot shall, on his attaining the age of sixty-five years, produce and deliver up his license or branch to the pilotage authority of the district to which it extends, and such authority may grant him a new license for one year, and so from year to year. R.S., c. 80, s. 32.

Powers of Quebec corporation of pilots as

453. The board of directors of the Quebec Pilots Corporation may make any agreement and compromise respecting the withdrawal of the license of any pilot for and below the said 1986 harbour,
harbour, and the conditions of such withdrawal. R.S., c. 80, s. 33.

Limitation and Renewal of Licenses.

454. The pilotage authority of any district, except the pilotage districts of Quebec, Montreal and St. John, respectively, may, in its discretion,—

(a) limit the period during which any license to a pilot granted by it shall be in force to any term not less than two years from the date thereof;

(b) after the end of such period, renew such license for a further limited term not less than two years; and,

(c) cancel any license to a pilot granted before the first of March, one thousand eight hundred and eighty-seven, and substitute for it a limited and renewable license.

2. In such cases the form of the license shall be altered by inserting after the word 'capacity' in form Q, the words until the day of A.D., unless in the meantime this license is cancelled. R.S., c. 80, s. 34.

455. All pilots shall pay to the pilotage authority of the respective districts for which they are licensed, or as such authority directs, such fees upon such renewals as are, from time to time, fixed for that purpose by such authority with the consent of the Governor in Council; and such fees shall be applied in the manner prescribed by this Part. R.S., c. 80, s. 35.

List of Pilots.

456. Every pilotage authority shall, from time to time, and at least once in every year, prepare a list of the pilots holding licenses for their pilotage district, specifying the name and usual place of abode of every pilot holding such license, and the limits within which he is licensed to act; and shall transmit such list to the collector of Customs at the principal port within such district. R.S., c. 80, s. 36.

457. Every collector of Customs, to whom any such list is so transmitted, shall, immediately after the receipt thereof, cause the same to be posted up, and shall always keep the last received of such lists posted up at the Custom-house of the port. R.S., c. 80, s. 36.

License Register.

458. Each of the pilotage authorities of Quebec, Montreal, Halifax and St. John shall cause every pilot's license granted by it to be registered in a book to be kept for that purpose in the office of such pilotage authority; and every such book shall, at R.S., 1906.
at all times, during the usual office hours, be open to all persons for inspection without fee or reward. R.S., c. 80, s. 37.

Rights of Pilots.

459. Every pilot compelled to retire under the provisions of this Part on account of age or of mental or bodily infirmity, and every widow and child of a deceased pilot shall be entitled to such pension or assistance at the pilotage authority of the district in and for which such pilot was licensed deems it proper to grant to him or her out of the pilot fund of such district. R.S., c. 80, s. 38.

460. No pilot shall, without his consent, be taken to sea or beyond the limits for which he is licensed, in any ship whatsoever.

2. Every pilot so taken shall be entitled to cabin passage, and over and above the pilotage dues otherwise payable to him, to the sum of two dollars per day, to be computed from, and inclusive of the day on which the ship passes the limit up to which he was engaged to pilot her, and up to and inclusive of, either the day of his being returned in the said ship to the place where he was taken on board, or, if he is discharged from the ship at a distance from such place, such day as will allow him sufficient time to return thereto.

3. In such last mentioned case, he shall be entitled to his reasonable travelling expenses by cabin passage or first-class conveyance by land, as the case may be, over and above such pilotage dues and other sums. R.S., c. 80, s. 39.

461. If a licensed pilot is placed in quarantine, owing to his having been taken on board any ship, he shall be entitled to suitable board and accommodation, and, to the sum of three dollars per day over and above the pilotage dues payable to him from and inclusive of the day on which he is placed in quarantine up to and inclusive of the day on which he is discharged therefrom; and, if he is not discharged at the place where he was taken on board any ship, then up to and inclusive of such day as will allow him sufficient time to return to such place, in which case he shall be entitled to his reasonable travelling expenses over and above such pilotage dues and such other additional sums. R.S., c. 80, s. 40.

462. Any licensed pilot may quit a ship which he has undertaken to pilot as soon as such ship is finally anchored or moored after completion of her voyage or removal, as the case may be, or as soon as she passes out of the pilotage district to which his license extends, whichever first happens; whereupon the service for which he was hired shall be held to be performed. R.S., c. 80, s. 41.

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Damages caused by a Pilot.

463. A pilot deprived of his license, or suspended or condemned to pay a penalty for having caused damage to a ship shall not be entitled to any pilotage dues if the amount of such damage is equal to or exceeds that of such dues, or, if it is less, to more than the excess of the amount of such dues over that of such damage.

2. The provisions of this section shall be deemed to be referred to in section twenty-six of the Act of the legislature of the late province of Canada, passed in the twenty-third year of the reign of Her late Majesty Queen Victoria and chaptered one hundred and twenty-three, intituled An Act to incorporate the Pilots for and below the Harbour of Quebec. R.S., c. 80, s. 42.

Rights of Pilots in Pilotage Districts in which the Payment of Pilotage dues is Compulsory.

464. If any boat or ship having on board a licensed pilot leads any ship which has not a licensed pilot on board when such last mentioned ship cannot, from particular circumstances, be boarded, the pilot so leading such last mentioned ship shall be entitled to the full pilotage dues for the distance run, as if he had actually been on board and piloted such ship.

2. Such pilot, while leading such last mentioned ship, shall keep his pilot flag flying, and such last mentioned ship shall, while being so lead, show the ensign of such ship, at her fore. R.S., c. 80, s. 44.

465. Any person may, within any pilotage district for which he is not a licensed pilot, without subjecting himself or his employer to any penalty, pilot a ship,—

(a) when no licensed pilot for such district has offered to pilot such ship, or made a signal for that purpose, although the master of the ship has displayed and continued to display the signal for a pilot in this Part provided, whilst within the limits prescribed for that purpose;

(b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time.

2. If such unlicensed pilot is not superseded as in the next following section provided, he shall be entitled to be paid full pilotage dues. R.S., c. 80, ss. 46 and 47.

466. A licensed pilot may, in any such district, upon showing his proper signal and exhibiting his license, supersede an unlicensed pilot, but the master shall pay to such unlicensed pilot a sum in proportion to the distance run for his services, and deduct the same from the charge of the licensed pilot.

2. In case of dispute, the pilotage authority of the district on dispute, for which the licensed pilot is licensed, shall determine the proportionate

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467. If any master of a ship which is not an exempted ship removes such ship or causes such ship to be removed from one place to another within the harbour of Quebec, without the assistance of a licensed pilot for the pilotage district of Quebec, he shall pay to the Quebec Pilots Corporation the same pilotage dues as he would have been liable to pay if he had obtained the assistance of one of such licensed pilots.

2. This provision shall not apply to the master of any ship actually proceeding to Montreal or elsewhere above the harbour of Quebec, in charge of a pilot for and above the harbour of Quebec. R.S., c. 80, s. 49.

**Pilotage Dues.**

468. The owner, the master and the recognized consignee or agent of any ship, if such recognized consignee or agent has sufficient moneys in his hands received on account of such ship, shall be liable to pay any pilotage dues made payable under this Part by or in respect of such ship. R.S., c. 80, s. 50.

469. Every recognized consignee or agent of a ship not being the owner or master of such ship may, out of any money in his hands received on account of such ship, retain the amount of pilotage dues so paid by him, together with any reasonable expenses he has incurred by reason of such payment and liability. R.S., c. 80, s. 51.

470. All pilotage dues may be recovered as a debt due to the pilot, or corporation of pilots, or pilotage authority, as the case may be, to whom the same are payable: Provided that the mode of payment of pilotage dues in the pilotage districts of Quebec and Montreal shall remain the same as heretofore.

2. All sums made payable to a pilot over and above the pilotage dues, shall be payable by the same persons, and recoverable in the same manner as if they were part of the pilotage dues payable to such pilot. R.S., c. 80, s. 52.

471. No Customs officer shall grant a clearance to any ship liable to pilotage dues at any port in Canada, where there is a duly constituted pilotage authority which collects the pilotage dues and at which pilotage dues are payable, until there has been produced to such Customs officer a certificate from the pilotage authority of the district or some officer or person authorized by such authority to grant the same, that all pilotage dues in respect of such ship have been paid or settled for to the satisfaction of such authority. R.S., c. 80, s. 53.

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472.
472. Whenever any difference arises between the master and the licensed pilot of any ship trading to and from any port in Canada, as to her draught of water, the pilotage authority at such port shall, upon application by either party, appoint some proper person who shall measure the ship, and settle the difference accordingly.

2. Such application shall be made, in case of a ship inward bound, either within twelve hours after her arrival, or at some time before she begins to discharge her cargo; and, in the case of a ship outward bound, before she quits her moorage.

3. There shall be paid to the person measuring such ship, by the party against whom he decides, such remuneration for his services as the pilotage authority appoints. R.S., c. 80, s. 54.

Employment of Pilots not compulsory.

473. No owner or master of any ship shall, in any case, be compelled to employ or to give his ship into the charge of a pilot, either on the ground of his being compelled to pay pilotage dues to any person or otherwise. R.S., c. 80, s. 57.

Liability of the Owner of a Ship in charge of a Pilot.

474. Nothing in this Part shall exempt any owner or master of any ship from liability for any loss or damage occasioned by his ship to any person or property, on the ground either of such ship being in the charge of a licensed pilot, or of such loss or damage being occasioned by the act or default of a licensed pilot, or on any other ground. R.S., c. 80, s. 57.

Compulsory Payment of Pilotage Dues and exemptions.

475. Every ship which navigates within either of the pilotage districts of Quebec, Montreal, Halifax or St. John, or within any pilotage district within the limits of which the payment of pilotage dues is, for the time being, made compulsory by order in council under this Part shall pay pilotage dues, unless,—

(a) such ship is on her inward voyage and no licensed pilot offers his services as a pilot; or,

(b) she is exempted under the provisions of this Part, from payment of such dues. R.S., c. 80, s. 58.

476. If such ship is on her outward voyage and the owner or master of such ship does not employ a pilot or give his ship into the charge of a pilot, such dues shall be paid, if in the pilotage district of Quebec, to the Quebec Pilots Corporation, and, if in any other pilotage district to the pilotage authority of such district. R.S., c. 80, s. 58.

477. R.S., 1906.
Exempted
ships.
His Maj-
esty's ships.
Ships em-
ployed by
His Majesty.
Steamships
exempt from
pilotage
dues.

477. The following ships shall be exempted ships:

(a) Ships belonging to His Majesty;
(b) Ships wholly employed in His Majesty's service, while so employed, the masters of which have been appointed by His Majesty's Government, either in the United King-
dom or in Canada;
(c) ships propelled wholly or in part by steam
(i) employed in trading from port to port in the same province, or
(ii) employed in trading between any one or more of the provinces of Quebec, New Brunswick, Nova Scotia or Prince Edward Island and any other or others of them, or
(iii) employed in voyages between any port or ports in the said provinces or any of them and the port of New York or any port of the United States of America on the Atlantic, north of New York, or
(iv) employed in voyages between any port in any of the said provinces and any port in Newfoundland, or
(v) having a draught when loaded not exceeding sixteen feet, and employed exclusively in voyages between any port or ports on Lake Ontario, Lake Erie, Lake Huron, Lake Superior, Lake Michigan or on any of the waters connecting those lakes and any port or ports on the river St. Lawrence, or between any ports on the river St. Lawrence;
(d) Ships registered in Canada, of not more than one hun-
dred and twenty tons registered tonnage;
(e) Any ship of which the master or any mate has a cer-
tificate granted under the provisions of this Part and then in force, authorizing him to pilot such ship within the limits within which she is then navigating;
(f) Ships of such description and size not exceeding two hundred and fifty tons, registered tonnage, as the pilot-
age authority of the district, with the approval of the Governor in Council, from time to time determines to be exempt from the compulsory payment of pilotage dues in such district.

2. In the river St. Lawrence, all ships registered in Can-
ada of not more than two hundred and fifty tons registered tonnage, shall be exempt from the payment of pilotage dues.
R.S., c. 80, s. 59; 55-56 V., c. 20, s. 1; 2 E. VII., c. 27, s. 1.

478. The pilotage authorities of the pilotage districts of Halifax, Sydney, Miramichi and Pictou may, as to each of such ports respectively, notwithstanding anything contained in the last preceding section, from time to time determine with the approval of the Governor General, whether any, and which, if any, of the steamships employed, as in the said sections specified, shall or shall not be wholly or partially, and,

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if partially, to what extent and under what circumstances, exempted from the compulsory payment of pilotage dues. 2 E. VII., c. 27, s. 1.

479. When a ship arrives at the limits of any district in which the payment of pilotage dues is, for the time being, compulsory and within any part of which she is an exempted ship by reason of having a master or mate possessing a pilotage certificate under this Part, or is at a distance of five miles at least from the mouth of the harbour in any such district mentioned in the pilotage certificate of her master or mate, whichever first happens, such master or mate shall hoist a white flag not less than four feet by six feet at the main top masthead, with the number of his certificate, in black figures six inches long, in the centre as a signal that the ship has a certificated master or mate on board. R.S., c. 80, s. 60.

480. If the master of an exempted ship not belonging to His Majesty, or not wholly employed in His Majesty’s service, arriving within the limits of a pilotage district in which the payment of pilotage dues is, for the time being, compulsory,—

(a) displays and continues to display the signal for a pilot in this Part provided, whilst within the limits prescribed for that purpose, and does not accept the services of any licensed pilot offering them in consequence of such signal; or,

(b) without displaying or continuing to display the signal for a pilot in this Part provided, whilst within the limits prescribed for that purpose, employs any person not belonging to his crew and not being a licensed pilot, to pilot or guide such ship, whether or not a licensed pilot has offered his services,—
such ship shall be liable to pay, if in the pilotage district of Quebec, to the Quebec Pilots Corporation, and, if elsewhere, to the pilotage authority of the district, as pilotage dues, the same sum as would have been payable to such licensed pilot if his services had been accepted. R.S., c. 80, s. 61.

481. Every ship liable for pilotage dues and requiring the services of a pilot, arriving at the limits of any district in which the payment of pilotage dues is for the time being compulsory, shall,—

(a) until a licensed pilot has come on board; or,

(b) until the ship has passed a point, line or place, from time to time fixed in that behalf by the pilotage authority of the district,
display such signal for a pilot, as is in this Part provided.

2. The master thereof, upon sighting a pilot boat carrying a pilot flag or pilot lights, shall also,—

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(a) R.S., 1906.
Lying to. (a) by lying to, if the weather permits, or by shortening sail or heaving to; or,
(b) if the ship is a steamer, by stopping his engines or by any other practicable means,
facilitate the coming on board of the pilot or one of the pilots of such boat. R.S., c. 80, s. 62.

482. Every such ship as to which the requirements of the last preceding section are not complied with shall be liable to pay, if in the pilotage district of Quebec, to the Quebec Pilots Corporation, and, if elsewhere, to the pilotage authority of the district, a sum not exceeding the amount of pilotage dues which would be payable for piloting such ship.

2. Every such ship, the master of which,—
(a) does not accept the services of the first licensed pilot who, by signal or otherwise, offers his services; or,
(b) does not accept the services of such one of two or more pilots offering their services at the same time, as is entitled by the law or regulations for the time being in force in such district to have his services accepted; or,
(c) having signalled for a pilot, does not accept the services of any licensed pilot offering the same in consequence of such signal,
shall be liable to pay, if in the pilotage district of Quebec, to the Quebec Pilots Corporation, and, if elsewhere, to the pilotage authority of the district, as pilotage dues, the same sum as would have been payable to such pilot, if his services had been accepted. R.S., c. 80, s. 62.

483. All sums received by any pilotage authority in pursuance of the three last preceding sections shall be applied by it,—
(a) in paying all expenses incurred in obtaining payment of the same;
(b) in paying to the pilot who offered his services to the ship, and, if two pilots offered, to that one who was entitled to have his services accepted, such amount, if any, as it, by any by-laws made under this Part from time to time, makes payable to such pilot.

2. The residue shall be carried to and form part of the pilot fund of the district. R.S., c. 80, s. 62.

484. No ship shall be exempted on any ground whatever from the liability to pay pilotage dues earned by any licensed pilot voluntarily taken on board of such ship by the master for the purpose of piloting her, whether the payment of pilotage dues is or is not, for the time being, otherwise compulsory in the district in which such pilotage dues are earned. R.S., c. 80, s. 65.
485. Every master of an exempted ship, when navigating such ship without a pilot in any pilotage district, or part of a pilotage district, within the limits of which she is for the time being an exempted ship, shall, as regards the conduct and management of such ship within such limits, have all the powers and duties which are by law or usage possessed by or imposed upon any licensed pilot for such district. R.S., c. 80, s. 66.

Signals to indicate that a Pilot is required.

486. If any ship requires the services of a pilot, or, not having a pilot, has entered or is in any district or part of a district where such ship is subject to a compulsory payment of pilotage dues, the master of such ship shall display the following signals,—

(a) in the day time, the Jack or other national colour usually worn by merchant ships, having round it a white border one-fifth of the breadth of the flag, hoisted at the fore;

(b) at night, a blue light every fifteen minutes; or a bright white light, flashed or shown at short or frequent intervals, just above the bulwarks, for about a minute at a time. R.S., c. 80, s. 63.

Licensing of Masters and Mates.

487. A master or mate of any ship registered in Canada may, upon giving due notice and consenting to pay the usual expenses, apply to any pilotage authority other than the pilotage authority of either of the pilotage districts of Quebec, Montreal, Halifax or St. John to be examined as to his capacity to pilot the ship of which he is master or mate within any part of the district over which such pilotage authority has jurisdiction; and such master or mate shall thereupon be examined, and, if found competent, a pilotage certificate shall be granted to him, containing his name, a specification of the ship or ships in respect of which he has been examined, and a description of the limits within such jurisdiction within which he is to pilot the same. R.S., c. 80, s. 67.

488. Such certificate shall enable the person therein named to pilot the ship or any of the ships therein specified, of which he is acting as master or mate at the time, but no other, within the limits therein described as if he was a licensed pilot, and may be in form R or any like form. R.S., c. 80, s. 68.

489. Such pilotage certificate shall not be in force for more than one year, unless renewed, which may be done, from time to time, by an endorsement under the hand of the secretar

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tary or other officer of the authority by whom such certificate was granted. R.S., c. 80, s. 69.

490. All masters or mates to or for whom any such pilot-age certificates as aforesaid are granted or renewed by any pilotage authority, shall pay to such authority, or as they direct, such fees upon their respective certificates and upon the renewals thereof as are, from time to time, fixed for that purpose by such authority with the consent of the Governor in Council. R.S., c. 80, s. 70.

491. Fees derived by a pilotage authority from granting or renewing such certificates may be applied to the payment of expenses of the examinations or any other general expenses connected with pilotage incurred by such authority or paid into the pilot funds of the district, if any, or disposed of for the benefit of the pilots licensed by such authority in such other way as the pilotage authority shall deem advisable. R.S., c. 80, s. 71.

492. If at any time it appears to any pilotage authority that any master or mate to whom a pilotage certificate has been granted by such authority, has been guilty of drunken-ness or misconduct, or has shown himself incompetent to pilot his ship, the pilotage authority may withdraw his certificate; and such certificate shall thenceforth cease to be of any effect whatever and such master or mate shall forthwith produce and deliver up such certificate to such pilotage authority. R.S., c. 80, s. 72.

493. No master or mate of any ship not registered in Canada shall be examined, or shall receive a pilotage certificate, or act as a pilot under this Part. R.S., c. 80, s. 68.

Pilot Boats.

494. Every pilot boat regularly employed elsewhere than in the pilotage district of Quebec shall be approved and licensed by the pilotage authority of the district in which it is employed. R.S., c. 80, s. 79.

Characteristics of decked Pilot Boats.

495. Every pilot boat, wholly or partly decked, shall have on her stern her name, the name of the owner, or, if owned by more than one person, the name of her managing owner, or, if owned by a corporation, the name of that corporation, and the port to which she belongs, painted in white letters at least one inch broad and three inches long, and on each bow the number of her license. R.S., c. 80, s. 80.

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496. Except as in the last preceding section mentioned, Colour. every such pilot boat shall be painted or tarred over all parts outside, a black colour or such other colour or colours as the pilotage authority of the district with the consent of the Minister directs. R.S., c. 80, s. 80.

497. When afloat, such pilot boat shall have during the day Flag or light. time, a pilot flag, and, at night, a pilot light, such pilot flag or pilot light respectively to be placed at the mast head, or on a sprit or staff, or in some other equally conspicuous situation. R.S., c. 80, s. 80.

498. The master of every such wholly or partially decked Master responsible for pilot boat shall see that,—

(a) the pilot boat possesses all the characteristics required by the last three preceding sections and that the pilot flag and pilot light are kept clean and distinct, so as to be easily discerned at a reasonable distance;

(b) the names and number aforesaid are not at any time concealed or altered. R.S., c. 80, s. 80.

Characteristics of open Pilot Boats.

499. Every pilot boat, neither wholly nor partly decked, Open pilot boats—characteristics. shall have on her bow or stern her name, the name of her owner, the port or place at which her owner resides and the number of her license painted in white letters at least two inches long on a dark ground. R.S., c. 80, s. 81.

500. When afloat during the day time, such pilot boat shall Flag. have a pilot flag. R.S., c. 80, s. 81.

501. The master or person in charge of every such pilot Master responsible for boat shall see that,—

(a) the pilot boat possesses all the characteristics required by the last two preceding sections, and that the pilot flag is kept clean and distinct, so as to be easily discerned at a reasonable distance; and,

(b) the names and numbers aforesaid are not at any time concealed or altered. R.S., c. 80, s. 81.

Pilot Signals.

502. Whenever a licensed pilot, in the exercise of his calling as such, goes off in a boat or ship not in the pilotage service, Licensed pilot to he shall exhibit during the day time a pilot flag, and at flag or light night, a pilot light, in order to show that such boat or ship has a though not in pilot boat.

503. Every pilot, when on board and in charge of any ship Pilot flag as such pilot, shall display a pilot flag under the ensign of such under ensign ship. 1997

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of ship piloted.

ship, or in some other equally conspicuous situation. R.S., c. 80, s. 82.

Pilot Funds.

504. Every pilot for and above the harbour of Quebec shall contribute to the Montreal Decayed Pilots Fund out of every sum of money he is entitled to receive for pilotage, such percentage of the same, not exceeding seven per centum thereof, as the Minister by by-law shall determine, and, until such percentage is so determined by the Minister, every such pilot shall contribute five per centum out of every such sum to the said fund. R.S., c. 80, s. 85; 3 E. VII., c. 48, s. 1.

505. The treasurer of the Quebec Pilots Corporation shall, on the first day in each month, set apart seven per centum on all sums received by him during the then next preceding month for pilotage dues or dues for other services provided for by the pilots' tariff, earned by members of the said corporation; and all sums so set apart by the said treasurer under this section shall form part of the pilot fund.

2. The treasurer may, from time to time, examine any such member on oath to be administered by him as to the amount of any such dues received by him. R.S., c. 80, s. 86.

506. The administration of the fund created by the Act of the late province of Canada, passed in the twelfth year of Her late Majesty Queen Victoria's reign, chartered one hundred and fourteen, and other Acts relating thereto, for the support and maintenance of decayed pilots, their widows and children, shall be vested in the Quebec Pilots' Corporation, which shall have the same rights and powers as the Trinity House of Quebec possessed on the eighth day of April, one thousand eight hundred and seventy-five, in relation to the said fund, and shall administer the same conformably to the said Acts. R.S., c. 80, s. 87.

507. The said corporation shall not invest any moneys belonging to the said fund otherwise than in Dominion stock or securities, or in stock of one or more of the chartered banks of Canada, or in such other way as is approved by the Minister R.S., c. 80, s. 88.

508. The Quebec Pilots Corporation shall, within seven days after the first day of January in each year, make a report to the Minister of their doings in relation to the Decayed Pilots Fund, with an account of the assets and liabilities of the said fund, and showing in detail their receipts and expenditures with respect to the same, and their investments of any moneys belonging thereto, with such further information and in such manner

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manner and form as the Minister, from time to time, prescribes. R.S., c. 80, s. 89.

509. Every pilot fund shall be applied as follows and in the following order, that is to say:
(a) In payment of such necessary expenses as are duly incurred in the administration of such fund;
(b) In payment of superannuation allowances, or other relief, for the benefit of such pilots licensed by the pilotage authority of the district, as are incapacitated by reason of age, infirmity or accident, and of the widows and children of pilots so licensed, or of such incapacitated pilots only. R.S., c. 80, s. 91.

510. Every sum of money belonging to any pilot fund which has not been employed in such payments as aforesaid, including sums of money forming part of pilot funds now existing, of which re-investment becomes necessary, shall be invested in Dominion stock or other government securities, approved by the Governor in Council, in the name of the pilotage authority having control of the fund to which such sum of money belongs. R.S., c. 80, s. 92.

Quebec Pilots Corporation.

511. The board of directors of the Quebec Pilots Corporation shall have power, from time to time, to select any of the pilots, members of the said corporation, to be masters of any schooners under their control, and to remove them. R.S., c. 80, s. 94.

512. The board of directors of the Quebec Pilots Corporation may pay out of the funds of the said corporation to each of its directors, and shall pay to each of the masters of the schooners of the said corporation a remuneration not exceeding in any one year one hundred dollars over and above his share in the net income of the said corporation. R.S., c. 80, s. 96.

513. At all times during the season of navigation in the river St. Lawrence below Quebec, there shall be on duty and personally present at one of the pilot stations, one of the directors of the Quebec Pilots Corporation, whose duty it shall be to,—
(a) enforce the execution of the duties in regard to the embarkation and disembarkation of pilots, and the conduct of pilots and apprentices on board the pilot schooners;
(b) keep a journal of occurrences, and note therein the absence of any schooner from its station, and the time and cause and duration of such absence, and every time when

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and place where such schooner anchors, and the length of time she remains at anchor.

2. Such journal, or a copy thereof, shall be transmitted monthly by the said board of directors to the Minister. R.S., c. 80, s. 97; 4-5 E. VII., c. 34, s. 2.

Investigations.

514. The pilotage authority for any district shall, in all cases of inquiry or investigation made by them under this Part, or under any other Act or law, have full power to examine any person appearing before them to give evidence in such case on oath; and such oath may be administered by any member of such pilotage authority present at such inquiry or investigation. R.S., c. 80, s. 98.

Investigations in the Pilotage District of Montreal.

515. The pilotage court created for the pilotage district of Montreal shall continue to be known as the Montreal Pilots Court. 63-64 V., c. 36, s. 1.

516. The Court shall consist of a commissioner appointed by the Minister, who shall be an advocate of the province of Quebec of not less than seven years' standing, and shall be sworn in before a judge of the Superior Court of the province of Quebec. 63-64 V., c. 36, s. 2.

Assessors.

517. The Court shall, in the hearing and determination of any charge or complaint against any pilot, and also in any inquiry in connection with any accident or damage happening to or caused by a vessel in charge of any pilot, have power to call in the aid of one or more assessors appointed as herein-after provided. 63-64 V., c. 36, s. 3.

518. The licensed pilots shall annually, under regulations to be made by the Minister, appoint one or more qualified pilots to act as such assessors, and the Minister shall also annually select one or more persons qualified to act as such assessors. 63-64 V., c. 36, s. 4; 3 E. VII., c. 48, s. 1.

519. The commissioner shall be entitled to receive from the person or fund from which the costs of any inquiry or proceeding are directed to be paid, for each day actually occupied in the hearing of any case, the sum of ten dollars, and each assessor acting as such the sum of five dollars for each day so actually occupied; and such remuneration shall be included in and collected as part of such costs. 63-64 V., c. 36, s. 5.

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520. The Court shall hear and determine all charges or complaints made against any pilot for any offence committed against the provisions of this Part or any regulation thereunder, and which, on the eighteenth day of July in the year nineteen hundred, could be heard and determined by the pilotage authority, whether in connection with any accident happening to or caused by vessels in charge of such pilot or otherwise. 63-64 V., c. 36, s. 7.

521. For the purpose of such inquiry and the punishment of any offence or neglect of duty by a pilot proved at such inquiry to the satisfaction of the Court, the Court shall have all the powers formerly enjoyed by the Montreal Pilotage Authority. 63-64 V., c. 36, s. 7.

522. The Court may make such order for the payment of the costs of the inquiry by any pilot in fault or by any person making the charge or complaint against any pilot, or out of the funds of the pilotage authority for the said district, as the Court deems just. 63-64 V., c. 36, s. 7.

523. The Court shall have jurisdiction and be competent to hear and determine all offences against the provisions of this Part within the pilotage district of Montreal. 63-64 V., c. 36, s. 8.

524. Whenever any ship sustains damage through the fault of any branch pilot for and above Quebec, the Minister may, in his discretion and upon such information as he deems expedient, and with or without complaint by any person, direct the Court to investigate the matter, and the Court shall have power to declare the license of such pilot forfeited. 63-64 V., c. 36, s. 9.

525. No such investigation shall be had in the case,—
(a) of inward bound ships after the expiry of thirty days from the happening of the damage or cause of complaint, or ten days from the arrival of the ship at its destination; or,
(b) of outward bound ships, after the expiry of thirty days from the happening of the damage or cause of complaint, unless the owner or master of the ship, within six days after the arrival of the ship at its destination, mails a complaint to the Minister, in which case the complaint shall be investigated by the Court within such time as the Minister may direct. 63-64 V., c. 36, s. 9.

526. The decision or order of the Court shall in all cases be deemed to be final and conclusive. 63-64 V., c. 36, s. 10.

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Rules and orders of court.

527. The Court may, subject to the approval of the Minister and subject to the provisions of this Part, make general rules and orders for regulating its procedure, and for fixing the fees and costs to be awarded and allowed in any inquiry or proceeding before it, and may also, subject to the approval of the Minister, appoint a clerk of the Court, who shall be paid by fees. 63-64 V., c. 36, s. 11.

Summary proceedings to apply.

528. The provisions of Part XV. of the Criminal Code shall apply to proceedings by the Court under this Part for the recovery of all fines and costs and the enforcement of all penalties imposed under the authority of this Part, and the Court shall, for such purposes, have the jurisdiction and powers of a stipendiary or police magistrate. 63-64 V., c. 36, s. 12.

Respecting the establishment of an Admiralty District in Montreal.

529. Upon the establishment of an Admiralty district at Montreal under the Admiralty Act, with a registry and a local judge in Admiralty of the Exchequer Court in and for such district, the members and clerk of the Montreal Pilots Court shall cease to hold office, and all the powers and jurisdiction of the Montreal Pilots Court shall be transferred to the Exchequer Court of Canada on its Admiralty side, and the local judge in Admiralty in and for the Admiralty district of Montreal shall have all the powers, jurisdiction and authority by this Part conferred upon the Montreal Pilots Court.

2. In the hearing and determination of any matter brought before him, such judge in Admiralty shall have power to call in the aid of one or more specially qualified assessors and hear and determine such matter either wholly or partially with the assistance of such assessor or assessors, and such judge shall have power to make all necessary rules and orders for the more effectually carrying out the provisions of this Part, so far as it relates to any proceedings which may be brought before him. 63-64 V., c. 36, s. 13.

Complaints against Pilots of the Pilotage District of Quebec.

530. When any ship meets with any accident by reason of the fault of and while in charge of a pilot for and below the harbour of Quebec, the master, owner or consignee thereof, or other interested person may submit his complaint in respect thereto at any time thereafter, and the Minister may, in any case not provided for by Part X. of this Act, upon such information as he deems sufficient and with or without complaint by any person, cause the matter to be investigated and the license of the pilot may on such investigation be forfeited. R.S., e. 80, s. 100; 4-5 E. VII., e. 34, s. 2.

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531.
531. No investigation of any such matter shall be had in the case,—

(a) of inward bound ships after the expiry of thirty days from the happening of the damage or cause of complaint, nor after ten days from the arrival of the ship at its destination; or,

(b) of outward bound ships, after the expiry of thirty days from the happening of the damage or cause of complaint, unless the owner or master of the ship, within six days after the arrival of the ship at its destination, mails a complaint to the pilotage authority aforesaid, in which case the complaint shall be investigated within thirty days after coming to the knowledge of the said pilotage authority. R.S., c. 80, s. 100.

Offences and Penalties.

532. Every licensed pilot who fails to produce copies of this Part and of the tariff of dues, and of the by-laws established within the districts for which he is licensed to the master of any ship or other person employing him, when required so to do, shall incur a penalty not exceeding twenty dollars. R.S., c. 80, s. 27.

533. Every licensed pilot who, while acting in that capacity, neglects or refuses to produce his license, at the time of his employment or the offering of his services, to any person by whom he is employed or to whom he offers his services, shall, whether requested to produce the license or not, for each such neglect or refusal, incur a penalty not exceeding forty dollars, and Penalty. shall be subject to suspension or dismissal by the pilotage authority by whom he is licensed. R.S., c. 80, s. 29.

534. Every licensed pilot suspended or deprived of his license, or compelled to retire, who fails without any reasonable cause, proof whereof shall lie on him, to produce or deliver up his license to the authority by whom he is so suspended, or deprived, or compelled to retire, and any person into whose hands the license of such pilot shall, on the death of such pilot, come, who without any reasonable cause, proof whereof shall lie on him, fails to deliver the same to the pilotage authority of the pilotage district for which such pilot was licensed, shall incur Penalty. a penalty not exceeding forty dollars.

2. Any court of competent jurisdiction may, in addition to Court may imposing such penalty, by summary order, direct such license order delivery. to be forthwith delivered up to such authority. R.S., c. 80, s. 31.

535. If any person pilots a ship in any pilotage district for Unlicensed pilot pilot- ing a ship. which he is not a licensed pilot, he shall be liable to a penalty of forty dollars except.—

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(a) when no licensed pilot for such district has offered to pilot such ship, or made a signal for that purpose, although the master of the ship has displayed and continued to display the signal for a pilot in this Part provided, whilst within the limits prescribed for that purpose; or,

(b) when a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time. R.S., c. 80, ss. 45 and 46.

536. Every unlicensed pilot who continues in the charge of a ship in any district after a licensed pilot has offered, by showing his proper signal and exhibiting his license, to take charge of her, shall, for each offence, be liable to a penalty not exceeding one hundred dollars, and, in default of payment, to imprisonment for any term not exceeding one month. R.S., c. 80, s. 48.

537. Every master of a ship, who, upon a licensed pilot offering or beginning to pilot the same, refuses or neglects to declare to such pilot her draught of water, or makes or is privy to any other person making a false declaration to such pilot as to such draught, shall incur a penalty for every such offence, not exceeding double the amount of pilotage dues payable by such ship to such pilot, or to any corporation of pilots of which such pilot is a member. R.S., c. 80, s. 55.

538. Every master or mate who hoists a white flag not less than four feet by six feet at the main top mast head, with the number of a certificate, in black figures six inches long, in the centre as a signal that the ship has a certificated master or mate on board, without being authorized so to do at the time and place and on board the ship when and where he hoists the same, and every master or mate who neglects to hoist such flag when and where he is authorized so to do and does not accept the services of a licensed pilot, shall incur a penalty of twenty dollars.

2. Every ship in respect of which such penalty is incurred shall be liable to pay as pilotage dues the same sum as would have been payable to a licensed pilot if the services of a licensed pilot had been obtained or accepted.

3. All such penalties shall be payable to and recoverable by the pilotage authority of the district. R.S., c. 80, s. 60.

539. Every master of a ship who,—

(a) displays the signals prescribed for use by this Part for the purpose of summoning of pilots for any purposes other than that for which the same are so prescribed; or,

(b) uses any signal for summoning a pilot other than those prescribed as aforesaid,
shall incur a penalty not exceeding one hundred dollars. R.S., c. 80, s. 64.

540. Any master or mate to whom a pilotage certificate has been granted by a pilotage authority, who, when such certificate has been withdrawn under this Part, neglects forthwith to produce and deliver up such certificate to such pilotage authority, shall incur a penalty of forty dollars.

2. Any court of summary jurisdiction may, besides imposing such penalty, by summary order direct said license to be forthwith delivered up to such pilotage authority. R.S., c. 80, s. 72.

541. The master of any wholly or partly decked pilot boat,—

(a) which does not possess all the characteristics and requirements specified by this Part for wholly or partly decked pilot boats; or,

(b) who does not keep the pilot flag or pilot light of such boat clean and distinct so as to be easily discerned at a reasonable distance; or,

(c) who does not see that the name and number of such boat is not at any time concealed or altered;

shall, for every such offence, incur a penalty not exceeding eighty dollars. R.S., c. 80, s. 80.

542. The master or person in charge of any pilot boat, neither wholly nor partly decked,—

(a) which does not possess all the characteristics and requirements specified by this Part for pilot boats neither wholly nor partly decked; or,

(b) who does not keep the pilot flag clean and distinct so as to be easily discerned at a reasonable distance; or,

(c) who does not see that the name and number of such boat is not at any time concealed or altered;

shall, for every such offence, incur a penalty not exceeding forty dollars. R.S., c. 80, s. 81.

543. Every licensed pilot, who in the exercise of his calling as such, goes off in a boat or ship not in the pilotage service, and, without reasonable cause, proof of which shall lie on him, fails to exhibit during the day time a pilot flag and, at night, a pilot light, shall, for every such offence, incur a penalty not exceeding two hundred dollars. R.S., c. 80, s. 83.

544. Every pilot who, when on board and in charge of any ship, as such pilot, fails to display a pilot flag under the ensign of such ship, or in some other equally conspicuous situation; and the master of every such ship who refuses to permit such flag to be displayed shall incur a penalty not exceeding eighty dollars. R.S., c. 80, s. 82.

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545. If a boat or ship, not having a licensed pilot on board, displays a pilot flag or a pilot light, the owner or master of such boat or ship shall, for every such offence, incur a penalty not exceeding two hundred dollars. R.S., c. 80, s. 84.

546. Every pilot, by or upon whom any contribution to any pilot fund is to be made or levied in proportion to his earnings, under any by-law of any pilotage authority duly confirmed and published, who gives a false account of his earnings or makes default in payment of any sum due from him as such contribution, shall forfeit double the amount so payable, and shall also be liable, in the discretion of the pilotage authority of his district, to suspension or dismissal. R.S., c. 80, s. 90.

547. Every pilot selected by the board of directors of the Quebec Pilots Corporation to be master of any schooner under their control who refuses or neglects to serve as such master, until removed, shall incur a penalty of one hundred dollars, which shall be recoverable in the same manner as other penalties incurred by pilots, and shall form part of the pilot fund. R.S., c. 80, s. 94.

548. Any pilot in charge as such master of a schooner employed in the pilotage district of Quebec may, for neglect or omission in the discharge of his duties, on complaint brought against him by any person aggrieved, be condemned by the Quebec Harbour Commissioners to pay a penalty not exceeding forty dollars and costs, recoverable in the same manner and applicable to the same purposes as other penalties incurred by pilots. R.S., c. 80, s. 95.

549. Every master or person interested in a ship who makes or is privy to the making of a fraudulent alteration in the marks on the stern or stem post of such ship denoting her draught of water is guilty of an indictable offence. R.S., c. 80, s. 56.

550. Every licensed pilot who, either within or without the district for which he is licensed,—

(a) commits any fraud or offence in respect to the revenues of Customs, or Inland Revenue, or the laws relating thereto; or,

(b) is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, cargoes, crews or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods or chattels; or,

(c) lends his license; or,

(d) acts as pilot whilst suspended; or,

(e) acts as pilot when in a state of intoxication; or,
(f) employs or causes to be employed, on behalf of any ship of which he has the charge, any steamboat, boat, anchor, cable, or other store, matter or thing, beyond what is necessary for the service of such ship, with the intent to enhance the expenses of pilotage for his own gain, or for the gain of any other person; or,

(g) refuses or delays, when not prevented by illness or other reasonable cause, to take charge of any ship within the limits of his license, upon the signal for a pilot being made by such ship, or upon being required so to do by the master, owner, agent or consignee thereof, or by any officer of the pilotage authority of the district for which such pilot is licensed, or by any principal officer of Customs, subject in the case of a pilot for and below the harbour of Quebec, to the laws relating to the Quebec Pilots Corporation; or,

(h) upon being so signalled or required, attempts to make any special bargain for salvage; or,

(i) unnecessarily cuts or slips, or causes to be cut or slipped any cable belonging to any ship; or,

(j) refuses, when requested by the master to conduct the ship on board of which he is into any port or place into which he is licensed to conduct the same, except on reasonable ground of danger to the ship; or,

(k) quits the ship which he has undertaken to pilot, before the service for which he was hired has been performed, without the consent of the master;

shall, for each offence, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and suspension or dismissal by the pilotage authority of the district for which he is licensed. R.S., c. 80, s. 73.

551. Every person who procures, abets or connives at the commission of any of the offences mentioned in the last preceding section, shall, for each offence, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and, if he is a licensed pilot, to suspension or dismissal by the pilotage authority of the district for which he is licensed. R.S., c. 80, s. 73.

552. Every pilot who, when on board any ship for the purpose of piloting her, by breach or neglect of duty, or by reason of drunkenness, either,—

(a) does any act tending to the immediate loss, destruction or serious damage of such ship, or tending immediately to endanger the life or limb of any person on board such ship; or,

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss,

Penalty. Aiding or abetting such offences.

Pilots endangering ship or life or limb of any person on board.

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loss, destruction, or serious damage, or for preserving any 

person belonging to or on board of such ship from danger 
to life or limb,

is guilty of an indictable offence and liable to imprisonment 
for a term not exceeding twelve months, with or without hard labour, and, if a licensed pilot, to suspension or dismissal by the pilotage authority of the district for which he is licensed. R.S., c. 80, s. 74.

**553.** A pilot shall be liable to suspension or dismissal by the pilotage authority of the district, for any of the offences mentioned in the last preceding section, upon such evidence as the said authority deems sufficient, and whether he has or has not been convicted of or indicted for such offence. R.S., c. 80, s. 75.

**554.** Whenever the pilotage authority of Quebec has power to dismiss or suspend a branch pilot for and below the harbour of Quebec, it may fine such pilot in a sum not exceeding one hundred dollars, if it deems it advisable so to do in lieu of dismissing or suspending him. R.S., c. 80, s. 76.

**555.** Every person who, by any misrepresentation of circumstances upon which the safety of a ship depends, or by using a license to which he is not entitled, becomes employed or endeavours to be employed to pilot such ship, or enables or endeavours to enable any other person to be so employed, or obtains or endeavours to obtain for himself or any other person the charge of such ship shall, in addition to any liability for damages, be liable to a penalty not exceeding two hundred dollars, and, if a licensed pilot, to suspension or dismissal by the authority by whom he is licensed. R.S., c. 80, s. 77.

**556.** Every licensed pilot who demands or receives any sum in respect of pilotage services greater than the dues for the time being demandable by law, shall, for each offence, incur a penalty not exceeding forty dollars. R.S., c. 80, s. 78.

**Cancellation and Suspension.**

**557.** In addition to any provision in this Part contained for the cancellation or suspension of the license of any licensed pilot, any such license shall be subject to cancellation and suspension in the manner prescribed in that behalf by Part X. of this Act. 4 E. VII., c. 37, s. 3.

**Appeals from Judgments rendered against Quebec District Pilots.**

**558.** In the pilotage district of Quebec any pilot shall have the right to appeal to the Superior Court of the province of Quebec. R.S., 1906.
Quebec, from any judgment rendered against him by any tribunal or officer designated by the Minister under the authority of this Part for the trial of any offence; and, for the purposes of such appeal, he shall,—

(a) give notice of such appeal to the Minister within fifteen days after such judgment;

(b) give, to the satisfaction of the Superior Court or a judge thereof good and sufficient security for the payment of the costs of the appeal; and,

(c) proceed with such appeal at the next term of the court after the expiration of said fifteen days. 12 V., c. 114, s. 73; R.S., c. 80, s. 75; 4-5 E.-VII., c. 48, s. 1.

559. No judgment rendered against a pilot by any tribunal or officer so designated shall be executory before the expiry of fifteen days after the rendering thereof, and every appeal therefrom to the Superior Court shall suspend the execution thereof pending such appeal.

2. In the case of a judgment ordering the suspension of a pilot, and confirmed on appeal, the time of the suspension shall only date from the day the judgment is affirmed in appeal. 12 V., c. 114, s. 73; R.S., c. 80, s. 75.

Recovery and Application of Penalties.

560. Every penalty imposed by this Part, or by by-law made thereunder, or by any by-law now in force, may be recovered or enforced with costs,—

(a) by civil action or proceeding at the suit of the Crown only, or of any person suing as well for the Crown as for himself, before any court having jurisdiction to the amount of the penalty; or,

(b) in the summary manner under Part XV. of the Criminal Code before a stipendiary magistrate, a police magistrate, or two justices of the peace. R.S., c. 80, s. 101.

561. All penalties incurred under this Part shall, within the limits of the pilotage authority of Quebec, in any case not provided for by Part X. of this Act, be sued for and recovered before the tribunal or officer designated under the authority of this Part. R.S., c. 80, s. 101: 62-63 V., c. 34, s. 41; 4-5 E.-VII., c. 34, s. 2.

562. Every pecuniary penalty paid by a licensed pilot for an offence against the provisions of this Part, or a breach of any by-law made thereunder or any by-law now in force, shall be paid into and form part of the pilot fund of the pilotage district in which the offence or breach is committed.

2. If there is no such fund in such district, such penalty if no fund. shall be paid and applied in such manner as the Governor in Council, from time to time, directs. R.S., c. 80, s. 102.

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Other penalties subject to direction of Governor in Council.

Quebec district.

563. Every pecuniary penalty paid by any person, other than a licensed pilot for any such offence or breach, shall be paid and applied in such manner as the Governor in Council, from time to time, directs: Provided that, in the pilotage district of Quebec, such penalty shall be paid to the Minister. R.S., c. 80, s. 102; 4-5 E. VII., c. 34, s. 2.

Limitation of Suits and Prosecutions.

564. No suit shall be brought or proceeding instituted for the recovery of any penalty or the infliction of any punishment for any offence against the provisions of this Part, or for any breach of any by-law made thereunder, or any by-law now in force, after six years from the date of the commission of such offence or breach. R.S., c. 80, s. 103.

PART VII.

STEAMBOAT INSPECTION—EXAMINATION AND LICENSING OF ENGINEERS.

Interpretation.

565. In this Part, unless the context otherwise requires,—

(a) 'steamboat' includes any vessel used in navigation or afloat on navigable water, and propelled wholly or in part by steam, or by any machinery or power other than sails or oars, and includes steam dredges and floating elevators;

(b) 'owner' means the registered owner only;

(c) 'boilers and machinery' includes the steam engine or engines, and every part thereof or thing connected therewith, employed in propelling the steamboat, and any donkey or pony engine used on board, and the boiler or boilers for supplying steam thereto, and the furnaces, chimneys, flues, safety and blow-off valves, gauges, braces, stays, pipes, steam pumps, and all other apparatus and things attached to or connected therewith or used with reference to any such engine or under the care of the engineer;

(d) 'boiler' means a boiler of or intended for a steamboat, and includes boilers when the steamboat has more than one, and 'boilers' means boiler when the steamboat has only one;

(e) 'hull and equipment' includes the hull and every part thereof, masts, sails and rigging, when the steamboat carries
ries them, life boats and other boats and the tackle and apparatus for lowering or hoisting them, the apparatus, other than steam fire engines, for preventing or extinguishing fires, anchors and cables, windlasses and capstans, fire buckets, compasses, axes, lanterns, and all other articles and things necessary for the navigation and safety of the steamboat and not under the care of the engineer;

(f) 'hull' includes the equipment;

(g) 'inspector' means a person appointed under the provisions of this Part to inspect the boilers and machinery or the hulls and equipment of steamboats;

(h) 'certificate' means one of the duplicates or triplicates of the certificate given by the inspectors or inspector, as the case may be;

(i) 'passenger' means any person carried on a steamboat, other than the master and crew and the owner, his family and the servants connected with his household;

(j) 'passenger steamboat' means any steamboat carrying any person other than the master and crew, the owner, his family and the servants connected with his household; except steam yachts used exclusively for pleasure or private use without hire of any kind;

(k) 'tug-boat' means a steamboat used exclusively for towing purposes;

(l) 'freight boat' means steamboat carrying freight only;

(m) 'vessel' means any barge, bateau, boat, scow or vessel carrying passengers, other than a steamboat;

(n) 'voyage' includes 'passage' or 'trip';

(o) 'remuneration' includes fuel and ships' stores of any kind or any other kind of payment or compensation;

(p) for the purpose of collecting the yearly duty in this Part imposed, 'year' means the calendar year, and, for the purpose of the inspection by this Part rendered imperative, 'year' means twelve calendar months from the date of the certificate of inspection;

(q) 'night-time' shall, when used to specify the time during which lights shall be affixed to gang boards, include all that portion of the day extending from one-half hour after sunset till one-half hour before sunrise;

(r) 'Board' means the Board of Steamboat Inspection provided for by this Part. 61 V., c. 46, ss. 2 and 45.

Extent and Application of Part.

566. Except as regards the yearly rate of duty, if any such rate or duty is imposed, and except the inspection of their boilers and machinery, to which they shall, under the same provisions and penalties for neglect as other steamboats, be subject at least once in each year and oftener, if required, and except as to the obligation to carry a life preserver for each person.

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person on board and one life buoy, and to take the precautions against fire in this Part imposed upon all steamboats,—

(a) no steam yacht used exclusively for pleasure or private use without hire or remuneration of any kind;

(b) no tug-boat or freight-boat under one hundred and fifty tons gross tonnage;

(c) no steamboat used exclusively for fishing purposes and under one hundred and fifty tons gross tonnage; and,

(d) no steam dredge, floating elevator or vessel of like kind; shall be subject to any of the provisions of this Part. 3 E. VII., c. 66, s. 1.

567. This Part shall not apply to steamboats belonging to His Majesty; nor, except as herein otherwise provided, to,—

(a) any steam yacht of three tons gross tonnage or under used exclusively for pleasure or private use without hire or remuneration of any kind; or,

(b) any vessel of three tons gross tonnage or under, propelled by gas, fluid, naphtha or electric motors. 3 E. VII., c. 66, s. 1.

568. Every such steam yacht or vessel propelled by gas, fluid, naphtha or electric motors, over three tons gross tonnage, shall be subject to the obligations imposed by this Part of carrying a life preserver for each person on board and of carrying one life buoy; and also of taking the precautions against fire in this Part imposed. 3 E. VII., c. 66, s. 1.

569. The Governor in Council may direct that this Part or certain provisions thereof shall apply, or shall not apply to any steamboat or class of steamboats registered elsewhere than in Canada, and may fix a rate or duty to be paid for the inspection of such steamboat or class of steamboats. 3 E. VII., c. 66, s. 1.

570. When satisfactory evidence has been produced that no steamboat inspection fee or tax is levied on Canadian steam vessels trading to or from any country outside of Canada, the Governor in Council may direct that no steamboat inspection fee or tax be levied on steam vessels of such country going to and from Canada. 3 E. VII., c. 66, s. 1.

571. When satisfactory evidence has been produced that any country outside of Canada has steamboat inspection laws approximating the steamboat inspection law of Canada, and the steamboats of such country have unexpired certificates of inspection issued by the proper authorities of such country, the Governor in Council may direct that they shall be subject to no other inspection than may be necessary to satisfy the Canadian inspectors that the condition of the steamboat, her boilers, 2012 machinery
machinery and life-saving equipment are as stated in the current certificate of inspection of such steamboat: Provided that no such certificate of inspection shall be accepted as valid in Canada, except when held by steamboats of a country which has, by its law, accorded to the steamboats of Canada going to and from that country the same privilege as is hereby accorded to steamboats of that country. 3 E. VII., c. 66, s. 1.

Appointment and Qualification of Inspectors.

572. The Governor in Council shall, from time to time, appoint at such places as he deems advisable in Canada,—

(a) a person or persons competent to inspect the boilers and the machinery employed in steamboats and not interested in the manufacture of steam engines, boilers or other machinery belonging to steamboats, whose duty it shall be to make the inspection of steamboats in this Part prescribed and to give to the owner or master two of the triplicate certificates of such inspection; and

(b) a skilled person or persons competent to inspect the hulls and equipment of steamboats and not interested in the building or construction of hulls of steamboats or of any article or thing mentioned in this Part as required for the equipment of steamboats or properly belonging to or connected with such equipment, according to the intent of this Part, whose duty it shall be to make such inspection and to give triplicate certificates of such inspection. 61 V., c. 46, s. 4.

573. No person shall be appointed an inspector of boilers and machinery of steamboats unless he has passed a satisfactory examination before the Board of Steamboat Inspection, as to his knowledge and experience on the subject of boilers and machinery of steamboats, and the working thereof, nor unless he has received from the chairman of the Board a certificate in writing that he has satisfactorily passed such examination. 61 V., c. 46, s. 5.

574. No person shall be appointed an inspector of the hulls and equipment of such vessels, unless he has passed a satisfactory examination as to his competency for the office, before the chairman, or, in case of his absence, a deputy chairman of the Board and two inspectors of hulls and equipment, or one or more experienced practical shipbuilders, nor unless he has received from the chairman of the Board a certificate in writing that he has satisfactorily passed such examination. 61 V., c. 46, s. 5.

575. Every such inspector, before entering upon his duties as such, shall take and subscribe an oath before a judge of a court Oath of office.

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court of record well, faithfully and impartially to execute the duties assigned to him by this Part, in the form or to the effect following:—

I, A. R., do solemnly swear that I will well, faithfully and impartially, to the best of my judgment, skill and understanding, execute the duties assigned to the office of inspector of boilers and machinery (or hulls and equipment, as the case may be) of steamboats, under Part VII. of the Canada Shipping Act. So help me God. 61 V., c. 46, s. 5.

Oath forwarded to the Minister.

576. The oath taken by every inspector shall be forwarded forthwith by such judge to the Minister. 61 V., c. 46, s. 5.

Inspectors of hulls may be dispensed with in certain parts of Canada.

577. In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Northwest and Yukon Territories, the Minister may, when he sees fit, dispense with the appointment of an inspector of hulls and equipment, and, in such case, or, in case of a vacancy in the office of inspector in the said provinces, or territories, the Minister may assign the duties of such inspector to the inspector of boilers and machinery, or such other persons as he temporarily employs, who shall then, and so long as such order remains in force, have all the powers and perform all the duties hereby assigned to the inspector of hulls and equipment, under the like obligation and like penalties in case of default, and such person shall be called an acting inspector of hulls and equipment. 61 V., c. 46, s. 5.

Regulations by the Governor in Council.

578. The Governor in Council may make rules and regulations,—

(a) for the testing of boilers and all matters connected with the construction and working thereof;

(b) for the inspection of safety valves and boiler cocks and all matters connected with the construction and working thereof;

(c) for the inspection of hulls and equipment of steamboats;

(d) respecting boats and life-preservers, fire-buckets, axes and lanterns and other life-saving appliances to be carried by steamboats or by other vessels mentioned in this Part;

(e) respecting the qualifications necessary to entitle a person to an engineer's certificate;

(f) requiring steamboats to carry chemical or other fire extinguishers and prescribing the number of such fire extinguishers to be carried by steamboats of different sizes and classes respectively;

(g) for the inspection of the machinery and equipment of steamboats propelled by gas, fluid, naphtha, electricity, or any other mechanical or chemical power, and, in the case of

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of such vessels, for making such changes in forms S and T as he deems advisable. 61 V., c. 46, s. 6; 4 E. VII., c. 38, s. 1.

579. Such rules and regulations shall, after publication in the Canada Gazette, have like force and effect as if they were enacted. 61 V., c. 46, s. 6.

580. The Governor in Council may, at any time, order and direct that the provisions of this Part or of any rules or regulations made thereunder, in so far as such provisions extend to the carrying of boats and life-preservers, shall not, at any time or during any time specified in the order in council, apply to any ferry boat specially mentioned in such order. 61 V., c. 46, s. 7.

581. The Governor in Council may order and direct that such provisions, as he deems advisable with respect to the carrying of boats and life-preservers on any ferry boat, shall be applicable to and shall during any time specified in the order in council be enforced in respect of any ferry boat specially mentioned in such order in council. 61 V., c. 46, s. 8.

Board of Steamboat Inspection.

582. The inspectors shall form a board, to be called the Board of Steamboat Inspection, of which board the Governor in Council shall appoint the chairman.

2. Three of the members shall form a quorum, one of which shall be the chairman. 61 V., c. 46, s. 9.

583. The chairman shall have the right to vote; and in the case of an equal division shall also have a casting vote, and shall also supervise the other inspectors. 61 V., c. 46, s. 9.

584. The Minister may appoint one of the inspectors a deputy chairman, to act in the absence of the chairman, and such deputy shall exercise all the functions of the chairman. 61 V., c. 46, s. 9.

585. The minutes or the proceedings of the Board shall be kept by such chairman or deputy chairman and a copy thereof, certified by him, shall be transmitted to the Minister. 61 V., c. 46, s. 9.

586. The Board shall meet at such time and at such place as the Minister determines, and may make rules and regulations for their own conduct, for the uniform inspection of steamboats, for prescribing the duties of engineers, and for such other purposes as are necessary under this Part; and such rules R.S., 1906.
rules and regulations shall not come into force until after they are approved by the Governor in Council. 61 V., c. 46, s. 9.

**Inspection.**

587. The chairman of the Board may at any time inspect or examine the hull, equipment, boiler or machinery of any steamboat, and, if he suspects any inspector of having neglected his duty in relation to such steamboat, or in any other respect, he may call a meeting of the Board to investigate the case, or may himself investigate it; and the result of such investigation shall be forthwith communicated, in writing, to the Minister.

2. The chairman of the Board shall receive and examine all reports and accounts of inspectors, and report fully to the Minister upon all matters pertaining to his official duties, so as to ensure, as far as possible, a uniform and efficient administration of the inspection laws, rules and regulations. 61 V., c. 46, s. 10.

588. The master or owner of every steamboat liable to inspection under this Part shall cause the boiler and machinery and the hull and equipment thereof, or the boiler and machinery alone, as the case may be, to be inspected at least once every year, and shall deliver one of the certificates thereof to the chief officer of Customs at the port where such inspection is made, or at which such steamboat arrives next after such inspection, when it has not been made in such port. 61 V., c. 46, s. 11.

589. Every such certificate, unless sooner revoked, shall be good for a period of twelve months from the date thereof, or for such less period as is stated by the inspector in the certificate; and every steamboat running without such certificate on board shall be seized and detained by any chief officer of Customs or by any person thereunto directed in writing by the Minister. 61 V., c. 46, s. 11.

590. In any case in which a steamboat requiring inspection is not ready for such inspection when the inspector is in the vicinity of such steamboat for the purpose of inspecting steamboats, or if, from any other cause, the inspector has to return to inspect such steamboat, the expenses incurred by the inspector in returning to inspect or to complete inspection of such steamboat, if the Minister determines that such expenses were incurred through the fault or default of the owner or manager of such steamboat, shall be paid by the owner, and, if not paid forthwith, the steamboat shall, subject to the directions of the Minister, be liable to be seized and detained until such expenses have been paid. 61 V., c. 46, s. 11.
591. The master, owner or engineer of every steamboat, or the person in charge thereof, shall at the earliest opportunity after the occurrence of any event whereby the hull, or the machinery or boiler thereof, or any part of any or either of the same is, in any material degree, injured, strained or weakened, report such occurrence to an inspector. 61 V., c. 46, s. 12.

592. Every inspector may, at all times, when inspecting, visiting or examining any boilers and machinery or the hull of any steamboat, ask of any or all of the owners, officers or engineers of such steamboat, or other person on board thereof and in charge or appearing to be in charge of such steamboat, or of the boiler or machinery thereof, such pertinent questions concerning the same, or concerning any accident that has happened thereto, as he thinks fit; and every such person shall fully and truly answer every such question so put to him.

2. The inspector may require that the engine and machinery under inspection by him shall be put in motion. Putting machinery in motion.

593. Every inspector of steamboats shall demand of the owner or master of every steamboat which he inspects the production of the certificate of registry of such steamboat, and may require the production of the certificate of the master, mate or engineer, as the case may be, whenever the law requires these officers to possess certificates, and such owner or officer shall thereupon produce and exhibit the same to such inspector. 61 V., c. 46, s. 14.

594. When the inspector finds it necessary to open up the hull of a vessel for the purpose of examining her condition, the expense thereby incurred shall be chargeable to the owner of such vessel. 61 V., c. 46, s. 15.

595. Every inspector shall be carried free of expense on any steamboat which he desires to inspect while under way, and during such period as is necessary for such inspection, and for his return to the port at which he embarked on such steamboat for such purpose, or for his disembarkation at any port at which such steamboat touches on her voyage. 61 V., c. 46, s. 16.

596. If the inspector of hulls and equipment who inspects any steamboat in the manner required by this Part, approves the hull and equipment of such steamboat, he shall make and sign, according to form S, a certificate in triplicate which he shall deliver to the inspector of boilers and machinery. Certificate of inspection of hull and equipment.

2. The inspector of boilers and machinery, when he has inspected and approved the boilers and machinery of the steamboat, shall make and sign, in triplicate upon the same sheets And of boilers or machinery.
of paper on which the certificate in triplicate of the inspector of hulls and machinery is written, a certificate according to form $S$.

3. The inspector of boilers and machinery shall keep one of such triplicates, and shall deliver the two others to the owner or master of the steamboat.

4. The owner or master of the steamboat shall deliver one of the triplicates to a chief officer of Customs aforesaid, and shall cause the other to be posted up, framed and protected by glass in some conspicuous part of the steamboat for the information of the public. 61 V., c. 46, s. 17.

597. If the steamboat is one of which the boiler and machinery only are subject to inspection under this Part, the inspector of boilers and machinery shall sign a certificate in form $T$, in duplicate, and deliver the duplicates to the master or owner of the steamboat, who shall deliver one to a chief officer of Customs and cause the other to be framed and protected by glass and posted up in some conspicuous part of the steamboat for the information of the public. 61 V., c. 46, s. 17.

598. Every inspector of steamboats shall, whenever he visits and inspects any steamboat, examine whether such steamboat is properly furnished with lights and with means of making fog-signals, in pursuance of the rules prescribed by Part XIV. of this Act, and shall refuse to grant any certificate with respect to any steamboat which he finds is not so provided, and shall report as unsafe such steamboat to the Minister. 61 V., c. 46, s. 17.

599. An inspector or any person thereunto directed by the Minister may at any time go on board any steamboat inspected under this Part and inspect the equipment thereof; and, if the equipment is not such as was approved by the inspector when he issued the certificate of inspection then current, the person making the inspection may seize and detain such steamboat until released by direction of the Minister. 61 V., c. 46, s. 17.

600. Any matter in dispute arising under this Part between an inspector or the Board and the master or owner of any steamboat, and also any dispute between an inspector or the said board and an engineer, may be referred by either party to the Minister, who shall finally decide the same. 61 V., c. 46, s. 18.

601. Each inspector shall keep a register of the inspections and certificates made and granted by him in such form and with such particulars respecting them as the chair-
man of the Board, from time to time, directs, and shall furnish copies thereof, and shall also furnish any other information pertaining to the duties of his office to the chairman when required. 61 V., c. 46, s. 19.

Pressure, Steam Gauge.

602. Whenever the engine of any steamboat is stopped for over five minutes, the engineer or the master or person in charge of such steamboat shall open the safety-valve, so as to keep the steam in the boiler below the pressure limited by the inspector's certificate. 61 V., c. 46, s. 20.

603. There shall be, in a conspicuous and easily accessible place in each steamboat, a steam gauge properly constructed and open to the view of all passengers and others on board such steamboat, and showing at all times the true pressure of the steam in the boiler thereof. 61 V., c. 46, s. 21.

604. The steam gauge required by this Part to be open to the view of all passengers and others on board any steamboat shall be that known as the 'Bourdon Gauge,' or shall be of such construction and shall be put in such place and position, as the inspector visiting, examining or inspecting such steamboat, from time to time, directs. 61 V., c. 46, s. 23.

605. Each boiler of every steamboat shall be provided with a suitable water gauge capable of showing the water level within each boiler at all times; and all steamboats navigating in brackish or salt water, shall be provided with surface blowing-off valves, such as are commonly used on board sea-going steamboats. 61 V., c. 46, s. 24.

Bilge pipes—Life-buoy.

606. Every passenger steamboat shall be provided with efficient means for relieving the bilges of water and in addition thereto, if having a condensing engine, shall be provided with a bilge injection valve and a pipe of suitable dimensions leading from the floor frames of the steamboat into the condenser of the engine.

1. Such bilge injection pipe shall have a check non-return valve, if necessary. 61 V., c. 46, s. 25.

607. Every steamboat registered in Canada, or to which life-buoy this Part applies, shall carry in some convenient place where it can be easily got at for use in case of accident at least one life-buoy with a proper heaving line attached. 61 V., c. 46, s. 26.
Precautions against Fire and Accidents.

608. Suitable and safe provision shall be made throughout every steamboat to guard against danger from fire; and no combustible material, liable to take fire from heated iron or any other heat generated on board any steamboat, in and about the boilers, pipes or machinery, shall be placed at less than six inches distance from such heated metal or other substance likely to cause ignition.

2. When wood is so exposed to ignition, it shall, as an additional preventive, be shielded by tin being nailed on it in such manner as approved by the inspector.

3. The funnel shall have a casing of metal or other incombustible material extending up through the decks from the boiler with a space of at least four inches between it and the funnel.

4. If the structure of the steamboat is such, or the arrangement of the boiler or machinery is such, that the requirements aforesaid cannot, without serious inconvenience or sacrifice, be complied with, the inspector may allow deviations from the said requirements, if, in his judgment, it can be done with safety. 61 V., c. 46, s. 27.

609. No coal oil which will not bear a test of three hundred degrees Fahrenheit without taking fire shall be used on any passenger steamboat: Provided that, where oil is used as fuel for the production of motive power on steamboats, oil which will bear a test of two hundred degrees Fahrenheit, without taking fire may be accepted if properly stored with safe and suitable provisions as to safety and to guard against fire and explosion from such oil to the satisfaction of the steamboat inspector. 61 V., c. 46, s. 27; 3 E. VII., c. 67, s. 1.

610. Inflammable matter, when carried on any steamboat, shall invariably be stowed away as far as possible from the boiler, and from place where its ignition is possible.

2. Metallic vessels or safes shall be provided and kept in some convenient place to receive cotton-waste, hemp and other inflammable substances, which are in use on board.

3. No coal oil lamp shall be used between decks on any passenger steamboat in which any inflammable material is carried. 61 V., c. 46, s. 27.

611. No fire or lighted lamp, candle or other artificial light by which fire may be communicated, shall be allowed in any state-room of any passenger steamboat, or in the steereage there-of, unless in a locked and glazed lantern; and no lamps other than with metal bowls shall be used in freight holds or cargo decks. 61 V., c. 46, s. 27.

612. Whenever electricity is used for lighting or other purposes on board of any steamboat, a certificate in writing shall be

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be furnished by the master or owner from a competent electrical engineer, certifying that the workmanship and material are good and that proper precautions have been taken to guard against accidents from fire. 61 V., c. 46, s. 27.

613. Every passenger steamboat shall have at least three double-acting forcing pumps with chambers at least four inches in diameter with a stroke of not less than six inches.

2. Two of such forcing pumps shall be constructed so as to be worked by hand, and one so as to be worked by steam, if steam can be employed independently of and not worked by the main engine, otherwise, all three so as to be worked by hand, one of such forcing pumps shall be placed near the stern, one near the stem, and one amidship, each having a suitable well-fitted hose of at least two-thirds the length of the steamboat, with a suitable nozzle attached and kept at all times in perfect order, clear of freight or other obstructions, with hose coupled and ready for immediate use.

3. Each pump and coupling shall be provided with a hose wrench chained to the pump; and each pump shall be supplied with water by a pipe connected therewith, passing through the side of the steamboat, so low as to be at all times in the water when the boat is afloat. 61 V., c. 46, s. 28.

614. In passenger steamboats not exceeding two hundred tons gross, two of such pumps may be dispensed with; if over two hundred tons, but not exceeding five hundred tons gross, one of such hand pumps may be dispensed with; but in such cases the hose shall be of such length as to reach easily to every part of the steamboat; and in passenger steamboats where only one pump is used, such pump shall be placed as directed by the inspector. 61 V., c. 46, s. 28.

615. In passenger steamboats under one hundred tons gross, one steam pump of suitable size, or if steam cannot be employed, one force pump of suitable size worked by hand, shall be sufficient. 61 V., c. 46, s. 28.

616. In passenger steamboats not exceeding two hundred tons gross, requiring only one pump, such pump shall be placed aft, unless the space forward is kept free to admit of ready access to the pump and hose, in which case the pump may be placed forward. 61 V., c. 46, s. 28.

617. All steam pumps shall be supplied with suitable bilge connection having proper rose or mud box attachments, and also a steam syphon, ejector or other suitable means with which to relieve the hold of water. 61 V., c. 46, s. 28.

618. When it is found that a metal tube or tubes are fixed on any steamboat not less in diameter than the hose carried by 2021 Length of hose necessary.

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by such steamboat connected with a force pump or pumps and provided with suitable connections placed at not more than thirty feet from each other, or from either end of the steamboat, to which the hose carried by the steamboat can be readily attached, it shall not be necessary that the hose should be of greater length than will be sufficient to reach from some one of such connections to either end of the steamboat.

2. Each connection shall be provided with a stop valve or stop cock with keys and hose wrenches properly secured or chained to each stop valve or stop cock or connection, so that one or more of such hose attachments may be used as may be required. 61 V., c. 46, s. 29.

619. Every passenger steamboat of more than sixty tons registered tonnage shall be provided with a steam pony pump that may be used as a fire engine, to be worked independently of the main engine.

2. Such steam pony pump shall be placed in a suitable place, near the engine room convenient to the control of the engineer; and, in all cases, the pump hose shall be coupled to the pony and hand fire pumps, ready for immediate use in case of fire. 61 V., c. 46, s. 30.

620. Every passenger steamboat carrying passengers on the main or lower deck, shall be provided with sufficient and convenient facilities for the escape of passengers to the upper deck, in case of fire or other accident endangering life. 61 V., c. 46, s. 31.

621. Every passenger steamboat shall be provided with wire tiller ropes, or iron rods or chains, correctly and properly laid with suitable rollers for the purpose of steering and navigating the vessel, and shall use wire bell pulls for signalling the engineer from the pilot house, where bells are used, together with tubes of proper size so arranged as to transmit the sound of the engine bells to the pilot house, or other arrangement approved by the inspector to repeat back the signal. 61 V., c. 46, s. 32.

Engineers' Examination and Certificate.

622. Any person who claims to be qualified to perform the duties of a first, second, third or fourth class engineer on a steamboat may apply for a certificate to the Minister, who, in such case, shall cause the Board, or an inspector or inspectors, to examine the applicant and the proofs that he produces in support of his application, and to report upon such examination and proofs. 61 V., c. 46, s. 33.

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623. Such examination may be upon oath which any inspector may administer, and if the Board is satisfied that the character, habits of life, knowledge and experience in the duties of an engineer of the applicant are such as to qualify him to be such engineer, the Minister, on the report of the Board, shall give him a certificate to that effect, specifying the grade for which he has been found qualified: Provided that no applicant, if not a British subject, shall be entitled to a certificate, unless, in addition to the qualifications required by this Part, he has been domiciled in Canada for at least three years, and foreigners serving as engineers in ships registered in Canada shall be deemed to be domiciled in Canada while so serving. 61 V., c. 46, s. 33.

624. If the report of the inspector or inspectors, certifying the fitness of an applicant, is made at the time when the Board is not sitting, it may be sent by such inspector or inspectors to the chairman, who, if he approves of it, shall submit it to the Minister, who may thereupon grant the applicant a certificate specifying the grade for which he has been found qualified; but, if the report of the said inspector or inspectors does not certify the fitness of said applicant, or is not approved by the chairman, the fee paid by such candidate shall not be returned to him, but he may be once more examined without payment or further fee. 61 V., c. 46, s. 33.

625. Such certificate shall be on parchment and signed by the Minister and granted for life or during good conduct. 61 V., c. 46, s. 33.

626. Any certificate as an engineer issued by the Board, and in force on the second day of June, one thousand eight hundred and eighty-six, may be delivered up by the holder thereof to the Minister, who may thereupon give to the holder a certificate on parchment, signed by the Minister. 61 V., c. 46, s. 33.

627. For the first certificate to an engineer of any class, or for a certificate raising him to a higher class after re-examination, the applicant shall pay five dollars; and for every certificate granted on the delivery up, under the last preceding section of any certificate, the applicant shall pay one dollar. 2. Such sums shall be paid to the Minister of Finance to form part of the Consolidated Revenue Fund of Canada. 61 V., c. 46, s. 33.

628. The certificate of any such engineer may be suspended or cancelled by the Minister upon proof of negligence, unskilfulness or drunkenness, or in consequence of the finding of a coroner's

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629. No person shall act in the double capacity of engineer and master on any steamboat, and no person shall, except when the boiler is fired from the engine room, act as engineer and fireman on any steamboat having an engine of over seven nominal horse-power and required by law to carry a certificated engineer. 61 V., c. 46, s. 33.

630. Whenever any engineer proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of his certificate, the Minister may, upon payment of one-half the fee charged for the original certificate, cause a copy or duplicate of the original certificate to be made out, signed as aforesaid, and delivered to him. 61 V., c. 46, s. 33.

631. Every engineer holding a certificate of competency whether granted under this Part or under the Acts of the United Kingdom relating to merchant shipping, who is employed on any steamboat to which this Part applies, shall keep his certificate of competency posted up, framed and protected by glass, in some conspicuous place in or near the engine room of such steamboat. 61 V., c. 46, s. 33.

Temporary Certificate.

632. The Minister, upon the report of the inspector of boilers and machinery in whose district any steamboat is to run, may grant a temporary certificate to an applicant, sufficiently qualified by his knowledge of steamboat machinery and his experience as engineer on a steamboat, authorizing him within specified limits in the waters of Canada to act as engineer on a steamboat carrying passengers, having an engine of not more than four nominal horse-power, if the engine is of a simple cylinder, or nine nominal horse-power, if the engine is of the compound type, specified in the certificate. 61 V., c. 46, s. 33.

633. Such temporary certificate may be issued for a term not exceeding one year, but may be suspended or cancelled for cause by the Minister. 61 V., c. 46, s. 33.

634. For every such temporary certificate the applicant shall pay the sum of two dollars, which shall be paid over to the Minister of Finance to form part of the Consolidated Revenue Fund of Canada. 61 V., c. 46, s. 33.

Certificates for the British Possessions.

635. In any case where the Minister has power under the provisions of the Merchant Shipping Act, 1894, to grant a certificate...
certificate valid in Great Britain or elsewhere outside of Canada, the Minister may issue such certificates of competency as first-class or second-class engineer.

2. Such certificates shall have the word Canada prominently marked on their face and back and shall be as nearly as possible similar in shape and form to corresponding certificates of competency for the foreign trade granted by the Board of Trade of the United Kingdom, under the said Act, and shall be prominently marked on their face Valid in the United Kingdom or any British possession. 61 V., c. 46, s. 33.

636. Such certificates shall be granted only on proof that the previous service at sea of the person applying for the same has been such as is required by the regulations for the time being in force in the United Kingdom with respect to certificates of like grade, and shall be subject to be suspended or cancelled by the Board of Trade for like offences or causes, and in like manner, as certificates granted under the Merchant Shipping Act, 1894.

2. All the provisions of the Merchant Shipping Act, 1894, and of any order of His Majesty in Council made thereunder shall apply to such certificates. 61 V., c. 46, s. 33.

637. Every such certificate may also be suspended or cancelled by the Minister upon proof of negligence, unskilfulness or drunkenness, or in consequence of the finding of a coroner's inquest, and also for any other cause deemed sufficient by the Minister and certified as such by him. 61 V., c. 46, s. 33.

638. Certificates of competency as first or second-class engineers in sea-going ships, granted by the Board of Trade under any of the Acts of the United Kingdom relating to merchant shipping, shall, while in force under the Merchant Shipping Act, 1894, be of the same force and effect in Canada as if granted under this Part: Provided that the Minister may order an investigation into the misconduct or incompetency of an engineer holding one of such certificates, to be held by one of the inspectors, and may, on the report of such inspector, cancel or suspend such certificate so far as Canada is concerned. 61 V., c. 46, s. 33.

Classification of Engineers.

639. Engineers shall be classified according to the following grades:
First-class engineers;
Second-class engineers;
Third-class engineers;
Fourth-class engineers;
Engineers with temporary certificates. 61 V., c. 46, s. 34. 2025

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640. A first-class engineer shall be qualified to take charge of any steamboat.

2. A second-class engineer shall be qualified to take charge of any freight steamboat, or of any other steamboat, except a sea-going passenger steamboat of more than one hundred nominal horse-power.

3. A third-class engineer shall not be qualified to take charge of any sea-going steamboat, but shall be qualified to take charge of,—

(a) any passenger steamboat of not more than thirty nominal horse-power, having single cylinder engines; or,
(b) any passenger steamboat of not more than forty-five nominal horse-power, having compound engines; or,
(c) any freight steamboat of not more than seventy-five nominal horse-power.

4. A fourth-class engineer may act in the capacity of assistant engineer on any steamboat except a sea-going passenger steamboat of more than one hundred nominal horse-power, but shall not act as chief engineer on any steamboat requiring under this Part engineers holding certificates. 61 V., c. 46, s. 34.

Employment of Certificated Engineers.

641. No person shall employ another as engineer, and no person shall serve as engineer on any passenger steamboat, of whatever tonnage, or on any freight steamboat of over one hundred and fifty tons gross, unless the person employed or serving as engineer holds a certificate of competency granted under this Part or under the Acts of the United Kingdom for the grade in which he is to be employed, or for a higher grade: Provided that, if a steamboat leaves a port with a complement of engineers and, on her voyage, is deprived of their services, or the services of any of them, without the consent, fault or collusion of the master, owner or any one interested in the steamboat, the deficiency may be temporarily supplied until engineers holding such certificates can be obtained.

2. Any person keeping watch or in charge of the engine-room of any steamboat mentioned in this section, while in motion, shall be deemed to be serving and employed as engineer while keeping such watch, or while so in charge. 61 V., c. 46, s. 35.

642. No one who holds a certificate as engineer, or a temporary certificate to act as engineer, under the Steamboat Inspection Act or under this Part, shall transfer such certificate or temporary certificate to any other person; and no person shall accept or be a party to the transfer of any such certificate or temporary certificate. 61 V., c. 46, s. 36.
Inspection Fees.

643. The Governor in Council may fix a duty to be paid yearly and every year by the owner or master of every steamboat registered in Canada, not exceeding ten cents for every gross ton which such steamboat measures, without any allowance or deduction for the space occupied by the engine room.

2. The amount of such duty shall, in each case, be paid to and received by the chief officer of Customs, at some one of the ports in Canada, who shall, at such times and in such manner as the Governor in Council, from time to time, directs, account for and pay over the same to the Minister of Finance, to form part of the Consolidated Revenue Fund of Canada. 3 E. VII., c. 66, s. 2.

644. No inspector shall make or deliver a certificate respecting any steamboat under this Part, unless the receipt of a chief officer of Customs for the rate or duty if any such rate or duty is payable in respect of such steamboat for the then current year, has been produced and shown to him, nor unless he is satisfied, by careful examination, that all the conditions and requirements of this Part have been fulfilled and complied with, in respect of such steamboat.

2. Every inspector shall report to some chief officer of Customs any case of omission to pay such duty, or of omission to apply for such inspection as aforesaid, for more than one year from the date of the last inspection, or of any refusal to submit to inspection at any time, which in any way or at any time comes to his knowledge. 61 V., c. 46, s. 38; 3 E. VII., c. 66, s. 3.

645. Each chief officer of Customs shall demand of the owner or master of every steamboat entered, cleared or otherwise officially dealt with by such officer, the production of the certificate of inspection of such steamboat and of the receipt for the payment of duty or fee imposed by this Part, if any such duty is payable in respect of such steamboat.

2. If such certificate and receipt are not so produced, then such chief officer shall seize and detain the said steamboat until the same are produced and exhibited, and until any penalty incurred and lawfully imposed on such steamboat under the provisions of this Part has been paid in full with costs. 61 V., c. 46, s. 39; 3 E. VII., c. 66, s. 4.

646. Any chief officer of Customs or other person thereunto directed in writing by the Minister may seize or detain any steamboat or vessel running in violation of any of the provisions of this Part or of any order in council made thereunder; and any such steamboat or vessel so seized or detained shall be deemed to be the property of His Majesty until released by the Minister. 61 V., c. 46, s. 39.
Passengers.

647. The inspectors shall, in their certificate, prescribe the number of cabin or steerage or other passengers that may be carried by any steamboat inspected by them for the carriage of passengers, according to the rules established by the Governor in Council for that purpose. 61 V., c. 46, s. 40.

648. Any inspector may, at any time, visit any steamboat and inspect and examine the same, and, if he considers such steamboat unsafe or unfit to carry passengers, he shall report thereon to the Minister, who may order that such steamboat shall not be used or run until permitted by him. 61 V., c. 46, s. 41.

Barges.

649. No steamboat shall be employed to tow any barge, or any boat, bateau, scow or other vessel having passengers on board, unless such barge, boat, bateau, scow or vessel has been inspected by an inspector of hulls and equipment, and by him certified, according to form U, to be fit and properly equipped to carry passengers on the waters on which she is so towed; and no such vessel shall, while so towed, have on board a greater number of passengers than she is certified as being fit to carry, nor shall such vessel be towed alongside when there are passengers on the steamboat towing. 61 V., c. 46, s. 43.

650. The Governor in Council may establish an inspection fee to be paid to the inspector before he issues his certificate of inspection, and the inspector shall pay over the same to the Minister of Finance in such manner and at such times as the Governor in Council may direct, to form part of the Consolidated Revenue Fund of Canada. 3 E. VII., c. 66, s. 5.

651. Before a certificate is issued to such vessel the inspector shall see that she is equipped throughout in conformity with the requirements of this Part and of the regulations made thereunder, and has suitable means for steering, an anchor and chain, and a substantial tow-line of suitable length.

2. Such certificate shall state the period of time for which it is valid. 3 E. VII., c. 66, s. 5.

652. Any steamboat inspector or chief officer of Customs may seize and detain any barge, boat, bateau, scow or other vessel, from going on any voyage or trip contrary to the provisions of this Part. 61 V., c. 46, s. 43.

Masts, Sails and Gang-boards.

653. The Minister may, from time to time, by regulations approved by the Governor in Council, require that every or any description of passenger steamboat above sixty tons registered
registered tonnage, employed on the sea coasts of Canada or on all or any of the waters of Canada, shall, at all or any seasons of the year, be provided with a mast or masts and sail or sails, suitable for such steamboats, and may prescribe the dimensions of such mast or masts, and sail or sails respectively. 61 V., c. 46, s. 44.

654. Nothing in the last preceding section contained shall apply to that portion of the St. Lawrence between Quebec and Kingston, and the river connecting Lakes Erie and Huron, and the waters between Kingston and the head of the Bay of Quinte, and the rivers in the provinces of Nova Scotia and New Brunswick, and the tributary rivers flowing into the River St. Lawrence, or the lakes west of Quebec, and any rivers or lakes not exceeding one mile in width on any point thereof on the route of such steamboats. 61 V., c. 46, s. 44.

655. Every passenger steamboat or vessel shall be provided with good and sufficient gang-boards, protected at the sides in a suitable manner to prevent passengers from falling overboard.

2. The master of every such steamboat or vessel shall, on stopping at any wharf or landing place, cause a gang-board to be firmly secured to the vessel or steamboat for the safe and convenient transit of passengers, and shall cause to be affixed to such gang-board in the night time good and sufficient lights.

3. The owner or occupier of every such wharf or landing place shall also, in the night time, cause to be shown conspicuously, on such wharf or landing place, and at every angle or turn thereof, during the whole of the time that any such steamboat or vessel is approaching the same or stopping thereat, a good and sufficient light. 57-58 V., c. 44, s. 4; 61 V., c. 46, s. 45.

Offences and Penalties.

658. Any master or owner of a steamboat liable to inspection under this Part who neglects to cause the boiler and machinery and the hull and equipment thereof, or the boilers and machinery alone, as the case may be, to be inspected at least once every year, or to deliver one of the certificates of inspection to the chief officer of Customs at the port where such inspection is made, or at which such steamboat arrives next after such inspection, when it has not been made in such port, shall be liable to a penalty not exceeding five hundred dollars and not less than one hundred dollars for every neglect to cause such inspection to be made and a certificate thereof to be delivered to the proper officer of Customs. 61 V., c. 46, s. 11.

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657. In case the master, owner or engineer of any steamboat, or any person in charge thereof, omits, at the earliest opportunity after the occurrence of any event whereby the hull, or the machinery or boiler thereof, or any part of any or either of the same is, in any material degree, injured, strained or weakened, to report such occurrence to an inspector, the master shall be deemed guilty of misconduct and the owner of the steamboat shall be liable to a penalty not exceeding five hundred dollars and not less than fifty dollars and costs; and, if the injury is in respect to the boiler, machinery or any part of the same, the engineer shall be deemed guilty of negligence. 61 V., c. 46, s. 12.

658. Every owner, officer or engineer or other person on board of any steamboat and in charge or appearing to be in charge of such steamboat, or of the boiler or machinery thereof, who refuses to answer, or falsely answers any questions asked of him by any inspector at any time when inspecting, visiting or examining any boiler and machinery or the hull of any steamboat, when such questions are pertinent and relate to the boiler, machinery or hull, or to any accident that has happened thereto, or who prevents any such inspection, shall be liable to a penalty of fifty dollars. 61 V., c. 46, s. 13.

659. The master, owner or person in charge for the time being of any steamboat which makes,—

(a) any trip or voyage before the certificate of inspection required by this Part has been issued; or,

(b) any trip or voyage or any part thereof at any time or during any period not covered by such certificate; or,

(c) any trip or voyage or any part thereof, on any waters beyond the limits for which the certificate of inspection required by this Part is issued; shall for each such offence, be liable to a penalty not exceeding five hundred dollars and not less than fifty dollars.

2. If such penalty and the costs of conviction are not paid forthwith, the steamboat shall, subject to the directions of the Minister, be liable to be seized and sold by any officer of Customs or any other person thereto directed by the Minister; and the said penalty and the costs of conviction and the costs of such seizure and sale shall be paid out of the proceeds of such sale, and the surplus, if any, shall be paid over to the owner of the steamboat. 61 V., c. 46, s. 17.

660. The owner of any steamboat inspected under this Part, the equipment whereof is at any time, after an inspection made by an inspector or any person thereto directed by the Minister, not such as was approved by the inspector when he issued the certificate of inspection then current, shall be liable to a penalty of not less than fifty dollars and not more than one hundred dollars. 61 V., c. 46, s. 17.
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661. Any engineer, master or person in charge of a steamboat, who, when such steamboat is stopped for over five minutes, neglects to open the safety-valve, so as to keep the steam in the boiler below the pressure limited by the inspector's certificate, shall be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars. 61 V., c. 46, s. 20.

662. Every master and engineer of any steamboat who, at any time, allows the pressure of steam to which the boiler of such steamboat is subjected, to exceed the pressure limited by her certificate, or who alters or conceals or otherwise deals with the steam gauge, so as to prevent the actual pressure of steam from being seen and ascertained by any passenger, shall be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars for each offence. 61 V., c. 46, s. 22.

663. Every master and engineer of a steamboat who alters or deals with the safety-valves, or allows them to be altered or dealt with in any manner whereby a greater pressure of steam may be obtained on the boiler than the pressure allowed by the certificate of inspection issued to such steamboat, shall be liable for each offence to a penalty not exceeding one hundred dollars and not less than fifty dollars. 61 V., c. 46, s. 22.

664. Any owner or master of any steamboat who fails to comply with any of the provisions of this Part respecting the precautions to be taken throughout such steamboat to guard against danger from fire, shall be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars. 61 V., c. 46, s. 27.

665. Every engineer holding a certificate of competency whether granted under this Part or under the Acts of the United Kingdom relating to merchant shipping, employed on any steamboat to which this Part applies, who neglects to keep his certificate of competency posted up, framed and protected by glass, in some conspicuous place in or near the engine-room of such steamboat, shall be liable to a penalty of twenty dollars. 61 V., c. 46, s. 33.

666. Except in the case of a steamboat leaving port with a complement of engineers, being thereafter deprived of the service or of the services of any of such engineers without the consent, fault or collusion of the master, owner or any one interested in the steamboat, every person who employs another as engineer, or any person who serves as engineer on any passenger steamboat of whatever tonnage, or on any freight steamboat of over one hundred and fifty tons gross, unless the person employed or serving as engineer holds a certificate of competency granted

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667. Any person holding a certificate as engineer, or a temporary certificate to act as engineer, under the provisions of this Part, who transfers such certificate to any other person, and any person who accepts or is a party to the transfer of any such certificate, shall be liable to a penalty not exceeding five hundred dollars and not less than fifty dollars, and shall be imprisoned for a period not exceeding two months if such penalty is not paid forthwith. 61 V., c. 46, s. 36.

668. Every person who knowingly removes, or causes to be removed or is a party to removing any steamboat or vessel which was running in violation of any of the provisions of this Part, or of any order in council made thereunder, and seized or detained by any chief officer of Customs or other person thereunto directed in writing by the Minister, shall be liable to a penalty of not more than five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months. 61 V., c. 46, s. 39.

669. Any person who impedes, prevents, obstructs or resists any inspector or chief officer of Customs or other person thereunto appointed in writing by the Minister, in the performance of any duty under any of the provisions of this Part, or of any order in council made thereunder, shall be liable to a penalty of not more than five hundred dollars and not less than fifty dollars or to imprisonment for a term not exceeding three months or to both. 61 V., c. 46, s. 39.

670. Every owner of a steamboat, who, after the Minister has ordered that such steamboat shall not be used or run until permitted by him, runs or uses such steamboat in violation of such order, shall incur a penalty of not more than five hundred dollars and not less than fifty dollars, and such steamboat shall be liable to seizure by the chief officer of Customs at any port or place or by any person thereunto authorized by the Minister. 61 V., c. 46, s. 41.

671. The master, owner or person in charge for the time being of any steamboat in which a greater number of passengers than allowed by her certificate is, at any time, carried, or in respect of which no certificate authorizing the carriage of passengers,
sengers, has been granted and in which passengers are carried, is
guilty of an offence against this Part and shall, for each such
offence, be liable to a penalty not exceeding five hundred dollars Penalty.
and not less than one hundred dollars; and such steamboat shall
be liable for the same and chargeable therewith. 61 V., c. 46, s. 42.

672. Every master and owner of any steamboat employed
in towing any barge, boat, bateau, scow or other vessel having
passengers on board, which has not been inspected by an
inspector of hulls and equipment and by him certified accord-
ing to form U, and every owner and person in charge of such
barge, boat, bateau, scow or vessel carrying passengers without
such certificate, or carrying on board a greater number of pas-
sengers than she is certified as being fit to carry, or which shall
be towed alongside, when there are passengers on the steamboat
towing, shall each be liable to a penalty not exceeding one
hundred dollars and not less than fifty dollars; and such steam-
boat, barge, boat, bateau, scow or vessel shall be liable for the Penalty.
same and chargeable therewith.

2. If such penalty is not paid forthwith such steamboat,
barge, boat, bateau, scow or vessel shall, subject to the direc-
tions of the Minister, be liable to be seized and sold by any
chief officer of Customs or any other person thereto directed by the
Minister, and such penalty, the costs of conviction and the
costs of such seizure and sale shall be paid out of the proceeds
of such sale, and the surplus, if any, shall be paid over to the
owners. 61 V., c. 46, s. 43.

673. Any person who takes or attempts to take or assists
in taking any barge, boat, bateau, scow or other vessel on a voy-
ge or trip contrary to the provisions of this Part after being
seized and detained by any steamboat inspector or chief officer
of Customs, shall incur a penalty of one hundred dollars and
be liable to imprisonment for a period of not more than six
months. 61 V., c. 46, s. 43.

674. (a) The master or person in charge of any passenger
steamboat, or vessel navigating the waters of Canada,
who fails or neglects to provide such steamboat or vessel
with good and sufficient gang-boards, protected at the
sides in a suitable manner to prevent passengers from
falling overboard, or, on stopping at any wharf or land-
ning place, fails or neglects to cause a gang-board to be
firmly secured to the vessel or steamboat, and to affix to
such gang-board, in the night time, good and sufficient
lights; and,

(b) Every owner, lessee or occupier of any such wharf or
landing place, who, in the night time, fails to cause to be
shown

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shown conspicuously, on such wharf or landing place, and at every angle and turn thereof, during the whole of the time that any such steamboat or vessel is approaching the same or stopping thereat, a good and sufficient light shall, for each offence, be liable to a penalty not exceeding fifty dollars and not less than twenty dollars, in addition to all damages sustained by any person or persons from any accident happening from or during the time of any such failure or neglect with any of the said provisions. 57-58 V., c. 44, s. 4; 61 V., s. 46, s. 46.

675. Every inspector who wilfully, or through any culpable neglect of duty, makes or confirms any false statement in any certificate under this Part, shall incur a penalty of two hundred dollars. 61 V., c. 46, s. 49.

676. In every case in which a conviction has been secured against the owner, lessee or charterer of a steamboat for a violation of any of the provisions of this Part, and a money penalty imposed, such steamboat shall, if the penalty is not paid forthwith, be liable to be seized and, after such reasonable notice as the Minister may, in each case, prescribe, may be sold by any chief officer of Customs or any other person authorized for such purposes in writing by the Minister, and such chief officer or person may, by bill of sale, give the purchaser a valid title to such steamboat free from any mortgage or other claim on the vessel which at the time of such sale may be in existence.

2. Any surplus remaining from the proceeds of sale after paying the amount of the said penalty and the costs of conviction together with the costs of such seizure and sale shall be paid over to the owner of such steamboat, or the mortgagee, as the case may be. 57-58 V., c. 44, s. 4; 61 V., c. 46, ss. 17, 12 and 48.

677. Except when otherwise especially provided, the owner or master of any steamboat in Canada shall, for any violation in respect of such steamboat, on any one voyage or trip thereof, of any of the provisions of this Part, or of any order in council made thereunder, be liable to a penalty not exceeding one hundred dollars and not less than fifty dollars. 61 V., c. 46, s. 50.

678. Any chief officer of Customs or any inspector may detain any steamboat in respect of which the provisions of this Part or any order in council made thereunder have not been fully complied with, or of which the boiler or machinery or the hull, by reason of any injury or other cause, have, in an inspector’s opinion, become unsafe. 61 V., c. 46, s. 50.
679. Whenever an inspector gives notice in writing to any chief officer of Customs that any of the provisions of this Part or any order in council made thereunder, have not been fully complied with in respect to any steamboat, such chief officer of Customs shall seize and detain such steamboat until he receives the certificate in writing of such inspector, to the effect that such provisions have been fully complied with in respect to such steamboat. 61 V., c. 46, s. 50.

680. All penalties incurred under this Part may be recovered with costs in a summary manner under the provisions of Part XV. of the Criminal Code, in the name of His Majesty, by an inspector or any person aggrieved by any act, neglect or omission, or by any person named in writing for the purpose by the Minister.

2. Any prosecution for any penalty under this Part may be brought before any judge of a county court, judge of the sessions of the peace, stipendiary or police magistrate, or two justices of the peace; and in default of immediate payment of any penalty, and costs, such judge, magistrate or justices may commit the offender to gaol for any term not exceeding three months, unless such penalty and costs are sooner paid. 61 V., c. 46, s. 51.

681. All penalties recovered under this Part shall be paid to the Minister of Finance, and shall be by him placed to the credit of the Consolidated Revenue Fund of Canada: Provided that the Governor in Council may, if he sees fit, authorize the payment of a portion of any such penalty to the informer, if he is not an inspector. 61 V., c. 46, s. 51.

General.

682. Any information or complaint in respect of any offence against the provisions of this Part may be laid or made within twelve months of the time when the matter of the information or complaint arose. 61 V., c. 46, s. 51.

683. There shall be placed on board every passenger steamboat in some conspicuous place accessible to all the passengers, a printed copy of this Part; and in every cabin, state-room and in other conspicuous places about the vessel, there shall be placed a printed paper to be provided and filled up by the owner or master of the steamboat, showing the number of boats, with their capacity, and also the number of fire buckets, axes and life-preservers and floats on board of such steamboat, and the method of adjusting such life-preservers to the body, and a statement of the places where such buckets, axes and life-preservers are kept.

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2. The name of the steamboat shall be painted or stamped on all the boats, fire buckets and floats, axes and life-preservers on board thereof. 61 V., c. 46, s. 47.

684. The Minister may order an investigation to be made by any person or persons into the cause of any accident on any steamboat whether attended with loss of life or not.

2. The person or persons so appointed may summon witnesses and compel their attendance before him or them by the same process as courts of justice, and may administer oaths and examine witnesses touching the cause of such accident and report thereon to the Minister. 61 V., c. 43, s. 52.

685. The chairman of the Board shall, as often as the Minister may direct, furnish a report of the proceedings of the Board, and a return of all steamboats inspected, and of all penalties collected under this Part. 61 V., c. 46, s. 53.

686. Each inspector shall make monthly returns to the chairman of the Board of all steamboats inspected by him, their tonnage and power, with general descriptions of their machinery and hulls, and a statement of the fees collected upon the same, and any other information which the Minister may direct. 61 V., c. 46, s. 54.

687. The tonnage of every British steamship for the purpose of this Part, shall be the tonnage ascertained by the rules of measurement prescribed by the Merchant Shipping Act, 1894; but, in the case of foreign steamships, the tonnage indicated by their national papers shall be the tonnage for the purpose of this Part. 61 V., c. 46, s. 55.

PART VIII.

INSPECTION OF SHIPS.

Interpretation.

688. In this Part unless the context otherwise requires,—

(a) 'inspector' means an inspector appointed under this Part by the Governor in Council to inspect the hulls and equipments of ships;

(b) 'ship' or 'ships' includes tow-barges and every description of vessel used in navigation, not propelled by oars or wholly or partly by steam, and registered in Canada. 54-55 V., c. 37, ss. 2 and 4.

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Application.

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Application.

689. Except as therein otherwise provided, this Part shall not apply to ships,—
   (a) belonging to His Majesty; or,
   (b) classed in Lloyds register of British and foreign shipping; or,
   (c) classed in any other corporation or association for the survey and registry of ships approved by the Governor in Council.

2. If any such ship ceases to be classed as aforesaid she shall be subject to this Part. 54-55 V., c. 37, s. 3.

Inspector.

690. The Governor in Council may, from time to time, appoint any port warden, harbour master, inspector of hulls and equipment of steamboats or officers of the Department of Marine and Fisheries to inspect the hulls and equipment of ships.

2. No person so appointed shall be interested in the building or construction of hulls of ships, or of any article or thing forming part of, or properly belonging to or connected with the equipment of a ship. 54-55 V., c. 37, s. 4.

Regulations.

691. The Governor in Council may, from time to time, make rules and regulations for or relating to the inspection of ships for the purpose of ascertaining whether they are in a seaworthy condition.

2. Such inspection shall comprise the hull, and the masts, spars, sails, rigging, anchors, cables, chains, boats and other parts of the outfit or equipment. 54-55 V., c. 37, s. 5.

Report to Inspector.

692. The master or owner of a ship, or the person in charge thereof, shall, at the earliest opportunity after the occurrence of any event whereby the hull, masts and spars or equipment or any part of the same is, in any material degree, injured, strained or weakened, report such occurrence to an inspector or the collector of Customs. 54-55 V., c. 37, s. 6.

Powers of Inspector.

693. Every inspector may, for the purpose of inspecting, at any time go on board of any ship liable to inspection under this Part and inspect or examine the same and every part thereof, and the machinery, equipment and cargo, and may require the unloading or removal of any cargo, ballast or tackle, and may ask of any or all of the owners or officers of such ship, or other person on board thereof and in charge or appearing

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appearing to be in charge thereof, such pertinent questions concerning the same, or concerning any accident that has happened thereto, as he thinks fit.

2. Every such person shall fully and truly answer every such question so put to him. 54-55 V., c. 37, s. 7.

694. Every inspector may, at any time visit any ship, whether registered in Canada or elsewhere, and whether propelled wholly or in part by steam, except ships belonging to His Majesty; and although any such ship is classed in Lloyds register of British and foreign shipping, or in any other corporation or association for the survey and register of ships approved by the Governor in Council, and inspect and examine the tackle, machinery or apparatus used for the loading or unloading thereof, and, if he considers such tackle, machinery or apparatus defective, so as to be dangerous to life, he shall report thereon to the Minister who may order that such tackle, machinery and apparatus shall not be used until permitted by the Minister. 57-58 V., c. 45, s. 1.

695. Every inspector may demand of the owner or master or other person in charge of any ship which he is inspecting, the production of the certificate of registry of such ship, and such owner or master or person in charge shall thereupon produce and exhibit the same to such inspector. 54-55 V., c. 37, s. 9.

696. If an inspector reports to the Minister in writing that he considers that any ship liable to inspection under this Part could not make a voyage or trip from any port or place in Canada without endangering life or property, stating the facts on which his report is based, the Minister may direct such ship to be detained, and the inspector may thereupon detain such ship and notify a chief officer of Customs at any port.

2. No ship so detained shall go on any voyage or trip as aforesaid, or be used for the purposes of navigation, until permitted by the Minister. 54-55 V., c. 37, s. 10.

Offences and Penalties.

697. Any master or owner of any ship detained under the provisions of the last preceding section, or other person, who takes or sends, or attempts to take or send, or is a party to taking or sending, or to attempting to take or send such ship on a voyage or trip from any port or place in Canada without the permission of the Minister, shall incur a penalty of two hundred dollars. 51-55 V., c. 37, s. 11.

698. When a ship is found liable by a conviction for the penalty in the last preceding section mentioned, the Minister may direct any chief officer of Customs or any inspector to seize and sell such ship.
2. Upon such order, if given to the chief officer of Customs, it shall be the duty of such chief officer of Customs to seize and sell such ship, in the same manner as goods are seized and sold for non-payment of Customs duties in Canada; and such chief officer of Customs shall account and pay over all moneys received from such sale to the Minister of Finance, to form part of the Consolidated Revenue Fund of Canada.

3. If such order is given to an inspector, the ship may be seized by such inspector, who shall have the same powers as a chief officer of Customs would have in like circumstances, and shall make to the Minister a report of his seizure, whereupon such report may be communicated by the Minister to the Minister of Customs, and like proceedings may be had for the forfeiture and sale of the vessel seized as if it had been duly seized by a chief officer of Customs. 54-55 V., c. 37, s. 12.

699. If the master or owner of a ship, or the person in charge thereof, omits to report to an inspector, or to the collector of Customs, at the earliest opportunity, the occurrence of any event whereby the hull, masts and spars or equipment, or any part of the same is in any material degree injured, strained or weakened, the owner of such ship shall incur a penalty not exceeding one hundred dollars, and such ship shall be liable for such penalty. 54-55 V., c. 37, s. 6.

700. Every owner or officer of a ship, or other person on board thereof and in charge or appearing to be in charge thereof, who refuses to answer or falsely answers any question asked of him by any inspector when inspecting or examining such ship or any part thereof, or the machinery, equipment or cargo thereof, when such questions are pertinent and relate to such ship or any part thereof, or the machinery, equipment or cargo thereof or to any accident that has happened thereto, or who prevents any such inspection or obstructs or impedes any inspector in making such inspection, or who, being in charge, refuses to render such inspector reasonable assistance in making such survey or examination, shall incur a penalty of two hundred dollars. 54-55 V., c. 37, s. 7.

701. Any tackle, machinery or apparatus used in violation of any order made by the Minister under the authority of this Part, prohibiting the use of such tackle, machinery or apparatus until permitted by the Minister, shall be liable to forfeiture and seizure by the chief officer of Customs at any port, and may thereupon be sold in the same way and under like provision as goods liable to forfeiture for non-payment of Customs duties; and the owner of the ship, for the loading or unloading of which such tackle, machinery or apparatus is used in violation of such order, shall incur a penalty of one hundred dollars, and such ship shall be liable for such penalty. 57-58 V., c. 45, s. 1. 2039

702. R.S., 1906.
702. Penalties under this Part may be recovered upon summary conviction.

2. Any information or complaint in respect of any offence against the provisions of this Part may, whenever the prosecution, suit or proceeding is instituted under Part XV. of the Criminal Code, be laid or made within twelve months of the time when the matter of the information or complaint arose. 54-55 V., c. 37, s. 13.

PART IX.

SAFETY OF SHIPS AND PREVENTION OF ACCIDENTS ON BOARD THEREOF.

Interpretation.

703. In this Part, unless the context otherwise requires,—

(a) 'passenger' means any person carried on a ship, other than the master and crew, and the owner, his family and the servants attached to his household;

(b) 'West Indies' means the West India Islands, and includes the Bahama and Bermuda Islands, and any port or place in the Gulf of Mexico not being a port or place in the United States of America, and includes any port or place on the mainland between the Gulf of Mexico and the southeastern extremity of French Guiana;

(c) 'South America' means any port or place on the mainland or islands adjacent between the southeastern extremity of French Guiana and the Straits of Magellan;

(d) 'night' means the space of time extending from one hour after sunset until one hour before sunrise, throughout the year;

(e) 'grain' includes corn, wheat, rye, barley, peas and all other grain, except oats;

(f) 'grain cargo' means a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship carrying it to be computed, where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage;

(g) 'dangerous goods' or 'goods of a dangerous nature' means aquafortis, oil of vitriol, gunpowder, nitro-glycerine, naphtha, benzine, lucifer matches or other goods of a dangerous nature;

(h) 'steamer' includes any vessel registered in Canada, propelled wholly or in part by steam, and carrying passengers to or from any place or places in Canada, to or from any place
place or places out of Canada, not being in the United Kingdom, or between any place or places in Canada. R.S., c. 77, ss. 10 and 14; 52 V., c. 22, s. 2; 57-58 V., c. 44, ss. 1 and 4.

**Application.**

**704.** Nothing in this Part contained shall apply to ships belonging to His Majesty, nor to yachts used exclusively for pleasure or private use without hire or remuneration. R.S., c. 77, s. 2; 57-58 V., c. 44, s. 2.

**Survey of Ships.**

**705.** If complaint is made to the Minister that any ship registered in Canada is, by reason of the defective condition of her hull or equipments, or by reason of her being overloaded or improperly loaded, unfit to proceed to sea, or on any voyage on any waters within the limits of Canada, the Minister may cause such ship to be surveyed by a person appointed by him. R.S., c. 77, s. 3.

**706.** Every such complaint shall be in writing, and shall state the name and address of the complainant; and a copy of the complaint, including the name and address of the complainant, shall, before or during such survey, be given by the Minister to the master or to the owner or one of the owners of the ship. R.S., c. 77, s. 3.

**707.** The Minister may exact from the complainant, before such survey, if he thinks fit so to do, a deposit of money to defray the expenses of the survey, and to pay any loss which may be sustained by the owner on account of any detention, or such security for the payment of such expenses and loss as he deems sufficient. R.S., c. 77, s. 3.

**708.** If the person making such survey reports that the hull or equipments of such ship is or are in such a state, or that such ship is so loaded that she could not proceed to sea or on any such voyage, as the case may be, without serious danger to human life, the Minister may declare such ship to be unseaworthy, and thereupon any principal officer of Customs may detain such ship. R.S., c. 77, s. 3.

**709.** If, upon such survey, such ship is found to be seaworthy, the expenses of the survey shall be paid to the Minister by the person making the complaint, which payment shall not prejudice any right of suit or action against such complainant by any person aggrieved by the complaint, but, if such ship is found to be unseaworthy, the expenses of the survey shall be paid to the Minister by the owner of the ship. R.S., c. 77, s. 3.

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**710.**

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710. Any shipowner who is dissatisfied with the decision of any person so appointed by the Minister may appeal to the Exchequer Court on its Admiralty side for the district where such ship was surveyed; and such court may, if it thinks fit, appoint a competent person or competent persons to survey such ship anew.

2. Upon any such appeal, such court may make such order as to the detention or discharge of the ship, as to the payment whether by the Crown or otherwise of any costs or damages occasioned by her detention, and as to the payment of the expenses of the original survey, and of the survey anew, as to such court seems just. R.S., c. 77, s. 4.

711. Any person so appointed either by the Minister or by the Exchequer Court on its Admiralty side to survey a ship, may, in the execution of his duty, go on board such ship at all reasonable times and inspect the same or any part thereof, or any of the equipments, cargo or articles on board thereof, or the certificate of registry thereof; but shall not, in such inspection, unnecessarily detain or delay the ship in proceeding on her voyage; and, if such person considers it necessary so to do, he may require the ship to be so dealt with that he may be able to inspect every part of the hull thereof. R.S., c. 77, s. 5.

Persons drunk or disorderly.

712. The master or officer in command of any steamer may refuse to receive on board thereof any person who is drunk or disorderly, or who causes, or is in a condition to cause annoyance or injury to passengers on board; or, if any such person is on board, the master or officer may put him on shore at any convenient place. R.S., c. 77, s. 13.

Dangerous Goods.

713. The master or owner of any ship registered in Canada not carrying passengers may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact. R.S., c. 77, s. 17.

Deck Loads.

714. No master of any sailing ship, when sailing on or after the first day of October, or before the sixteenth day of March, in any year, and no master of any steamship when sailing after the twelfth day of October, or before the sixteenth day of March, in any year, on a voyage from any port or place in Canada to any port or place in the United Kingdom, or in the continent of Europe north of Cape Finisterre in Spain, not being a port or place within the Mediterranean Sea, and, during the voyage, while within Canadian jurisdiction, shall place, or cause

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cause or permit to be placed or to remain upon any uncovered space upon the upper deck or in any covered space not included in the cubical contents forming the registered tonnage of such ship,—

(a) any square, round, waney or other timber, or any pitch pine, oak or elm planks, or any other heavy wood goods whatever;

(b) any more than five spare spars, or store spars made, spars, dressed and finally prepared for use, or not so dressed and prepared;

(c) any deals, battens or other light wood goods of any description to a height exceeding three feet above the deck.

Provided that, if the master of any such ship considers that it is necessary, in consequence of the springing of a leak, or of other damage received or apprehended during the voyage, he may place and keep on any uncovered space upon the upper deck, or in any covered space not included in the cubical contents forming the registered tonnage of such ship, any goods forming part of the cargo of such ship, and permit them to remain there for such time as he considers expedient. 3 E. VII., c. 63, s. 1.

715. Before any officer of the Customs permits any ship, subject to the provisions of the last preceding section, to clear from any port in Canada, he shall ascertain that no provision of the said section is violated in respect of such ship or the cargo thereof; and he shall give the master of such ship a certificate to that effect; and no master of any ship shall sail in such ship from any port in Canada until he has obtained such certificate.

2. Nothing in this and the last preceding section contained shall apply to any vessel sailing from British Columbia. 1 E. VII., c. 34, s. 1.

Grain Cargoes.

716. No grain cargo shall be carried on board any ship registered in Canada, unless such grain cargo is contained in bags, sacks or barrels, or properly secured from shifting by boards or otherwise. 52 V., c. 22, s. 5.

717. When any ship registered in Canada arrives at her port of discharge in Canada with a grain cargo, any Customs officer may proceed on board and, when practicable, examine into the manner in which the cargo was stowed; and every person in charge of such ship, at the time of the examination, shall render such officer all reasonable assistance. 52 V., c. 22, s. 6.

Offences and Penalties.

718. Every person who hinders any person appointed under the authority of this Part to survey a ship, either by the Minister or by the Exchequer Court on its Admiralty side, from going on board on arrival of ship.

Impeding surveyor.

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on board such ship, or otherwise impedes him in the execution of his duty, shall, for every such offence, incur a penalty not exceeding twenty dollars. R.S., c. 77, s. 5.

719. Every person shall, but without prejudice to the right of recovery from him of any amount payable by him as fare, incur a penalty not exceeding ten dollars, who,

(a) being drunk or disorderly, has been on that account refused admission into a steamer by the owner or any person in his employment, and nevertheless persists in attempting to enter the steamer; or,

(b) being drunk or disorderly on board a steamer, is requested by the owner or any person in his employment to leave the same at any place in Canada, being a reasonably convenient place to leave the same, and does not comply with such request; or,

(c) after warning by the master or other officer of the steamer, molests or continues to molest any passenger; or,

(d) after having been refused admission into a steamer by the owner or any person in his employment on account of the steamer being full, and having had the amount of his fare, if he has paid it, returned or tendered to him, nevertheless persists in attempting to enter the steamer; or,

(e) without reasonable excuse, proof whereof shall lie on him. fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare on steamers. R.S., c. 77, s. 10.

720. Every person on board a steamer, who without reasonable excuse, proof whereof shall lie on him, does or causes to be done, anything in such manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede or molest the crew, or any of them in the navigation or management of such steamer or otherwise in the execution of their duty on or about the steamer, shall, for every such offence, incur a penalty not exceeding one hundred dollars. R.S., c. 77, s. 11.

721. The master or other officer of any steamer, and all persons called by him to his assistance, may detain any offender against any of the provisions of the two sections last preceding, whose name and address are unknown to such master or officer, and may convey such offender with all convenient despatch before some justice or justices of the peace; and any offender so conveyed before such justice or justices under this section, shall be dealt with as if arrested, and brought before them on his or their warrant, under Part XV. of the Criminal Code.

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2. Any justice of the peace shall have jurisdiction under the
two last preceding sections, either in the place where the offence
was committed, or, if committed while the steamer is under
way, then in the place where it next stops. R.S., c. 77, ss. 12
and 20.

722. Every person who sends or attempts to send by, or
not being the master or owner of the ship, carries or attempts
to carry in any ship registered in Canada from any port or place
in Canada, any dangerous goods without distinctly marking
their nature on the outside of the package containing the same,
and giving written notice of the nature of such goods, and of
the name and address of the sender thereof, to the master or
owner of the ship, at or before the time of sending the same to
be shipped or taking the same on board the ship, shall, for every
such offence, incur a penalty not exceeding five hundred dollars:
Provided that if such person shows that he was merely an
agent in the shipment of any such goods as aforesaid, and was
not aware and did not suspect and had no reason to suspect
that the goods shipped by him were of a dangerous nature, the
penalty to which he is liable shall not exceed forty dollars.

2. Every person who knowingly sends, or attempts to send
by, or carries or attempts to carry in any ship registered in
Canada, from any port or place in Canada, any dangerous
goods, or goods of a dangerous nature under a false description,
or falsely describes the sender or carrier thereof, shall incur a
penalty not exceeding two thousand dollars.

3. When any dangerous goods or any goods which, in the
judgment of the master or owner, are goods of a dangerous
nature, are, within the limits of Canada, sent on board any
ship registered in Canada, without being so marked, or with-
out such notice being given, the master or owner of such ship
may cause such goods to be thrown overboard; and neither the
master nor the owner of the ship shall, in respect of such
throwing overboard, be subject to any liability, civil or criminal,
in any court in Canada.

4. When any dangerous goods are sent or attempted to be
sent, or carried or attempted to be carried on board any ship
registered in Canada, within the limits of Canada, without being
marked as aforesaid, or without such notice having been given
as aforesaid, and, when any such goods are sent or attempted
to be sent under a false description, or the sender or carrier
thereof is falsely described, any court of record, on application
by or on behalf of the owner, charterer or master of the ship,
may declare such goods forfeited, and when forfeited, they shall
be disposed of as the court directs.

5. This section shall not, except in so far as it is not in-
consistent with the provisions of the next following section, apply
to ships carrying passengers. R.S., c. 77, ss. 14, 15, 16, 18
and 19; 54-55 V., c. 38, s. 1.

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723.
R.S., 1906.
723. Every person who knowingly sends or attempts to send by, or carries or attempts to carry in any ship registered in Canada and carrying passengers to or from any port in Canada, or in any ship registered elsewhere than in Canada, but carrying passengers between any places in Canada, or from any place in Canada to any place out of Canada, any gunpowder, except as hereafter provided, dynamite, nitro-glycerine, or any dangerous explosive, is guilty of an indictable offence, and shall be liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding three months, or to both; and such goods shall be forfeited to the Crown, and shall be dealt with accordingly: Provided that,—

(a) any such ship may carry gunpowder in sufficient quantity to make necessary signals for one round voyage or trip, if such gunpowder is stored or carried in such a place and in such a manner as are approved by a steamboat inspector;

(b) the Minister may grant a permit to any steamboat which is engaged chiefly in the carriage of freight and only incidentally in the carriage of passengers, and which is specially fitted for the carriage of explosives, to carry explosives upon such terms and conditions and in such manner as are specified in the said permit; but if the terms and conditions of such permit are not performed and complied with, this section shall apply to such steamboat, as if the said permit had not been granted.

2. No prosecution under this section shall be instituted except by or with the consent of the Minister. 54-55 V., c. 38, s. 1.

724. Every master of a ship subject to the provisions of this Part respecting deck-loads who violates any of such provisions shall, for each such violation, incur a penalty not exceeding eight hundred dollars, unless a greater penalty is by this Part authorized.

2. Every master of a sailing ship who sails in such ship after the first day of October or before the sixteenth day of March, and every master of a steamship who sails in such steamship after the twelfth day of October or before the sixteenth day of March, in any year, from any port or place in Canada to any port or place in the United Kingdom, or the continent of Europe north of Cape Finisterre in Spain not being a port or place within the Mediterranean Sea, without the certificate of an officer of Customs attesting that none of such provisions respecting deck-loads have been violated, is guilty of an indictable offence, and shall be liable to a fine not exceeding eight hundred dollars, or to imprisonment for a term not exceeding two years and not less than three months, or both. 1 E. VII., c. 34, s. 2.

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R.S., 1906.
725. Every ship in respect of which any of the penalties mentioned in the last preceding section is incurred, may be seized and detained by order of the court by or before which such penalty is imposed or recovered until such penalty is paid, or security given for the payment thereof.

2. Unless payment is made or satisfactory security is given within thirty days, such ship may, at the expiration thereof, be sold by order of the court.

3. In case of sale such penalty and all the costs shall be paid out of the proceeds; and the surplus, if any, shall be paid over to the owner of the ship. R.S., c. 77, s. 9.

726. If shifting boards have not been used, or other proper precautions to prevent a grain cargo from shifting have not been taken, in the case of any ship registered in Canada and laden with a grain cargo, the master of the ship, and any agent of the owner who was charged with the loading of the ship or the sending her to sea, shall each be liable to a penalty not exceeding one thousand dollars, and the owner or managing owner of the ship shall also be liable to the same penalty unless he shows that he took all reasonable means to enforce the observance of the provisions of this Part respecting grain cargoes, and that he was not privy to the breach thereof. 52 V., c. 22, s. 5.

727. Every person who attempts to prevent or refuses to permit the examination by any Customs officer into the manner in which a grain cargo was stowed, in any ship registered in Canada, at her port of discharge in Canada, or impedes or obstructs any such officer in going aboard of such ship or making such examination, or who, being in charge of the vessel, refuses to render such officer reasonable assistance in making such examination, shall for each offence, incur a penalty not exceeding two hundred dollars. 52 V., c. 22, s. 6.

728. Penalties under either of the two sections last preceding may be recovered on summary conviction under Part XV. of the Criminal Code. 52 V., c. 22, s. 7.

729. Except as in this Part otherwise provided, every penalty imposed by this Part may be recovered or enforced with costs on summary conviction before any two justices of the peace or any magistrate having the powers of two justices of the peace, under Part XV. of the Criminal Code. if such penalty does not exceed one hundred dollars, and, if it exceeds one hundred dollars, then before any court of competent jurisdiction. R.S., c. 77, s. 20.

730. The whole of every pecuniary penalty recovered under this Part shall belong to His Majesty, and shall be paid over to R.S., 1906.
to the Minister of Finance by the officer or person receiving the same, and shall be thereafter appropriated in such manner as the Governor in Council directs in each case. R.S., c. 77, s. 21.

General.

731. Nothing in this Part contained shall be deemed to modify or affect in any way the provisions of the following Acts of Canada:

(a) Thirty-fourth Victoria, chapter thirty-three, intituled *An Act to provide for the appointment of a Port Warden for the Harbour of Quebec*;

(b) Thirty-sixth Victoria, chapter eleven, intituled *An Act to amend the Acts relating to Port Wardens at Montreal and Quebec*; and,

(c) Forty-fourth Victoria, chapter forty-five, intituled *An Act to amend and consolidate the Acts relating to the office of Port Wardens for the Harbour of Montreal*; or of,

(d) Part XIII. of this Act respecting port wardens.

2. The provisions of this Part shall, as respects the ports to which the said Acts respectively apply, be construed as enacted in addition to the said Acts and not in derogation thereof. 52 V., c. 22, s. 9.

PART X.

WRECKS, SALVAGE AND INVESTIGATIONS INTO SHIPPING CASUALTIES.

Interpretation.

732. In this Part, unless the context otherwise requires,—

(a) 'vessel' includes every description of vessel used in navigation;

(b) 'tackle' used in relation to a vessel, includes all furniture and apparel thereof;

(c) 'goods' includes wares and merchandise of every description;

(d) 'receiver' means receiver of wreck;

(e) 'shipwrecked persons' includes persons belonging to or on board of any British or foreign vessel wrecked, stranded or in distress at any place within the limits of Canada;

(f) 'wreck' includes cargo, stores and tackle of any such vessel and of all parts of the vessel separated therefrom, and also the property of shipwrecked persons;

(g) 'the amount of the claim,' in respect of jurisdiction in matters of salvage, means the amount claimed in the proceeding or suit before the receiver, or in the court in which the suit or proceeding is taken;
(h) 'value of the property liable,' in respect to such jurisdiction, in matters of salvage, means the value of the property when first brought into safety by the salvors;
(i) 'inland waters' includes all the rivers, lakes and other navigable waters within Canada;
(j) 'coasts' includes the sea coast and the salt-water bays, gulfs and harbours on the sea coast;
(k) 'pilot' means any person not belonging to a ship who has the conduct thereof. R.S., c. 81, ss. 2 and 44; 1 E. VII., c. 35, s. 2; 4 E. VII., c. 37, s. 1.

Superintendence.

733. The Minister shall, throughout Canada, have the general superintendence of all matters relating to wrecks and shipping casualties. R.S., c. 81, s. 3.

Appointment of Receivers of Wrecks.

734. The Governor in Council may, from time to time,—
(a) appoint any officer of Customs or, when it appears to him more convenient, any other person to be a receiver of wrecks;
(b) by order in council, establish, alter or abolish districts for the purposes of this Part, and assign a district to any receiver, and vary such district;
(c) make and vary regulations for the conduct of receivers, subject to the provisions of this Part. R.S., c. 81, s. 15.

735. If, at any time, there is not any receiver for any district in which the city of Quebec, the city of Halifax, or the city of St. John is included, then the agent of the Department of Marine and Fisheries at such city shall be the receiver for such district.

2. If, at any time, there is not a receiver for any other district, then the principal officer of Customs at the principal port in such district, shall be the receiver for such district. R.S., c. 81, s. 15.

Powers of Receivers as to Inquiries.

736. A receiver acting in execution of his duties in pursuance of this Part shall have all the powers and authorities of a principal officer of Customs or other person acting or appointed under the foregoing provisions of this Part. R.S., c. 81, s. 16.

Vessels Wrecked or in Distress.

737. When any British or foreign vessel is wrecked, stranded or in distress at any place within the limits of Canada, the receiver shall, upon being made acquainted with such stranding or distress, forthwith proceed to such place; and, upon his arrival R.S., 1906.
arrival there, he shall take the command of all persons present and assign such duties and issue such directions to each person as he thinks fit for the preservation of such vessel and of the wreck, and of the lives of shipwrecked persons. R.S., c. 81, s. 17.

738. Nothing in this Part shall be construed to authorize the receiver to take charge of any ship, cargo or materials contrary to the expressed wish of the master or owner of such ship or cargo, or of their agents. R.S., c. 81, s. 18.

Powers of Receivers.

739. The receiver may, with a view to the preservation of the vessel, or of the shipwrecked persons or wreck,—

(a) require such persons as he thinks necessary to assist him;
(b) require the master of any vessel near at hand to give such aid with his men or vessel as is in his power;
(c) demand the use of any wagon, cart, horses, tackle, ropes or appliances that are near at hand. R.S., c. 81, s. 19.

740. The receiver may cause to be apprehended and kept in custody, until he can be conveniently taken before a justice of the peace to be dealt with according to law, any person who plunders, creates disorder or obstructs the preservation of a vessel wrecked, stranded or in distress within the limits of Canada, and may use force for the suppression of any such plundering, disorder or obstruction and may command all His Majesty’s subjects to assist him in the use of such force. R.S., c. 81, s. 23.

741. If, when the receiver or any person acting under his orders is engaged in the execution of the duties by this Part committed to the receiver, any person resists such receiver or person, and is killed, maimed or hurt by reason of such resistance, no action, suit or prosecution against such receiver or other person for or by reason of or on account of such killing, maiming or hurting, shall be instituted or maintained, either on behalf of His Majesty or of the person so maimed or hurt, or the representatives of any person so killed. R.S., c. 81, s. 23.

Passage over adjoining Lands.

742. Whenever any vessel is wrecked, stranded or in distress within the limits of Canada, all persons for the purpose of rendering assistance to such vessel, or of saving any wreck or the lives of any shipwrecked persons, may, unless there is some public road equally convenient pass and repass, either with or without carriages or horses, over any adjoining lands, without being subject to interruption by the owner or occupier, if they do so with as little damage as possible; and may also,
on the like condition, deposit on such lands any wreck saved.
R.S., c. 81, s. 20.

743. All damage sustained by any owner or occupier in
consequence of any such passing, repassing or deposit, shall be
a charge on the vessel or wreck in respect of which such damage
was occasioned.

2. Such damage shall, in default of payment, be recover-
able and, in case of dispute, the amount thereof be determined,
in the same manner as salvage may by this Part be recovered
and, in case of dispute as to amount, be determined.

3. No such compensation shall be recoverable in respect of
damage to any gate, wall, fence or other obstruction which has
been unreasonably erected or placed by such owner or occupier
so as to impede such passing, repassing or deposit. R.S., c. 81,
s. 21.

Power of Master.

744. Every person, not being a receiver or a person acting
for or under the orders of a receiver, who endeavours to board
any vessel wrecked, stranded or in distress within the limits
of Canada, without the leave of the master of such vessel, may
be repelled by force; and the master and every person under
his orders so repelling such person by force, are hereby indem-
nified for so doing. R.S., c. 81, s. 24.

Officers Acting as Receivers.

745. When a receiver is not present, any principal officer
of Customs, fishery officer, or stipendiary magistrate on board
of any vessel belonging to or in the service of the Government
of Canada and employed in the service of protecting the fish-
eries, officer of inland revenue, sheriff, justice of the peace,
commissioned officer on full pay in the naval service of His
Majesty, or commissioned officer on full pay in the military
service of His Majesty, or lighthouse keeper employed by the
Government of Canada, may do all matters and things by this
Part authorized to be done by the receiver, for the preserva-
tion of vessels, shipwrecked persons and wreck.

2. If any two or more of such officers or persons are present
when any act as aforesaid is required to be done, they shall
respectively have priority in relation to any such act in the
order in which they are named in this section.

3. Any officer or person so acting shall, in respect to any
wreck the delivery of which to the receiver is hereby required,
be considered as the agent of the receiver, and shall place the
same in the custody of the receiver, and he shall not be
entitled to any fees payable to receivers, or be deprived, by
reason of his so acting, of any right to salvage to which he
would otherwise be entitled. R.S., c. 81, s. 25.

746. R.S., 1906.
746. Any person acting under the orders of an officer or person acting in pursuance of the provisions of the last preceding section shall, for the purposes of this Part, be deemed to be acting under the orders of a receiver. R.S., c. 81, s. 25.

Wreck.

747. Whenever any person takes possession of wreck within the limits of Canada, he shall, as soon as possible, deliver the same to the receiver: Provided that the Minister may dispense with any such delivery in the case of any wreck, upon such conditions as he thinks fit. R.S., c. 81, s. 26.

748. Every receiver shall, within forty-eight hours after taking possession of any wreck, cause to be posted up in the Custom-house nearest to the place where such wreck was found or was seized by, or delivered to him, a description of the same and of any marks by which it is distinguished, and shall also transmit a similar description to the Minister, who may give such publicity to the same as he thinks fit. R.S., c. 81, s. 28.

749. The owner of any wreck in the possession of the receiver, upon establishing his claim to the same to the satisfaction of the Minister, within one year from the time at which such wreck came into the possession of the receiver shall, upon paying the salvage, fees and expenses due, be entitled to have such wreck or the proceeds thereof delivered up to him or his agent. R.S., c. 81, s. 29.

750. If any such wreck is proved to the satisfaction of the Minister to belong to a foreign owner, the consul general in Canada of the country to which the owner of such wreck belongs, or any consular officer of that country authorized in that behalf by any treaty or arrangement with such country, shall, in the absence of the owner or his agent, be deemed to be the agent of the owner so far as relates to the custody and disposal of the wreck. R.S., c. 81, s. 29.

Sale of Wreck.

751. If, in his opinion, it is for the advantage of all parties to sell wreck in his custody, or, if such wreck consists of goods of a dangerous nature, the receiver may sell the same; and the proceeds of such sale, after defraying the expenses thereof, shall be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold. R.S., c. 81, s. 30.

752. If the owner of any wreck is known or has established his title to the same, but neglects to pay the salvage, fees or expenses due thereon for twenty days after notice in writing from R.S., 1906.
from the receiver, the receiver may sell such wreck, or a sufficient part thereof, and may, out of the proceeds of such sale, after defraying the expenses of sale, pay the salvage, fees and expenses due, and shall deliver any remaining portion of the wreck and pay the surplus proceeds, if any, of such sale to the persons entitled to receive the same. R.S., c. 81, s. 30.

Unclaimed Wreck.

753. If no owner establishes a claim to wreck before the expiration of a year from the date at which the same has come into the possession of the receiver, such wreck, if unsold, shall be sold by such persons and in such manner as the Minister directs.

2. The proceeds of such sale shall, after payment of expenses, costs, fees and salvage, be paid over to the Minister of Finance, to form part of the Consolidated Revenue Fund of Canada. R.S., c. 81, s. 31.

Claims to Wreck:

754. Upon delivery of wreck or payment of the proceeds of wreck by a receiver, in pursuance of the provisions of this Part, such receiver shall be discharged from all liability in respect thereof; but such delivery or payment shall not prejudice or affect any question which is raised by third parties concerning such wreck. R.S., c. 81, s. 32.

755. Whenever two or more persons claim any wreck or proceeds of wreck of any value or amount in the possession of a receiver, any court sitting and having jurisdiction in civil matters to the value or amount of the wreck or proceeds in question, in the district of such receiver, may, on the application of such receiver, or of any of such persons, summon such persons before it, and may hear and adjudicate upon their claims, and make such order between the parties in respect thereof and of the costs of the proceedings as to such court seems fit.

2. Such order may be enforced in like manner as any order made in any suit brought in the same court. R.S., c. 81, s. 33.

Marine Store Dealers.

756. Every person dealing in, buying and selling any old anchors, cables, sails, junk or iron, or marine stores of any kind, shall,—

(a) have his name, together with the words Dealer in marine stores distinctly painted in letters of at least three inches in length and two inches in breadth, on some conspicuous part of each warehouse, shop, store or place of deposit belonging to him;

(b) R.S., 1906
Books to be kept. (b) keep a book or books fairly written in which shall be entered an account of all such articles as he, from time to time, becomes possessed of, and the time at which and the person from whom he purchased or received the same, and a description of the business and place of abode of such person, and of the character of every such article and of the marks thereon; and,

Production of books. (c) produce and deliver up to the receiver for the district in which he carries on business, at all times when required by him so to do, with or without a warrant for search or inspection, every book kept in pursuance of the provisions of this Part, and allow him to inspect and take copies of the same. R.S., c. 81, s. 34.

Salvage.

757. When services are rendered within the limits of Canada in saving life from any vessel, there shall be payable to the salvor by the owner of the vessel, freight, cargo, stores and tackle, a reasonable sum for salvage and expenses, in priority to all other claims for salvage. R.S., c. 81, s. 42.

Salvage may be paid by Minister if ship destroyed, etc.

758. In cases in which such vessel, stores, tackle and cargo are destroyed, or the value thereof, with the freight, if any, is insufficient, after payment of the actual expenses incurred to pay the amount of such salvage, the Minister may, in his discretion, award to the salvor, out of any funds at his disposal for that purpose, such remuneration as he thinks fit. R.S., c. 81, s. 42.

Salvage of cargo or wreck.

759. When, within the limits of Canada, any vessel is wrecked, abandoned, stranded or in distress, and services are rendered by any person in assisting such vessel or in saving any wreck, there shall be payable to the salvor by the owner of such vessel or wreck, as the case may be, a reasonable amount of salvage including expenses properly incurred. R.S., c. 81, s. 43.

Procedure in Salvage.

760. Disputes as to salvage, whether of life or property, shall be heard and determined by and before the receiver or the court as provided for respectively by this Part, and not otherwise. R.S., c. 81, s. 44.

If amount claimed does not exceed $100 or value of property liable or alleged to be liable for the salvage does not exceed two hundred and fifty dollars, or if the parties consent in writing, the dispute shall be heard and determined by the receiver of the district where R.S., 1906.
where the services were rendered or where the property liable is, at the time of the making of the claim, and his award shall include fees and costs. R.S., c. 81, s. 44.

762. Any party who feels aggrieved by the award of such receiver, may appeal to the Minister, within thirty days after the decision of the receiver from which the appeal is made; and, in such case, the appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the receiver of his intention to appeal, and of the grounds of such appeal. R.S., c. 81, s. 44.

763. In other cases, the dispute may be heard and determined by any court having jurisdiction in civil matters to the amount of the claim or value of the property liable, in the place where the services were rendered, or where the property is at the time of the making of the claim. R.S., c. 81, s. 44.

764. If, in any suit or proceeding for salvage in any court, the claimant recovers an amount less than the maximum amount which might be claimed before the receiver, then, unless the court certifies that such suit or proceeding was unfit to be determined by the receiver, the claimant shall have no costs, charges or expenses incurred by him in the prosecution of his claim, and shall pay to the other party such costs, charges and expenses, if any, as the court directs. R.S., c. 81, s. 44.

765. Every dispute as to salvage which arises in Canada, when the services have been rendered therein, may be heard and determined, on the application either of the salvor or of the owner of the property liable to the claim for salvage, or, when the property is in the custody of the receiver, on his application, and, if no proceedings to determine any dispute as to salvage have been taken by the salvor, the owner may make application as aforesaid to the receiver or court having jurisdiction, according to the value of the property liable. R.S., c. 81, s. 45.

766. When any dispute as to salvage arises in Canada, the receiver of the district where the property liable is situate shall, on the application of either party, appoint a valuer to value such property, and shall give copies of the valuation to both parties.

2. Any copy of such valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceeding; and shall, for the purpose of giving jurisdiction in salvage, be conclusive evidence of the value at the time of such valuation.

3. There shall be paid in respect of such valuation such fees as the Minister, from time to time, directs. R.S., c. 81, s. 46.

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767. R.S., 1906.
767. A receiver may seize any property found within his district and alleged to be liable for salvage and detain such property until either the salvage, fees and costs due thereon are ascertained and paid, or process is issued for the arrest or detention thereof by some competent court, or security is given to his satisfaction for such salvage, fees and costs. R.S., c. 81, s. 47.

768. If the value of the property does not exceed two hundred and fifty dollars, any question as to the amount of the security to be given, or as to the sufficiency of the sureties, may be determined by the receiver.

2. If such value exceeds two hundred and fifty dollars, any such question may be determined upon the application either of the owner of the property or of the salvors or any of them, or of such receiver, by any court having, in the district of such receiver, jurisdiction in civil matters to the amount of the value of the property in question.

3. If the property has not been valued, the value, for the purposes of this section, shall be determined by such receiver or by a valuer appointed by him as aforesaid. R.S., c. 81, s. 48.

769. Security given for salvage in pursuance of the three sections last preceding may be enforced by a court competent to entertain a suit for such salvage in the same manner as if bail had been given in such court; and, whenever, under the provisions of this Part, the determination of disputes as to such salvage is to be made by a receiver, any such security may be enforced in the manner aforesaid by any court competent to entertain a suit for such salvage, having jurisdiction in the district of such receiver. R.S., c. 81, s. 49.

770. Whenever any dispute as to salvage arises before a receiver under this Part, the receiver shall hear and determine the same; and if, after he has made and published his award, the salvage, fees and costs by him awarded to be paid are not paid within fourteen days, he may sell the property liable for such salvage, fees and costs or a sufficient part thereof, and, out of the proceeds, defray the expenses of the sale and the salvage, fees and costs awarded, and shall pay or deliver up the surplus, if any, to the owners of the property or other persons entitled thereto. R.S., c. 81, s. 50.

771. Whenever the aggregate amount of salvage payable in respect of any services has been finally determined, such amount may be apportioned and distributed,—

(a) by the receiver, if the amount has been determined by him, among the persons entitled thereto, in such manner as he thinks just, subject to an appeal to the Minister by any person aggrieved; or,

(b)
(b) by the court, when the amount has been determined by such court, among the persons entitled thereto in such manner as such court thinks just, which court may appoint any person to carry the apportionment into effect and may compel any person in whose hands or under whose control such amount is to distribute the same, or to bring the same into court, to be dealt with as the court directs, and may, for the purposes aforesaid, issue such orders as the court thinks fit.

2. If the amount has been finally ascertained by admission or agreement, but a dispute arises or is apprehended as to the apportionment thereof among several claimants, the person liable to pay such amount may pay the same, if it exceeds one hundred dollars, into a court having jurisdiction, or, it may be paid to a receiver, if the amount does not exceed one hundred dollars, or, in any case, if the claimants so agree.

3. Such receiver or court shall receive and apportion the same and grant to the person paying the same a certificate of the amount paid and the services in respect of which it is paid which shall be a full discharge and indemnity to such person, and to all his property liable in respect of such services, against all persons, parties to or bound by such admission or agreement. R.S., c. 81, s. 51.

772. When any salvage, fees, charges or costs in relation to salvage, are awarded or declared to be due by a receiver or any court having jurisdiction in salvage, and the property liable or the proceeds thereof is or are under arrest in a different suit, in a court not being the same court by which such salvage, fees, charges or costs have been awarded, then such salvage, fees, charges and costs shall be enforced against the property or proceeds so under arrest, by the court in which the property or proceeds is or are under arrest. R.S., c. 81, s. 52.

**Fees of Receivers.**

773. There shall be paid to every receiver the expenses (b) by a court. When determined appropriately incurred by him in the performance of his duties, and in respect of the several matters specified in form V, such fees, chargeable as therein mentioned, and not exceeding the amounts therein mentioned, as are, from time to time, directed by the Governor in Council.

2. The receiver shall, in addition to all other rights and remedies for the recovery of such expenses or fees, have the same rights and remedies which a salvor has in respect of salvage due to him; and may, if the property in respect of which any such expenses or fees are due, is not under arrest in any court, seize or detain such property until such expenses and fees are paid, or until security is given for the same to his satisfaction. R.S., c. 81, s. 53.

2057  774.  R.S., 1906.
774. Whenever any dispute arises in any part of Canada as to the amount payable to any receiver in respect of expenses or fees, such dispute shall be determined by the Minister, whose decision shall be final. R.S., c. 81, s. 54.

775. All fees received by any receiver in respect of any of the matters specified in form V may be retained by him for his own remuneration. R.S., c. 81, s. 54.

Shipping Casualties.

776. A shipping casualty shall be deemed to occur,—

(a) whenever any ship is lost, abandoned, stranded or damaged in any of the inland waters of Canada or on or near the coasts of Canada, or on a voyage to a port in Canada;

(b) whenever any ship causes loss or damage to any other ship in, on or near such inland waters or coasts;

(c) whenever, by reason of any casualty happening to or on board of any ship in, on or near such inland waters or coast, loss of life ensues;

(d) whenever any such loss, abandonment, stranding, damage or casualty happens elsewhere, and any competent witness thereof arrives or is found at any place in Canada;

(e) when any loss of life occurs by reason of any casualty happening to or on board any boat belonging to a fishing vessel or other vessel registered in Canada;

(f) when any British ship is lost or supposed to have been lost, and any evidence is obtainable in Canada as to the circumstances under which she proceeded to sea or was last heard of. 1 E. VII., c. 35, s. 3; 3 E. VII., c. 64, s. 1.

Preliminary Inquiry.

777. The Minister may appoint a principal officer of Customs or any officer of the Government of Canada, or any person to make preliminary inquiries respecting such shipping casualties, and may define the territorial jurisdiction of any such officer or person.

2. If, upon a preliminary inquiry, the officer holding it is of opinion that any loss, or damage, or the stranding of any ship, or any loss of life has been caused by the wrongful act or default or by the incapacity of the pilot in charge, or that such pilot has been guilty of any gross act of misconduct or drunkenness, the license of such pilot may be suspended by such officer until a formal investigation under this Part has been held and a further decision rendered upon the case: Provided that the term of suspension shall not exceed a period of three days, unless the Minister notifies such pilot within that time that a formal investigation will be held. 4 E. VII., c. 37, s. 2.
778. Every such officer or person may for the purpose of holding such preliminary inquiry,—

(a) go on board any vessel or wreck, and inspect it or any part thereof, or any of the machinery, boats, equipments, lading, or articles on board thereof, the boarding or inspection of which appears to him to be requisite for the purpose of his inquiry, not unnecessarily detaining any such vessel from proceeding on any voyage;

(b) enter and inspect any premises, the entry and inspection of which appear to him requisite for the purpose of the inquiry;

(c) require by summons under his hand the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and require answers or returns to any inquiries he thinks fit to make;

(d) require and enforce the production of all books, papers or documents which he considers important for such purpose;

(e) administer oaths, or, in lieu of requiring and administering an oath, require every person examined by him to make and subscribe a solemn affirmation or declaration of the truth of the statement made by him in his examination. 1 E. VII., c. 35, s. 5.

779. Every witness so summoned shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any court of record in the province of Canada in which the preliminary inquiry is held.

2. In case of any dispute as to the amount of such expenses, the dispute shall be referred by such officer or person to the nearest prothonotary, clerk, master, or other taxing officer of any court of record within the jurisdiction of which the attendance is required, who, on a request made to him for that purpose under the hand of such officer or person, shall ascertain and certify the proper amount of such expenses. 1 E. VII., c. 35, s. 5.

780. Upon the conclusion of any such inquiry, the officer or person who made it shall send to the Minister a report containing a full statement of the case, and of his opinion thereon, accompanied by such report of or extracts from the evidence and such observations as he thinks fit. 1 E. VII., c. 35, s. 7.

Formal Investigation.

781. The Minister may appoint any officer of the Government of Canada, or any judge of the Superior Court of the province of Quebec, or any judge of a county court, or any local judge in Admiralty of the Exchequer Court of Canada, or R.S., 1906.
or any stipendiary magistrate to be a commissioner to hold formal investigations; and a commissioner shall for such purpose be a court. 3 E. VII., c. 64, s. 2.

In what cases.

782. A court so appointed is authorized to hold a formal investigation upon the same being ordered by the Minister in cases of,—

(a) a shipping casualty; or,  
(b) where a master, mate, pilot, or engineer has been charged with incompetency, misconduct or default while serving as an officer of any British ship on or near the coasts of Canada, or on or near any of the inland waters of Canada, or in the course of a voyage to a port in Canada; or,  
(c) where the incompetency, misconduct or default has occurred while serving as an officer on a British ship registered in Canada; or,  
(d) where a master, mate, pilot or engineer who is charged with incompetency, misconduct or default while serving on board a British ship is found in Canada; or,  
(e) where, in a case of collision, the master or certificated officer in charge of a vessel fails without reasonable cause to render to the other vessel, her master, crew and passengers such assistance as is practicable and necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance, and also to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs, and also the names of the ports from which she comes and to which she is bound. 3 E. VII., c. 64, s. 2; 4 E. VII., c. 37, s. 1.

Assessors.

783. The Minister may at any time appoint one or more assessors of nautical, engineering or other special skill or knowledge, for the purpose of assisting such courts in holding formal investigations into shipping casualties, and such appointments shall be in force for three years.

2. An assessor shall, from time to time, be eligible for reappointment; and the Minister may, at any time, cancel the appointment of an assessor. 1 E. VII., c. 35, s. 9.

Assessors required for certain cases.

784. A court holding a formal investigation into a shipping casualty shall hold such investigation with one or more assessors to be selected for that purpose by the Minister. 1 E. VII., c. 35, s. 9.

785. Where a formal investigation into a shipping casualty involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate, pilot, or engineer, the court shall hold the investigation with

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with the assistance of not less than two assessors having
experience in the merchant service. 1 E. VII., c. 35, s. 9;
4 E. VII., c. 37, s. 1.

786. Every commissioner and assessor, before entering
upon his duties, shall take and subscribe an oath well, faith-
fully and impartially to execute the duties assigned to him by
this Part. 1 E. VII., c. 35, s. 11.

787. Formal investigations shall be held in some town hall
or county court-house, or public building, or in some other
suitable place to be determined by the court. 1 E. VII., c. 35,
s. 16.

788. Whenever a formal investigation is likely to involve
a question as to cancelling or suspending the certificate of
competency or service of any master, mate, pilot, or engineer,
he shall be furnished with a copy of the report or statement
of the case upon which the investigation has been ordered.
3 E. VII., c. 64, s. 3; 4 E. VII., c. 37, s. 1.

789. Such court shall have the power of summoning before
it any person, and of requiring him to give evidence on oath,
either orally or in writing, and to produce such documents and
things as such court deems requisite to the full investigation
of the matters into which it is appointed to examine. 1 E.
VII., c. 35, s. 10.

790. Such court shall have the same power to enforce the
attendance of witnesses and to compel them to give evidence
as is vested in any court of justice in civil cases.
2. The proceedings of such court shall be assimilated as far
as possible to those of the ordinary courts of justice, with the
like publicity. 1 E. VII., c. 35, s. 10.

791. Such court shall have all the powers conferred by
section four hundred and seventy-eight of the Merchant Ship-
ping Act, 1894, on any court authorized by the legislature of
any British possession to make inquiries as to shipwrecks or
other casualties affecting ships, or as to charges of incompe-
tency or misconduct on the part of masters, mates, pilots or
engineers of ships. 1 E. VII., c. 35, s. 10; 4 E. VII., c. 37,
s. 1.

792. Every witness summoned under this Part before such
court shall be allowed such expenses as would be allowed to
any witness attending on subpœna to give evidence before any
court of record in the province of Canada in which the formal
investigation is held. 1 E. VII., c. 35, s. 10.

793. R.S., 1906.
793. When the Minister, at the request of any person, orders a formal investigation, it shall be the duty of such person to render such assistance to the court as is in his power. 3 E. VII., c. 64, s. 3.

794. The court may make such order as it thinks fit respecting the costs of such investigation, or the rehearing thereof, or any part of such investigation or rehearing, and such order shall be enforced by the court as an order for costs under Part XV. of the Criminal Code. 1 E. VII., c. 35, s. 13.

795. Every formal investigation shall be conducted in such manner that, if a charge is made against any person, such person shall have an opportunity of making a defence. 1 E. VII., c. 35, s. 14.

796. A master, mate, pilot or engineer whose certificate is cancelled or suspended shall deliver his certificate to the court on demand. 3 E. VII., c. 64, s. 3; 4 E. VII., c. 37, s. 1.

797. Where any formal investigation involves a question as to the cancelling or suspending of a certificate, the court shall, at the conclusion of the case or so soon afterwards as possible, state in open court the decision to which they have come with respect to the cancelling or suspending thereof.

2. Where a formal investigation is held into a shipping casualty, each assessor shall either sign the report or state in writing his dissent therefrom and the reasons for that dissent. 1 E. VII., c. 35, s. 18.

798. The court shall furnish to any master, mate, pilot or engineer whose certificate has been cancelled or suspended, or to his agent, a copy of the judgment of the court. 1 E. VII., c. 35, s. 18; 4 E. VII., c. 37, s. 1.

799. The court shall, in all cases send a full report on the case with the evidence to the Minister, and if it determines to cancel or suspend any certificate, the certificate cancelled or suspended shall be sent to the Minister with the report. 1 E. VII., c. 35, s. 18.

800. The Minister shall, if such certificate,—

(a) has been issued by the Government of Canada, retain the same;

(b) has been issued by the Board of Trade, forward it, with the report and evidence to the Board of Trade; and,

(c) has been issued by any British possession other than Canada, send the same, together with a full report upon the case and a copy of the evidence, to the governor of such British possession. 1 E. VII., c. 35, s. 18.

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801. The certificate of a master, mate, pilot or engineer may be cancelled or suspended by a court holding a formal investigation,—

(a) if the court finds that any loss, or damage, or the abandonment or stranding of any ship, or any loss of life has been caused by the wrongful act or default of such master, mate, pilot or engineer; or,

(b) if it finds that such master, mate, pilot or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny; or,

(c) if it finds that such master, mate, pilot or engineer in a case of collision has failed to render the assistance or to give the information required by law in that behalf.

2. In the case of a shipping casualty, the court shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the court.

3. A certificate shall not be cancelled or suspended by a court under this section, unless a copy of the report, or a statement of the case upon which the formal investigation has been ordered, has been furnished to the holder of the certificate and he has had an opportunity of making a defence. 3 E. VII., c. 64, s. 3; 4 E. VII., c. 37, s. 1.

Powers of the Minister.

802. The Minister may make general rules for the carrying into effect of the enactments relating to formal investigations or to the rehearing of any formal investigation, and, in particular, with respect to the appointment and summoning of assessors, the procedure, the parties, the persons allowed to appear and the notice to the parties or to persons affected. 1 E. VII., c. 35, s. 19.

803. The Minister may suspend or cancel the Canadian certificate of any master, mate, pilot, or engineer if it is shown that he has been convicted of an offence. 1 E. VII., c. 35, s. 20; 4 E. VII., c. 37, s. 1.

804. The Minister may, if he thinks that the justice of the cases requires it, re-issue and return the Canadian certificate of a master, mate, pilot or engineer which has been cancelled or suspended, or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade. 1 E. VII., c. 35, s. 22; 4 E. VII., c. 37, s. 1.

805. In any case where a formal investigation has been held, the Minister may order the investigation to be reheard, either generally or as to any part thereof; and he shall so order,—

(a) if new and important evidence which could not be produced at the investigation has been discovered; or,

(b) R.S., 1906.
(b) if, for any other reason, there has been in his opinion ground for suspecting that a miscarriage of justice has occurred. 1 E. VII., c. 35, s. 25.

806. The Minister may order the case to be re-heard by the court by which the case was heard in the first instance. 1 E. VII., c. 35, s. 25.

807. The Minister may, if, in any case, he thinks fit so to do, pay the costs of any such formal investigation out of any sums voted by Parliament for the purpose of holding investigations into shipping casualties. 1 E. VII., c. 35, s. 13.

808. The provisions of this Part relating to the manner in which such certificates shall be dealt with shall, so far as they are applicable, extend to pilots' licenses which shall be subject to cancellation and suspension in the same manner as the certificate of a master, mate or engineer, is subject to cancellation and suspension under this Part.

2. The court may, instead of cancelling or suspending any such license, fine any licensed pilot in any sum not exceeding four hundred dollars and not less than fifty dollars, and may make order for the payment of such fine by instalments or otherwise, as it deems expedient.

3. Any penalty incurred under this section may be recovered in the name of His Majesty in a summary manner with costs under the provisions of Part XV. of the Criminal Code. 4 E. VII., c. 37, s. 3.

809. An investigation or inquiry shall not be held under Part VI. into any matter which has once been the subject of an investigation or inquiry under this Part. 4 E. VII., c. 37, s. 3.

Offences and Penalties.

810. Every person who disobeys any direction of a receiver issued to him while the receiver is in command of persons present at any place where any British or foreign vessel is wrecked, stranded or in distress, within Canada, shall incur a penalty not exceeding two hundred dollars. R.S., c. 81, s. 17.

811. Every person who wilfully impedes a receiver in the execution of his duty, or makes default in appearing or giving evidence before him, shall be subject to the like penalties as if the receiver was a principal officer of Customs, or other person acting or appointed under the provisions of this Part as to the appointment of receivers of wrecks. R.S., c. 81, s. 16.

812. Every person who refuses, without reasonable cause, to comply with any requirement or demand made by the receiver R.S., 1906.
receiver with a view to the preservation of any vessel, or wreck, or wrecked persons for assistance or aid, or for the use of any vessel, wagon, cart, horses, tackle, ropes or appliances, shall for every day on which he so refuses, incur a penalty not exceeding twenty dollars. R.S., c. 81, s. 19.

813. Every owner or occupier of any land over which any person is by this Part authorized to pass or repass, who, by himself or his servants,—

(a) impedes or hinders such person from so passing or repassing, with or without carriages, horses and servants, by locking his gates, or refusing upon request, to open the same, or in any other manner; or,

(b) impedes or hinders the deposit of any wreck; or,

(c) prevents such wreck from remaining so deposited for a reasonable time until the same can be removed to a safe place of public deposit;

shall for every such act incur a penalty not exceeding four hundred dollars. R.S., c. 81, s. 22.

814. Every person taking possession of wreck within the limits of Canada, who,—

(a) fails to deliver the same to the receiver as required by this Part; or,

(b) whenever the Minister has dispensed with such delivery upon any conditions, does not either comply with such conditions or deliver the wreck to such receiver as soon as possible;

shall forfeit any claim to salvage, and shall be liable to pay, as a penalty, double the value of such wreck, and a further sum not exceeding four hundred dollars. R.S., c. 81, s. 27.

815. Every person dealing in, buying and selling any old anchors, cables, sails, junk or iron, or marine stores of any kind, who fails to,—

(a) have his name, together with the words Dealer in marine stores distinctly painted in letters of at least three inches in length and two inches in breadth on some conspicuous part of each warehouse, shop, store or place of deposit belonging to him; or,

(b) have fairly written in a book or books kept by him an account of all such articles as he, from time to time, becomes possessed of, the time at which and the persons from whom he purchased or received the same, a description of the business and place of abode of such person and of the character of every such article and of the marks thereon; or,

(c) produce and deliver up to the receiver for the district in which he carries on business, at all times when required by him so to do, with or without a warrant for search R.S., 1906.
search or inspection, every book kept in pursuance of this Part, and allow him to inspect and take copies of the same;

shall, for the first offence, incur a penalty not exceeding forty dollars; and for every subsequent offence, a penalty not exceeding two hundred dollars. R.S., c. 81, s. 34.

816. Every person in whose possession and on whose premises any wreck discovered by a receiver, upon search by him, under search warrant granted in that behalf by a justice of the peace, is found, who fails, on being summoned by two justices of the peace, to appear before them to prove to their satisfaction that he was lawfully entitled to the possession of such wreck, shall be liable, for the first offence, to a penalty not exceeding eighty dollars, and for every subsequent offence, at the discretion of the justices, either to a penalty not exceeding two hundred dollars or to imprisonment with hard labour for any term not exceeding three months: Provided that the justices may, if they think fit, commit him for trial for an indictable offence under this Part. R.S., c. 81, s. 41.

817. Every person who refuses to attend as a witness before any officer or person directed by the Minister to make any preliminary inquiry into a shipping casualty, after having been required so to do and after having had a tender made to him of the expenses, if any, to which he is entitled under the provisions of this Part, or who, upon attendance before such officer or person, refuses or neglects to make any answer, or give any return, or to produce any document in his possession, or to make or subscribe any solemn affirmation or declaration which any such officer or person requires, shall, for each offence, incur a penalty not exceeding forty dollars. 1 E. VII., c. 35, s. 5.

818. Every person who wilfully impedes any such officer or person in the execution of his duty, whether on board any vessel or elsewhere, shall incur a penalty not exceeding forty dollars, and may be arrested and detained by such officer or person, or by any person whom the said officer or person calls to his assistance, until such offender can be conveniently taken before some justice of the peace or other officer having jurisdiction. 1 E. VII., c. 35, s. 6.

819. Every person who refuses to attend as a witness before any court appointed under this Part to hold a formal investigation into a shipping casualty, after having been required so to do in manner aforesaid, and after having had a tender made to him of the expenses, if any, to which he is entitled under the provisions of this Part, or who, upon attendance before such court, refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make

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or subscribe any solemn affirmation or declaration which the court may require, shall for each such offence incur a penalty not exceeding forty dollars. 1 E. VII., c. 35, s. 10.

820. Every master, mate, pilot or engineer whose certificate is cancelled or suspended, who fails to deliver his certificate to the court holding a formal investigation into a shipping casualty, in respect of which such certificate is cancelled or suspended, when so required, shall incur a penalty not exceeding two hundred dollars. 3 E. VII., c. 64, s. 3; 4 E. VII., c. 37, s. 1.

Procedure.

821. Every person charged under this Part with an indictable offence may be indicted and prosecuted, and the venue may be laid in any county or district. R.S., c. 81, s. 38.

822. In any indictment or prosecution under this Part, for any indictable offence in respect of wreck, it shall not be necessary to lay the property in any person, or to identify the alleged wreck as part of any particular vessel or wreck coming from any particular vessel, or as the property of any particular person. R.S., c. 81, s. 38.

823. Every penalty, forfeiture or punishment, for any offence against this Part, not by this Part declared to be an indictable offence, may be imposed, adjudged and recovered on summary conviction before any two justices of the peace, or any magistrate having the powers of two justices of the peace, under Part XV. of the Criminal Code. R.S., c. 81, s. 39; 1 E. VII., c. 35, ss. 5 and 10; 3 E. VII., c. 64, s. 3.

824. In any indictment or prosecution for receiving, secreting or disguising any wreck, or for having the possession thereof, or for selling or dealing therewith, or for defacing or obliterating marks thereon, unless the accused shows that he was possessed of such wreck for more than twelve months before the date of the indictment or the commencement of the prosecution, it shall lie upon the accused to show that he did not know, and had not the means of knowing the same to be such wreck, or that he was lawfully possessed of, or entitled to sell or deal with the same.

2. In any indictment or prosecution for secreting, defacing, receiving, possessing, selling, dealing with or concealing the character of any wreck, evidence may be given, either before or after verdict, of any former conviction of the accused for any of the said offences. R.S., c. 81, s. 40.

825. When a receiver suspects that any wreck is secreted or concealed by or is wrongfully in the possession of any person, he

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he may apply to any justice of the peace for a search warrant, and such justice shall have power to grant such warrant, by virtue whereof it shall be lawful for the receiver to enter, and, if necessary, by force, any house, building or place, whether inclosed or uninclosed, or any vessel, and to search for, remove and detain any wreck there kept or secreted. R.S., c. 81, s. 41.

§ 26. If any such discovery is made in consequence of information given by any person to the receiver, the informer shall be entitled, by way of salvage, to such sum not exceeding eighty dollars as the receiver allows under instructions from the Minister. R.S., c. 81, s. 41.

**General.**

§ 27. The jurisdiction conferred by this Part on any civil court may be exercised either by proceedings *in rem* or by proceedings *in personam*. R.S., c. 81, s. 55.

§ 28. Nothing in this Part shall be construed to affect the jurisdiction of the Exchequer Court on its Admiralty side, in Canada as to any matter or case, civil or criminal. R.S., c. 81, s. 56.

§ 29. The Ministers of Customs and of Inland Revenue may permit all goods saved from any vessel stranded or wrecked within the limits of Canada on its inward voyage to be forwarded to the port of its original destination, and all goods saved from any ship stranded or wrecked within Canada on her outward voyage to be returned to the port at which the same were shipped, taking such security for the due protection of the revenue in respect of such goods as they think proper. R.S., c. 81, s. 57.

§ 30. An investigation into the occurring of a shipping casualty shall not be held under this Part into any matter which has once been the subject of an investigation or inquiry and has been reported on by a competent court or tribunal in any part of His Majesty's dominions, or with respect to which the certificate of a master, mate, pilot or engineer has been cancelled or suspended by a naval court. 1 E. VII., c. 35, s. 23; 4 E. VII., c. 37, s. 1.

§ 31. Where an investigation or inquiry has been commenced in the United Kingdom with reference to the matter of any shipping casualty, an inquiry with reference to the same matter shall not be held under this Part. 1 E. VII., c. 35, s. 24.

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Lighthouses, Buoys and Beacons and Sable Island.

Ownership.

832. All lighthouses, lightships, floating and other lights, lanterns, and other signals, buoys and beacons, anchors and lands marks acquired, constructed, repaired, maintained, improved, erected, placed or laid down for the greater security and facility of navigation at the expense of any province of the Dominion of Canada before it became a part thereof, or at the expense of the Dominion of Canada, together with all buildings and other works belonging thereto and in connection therewith, are vested in His Majesty, and shall be under the direct control and management of the Minister: Provided that, if His Majesty and the corporation of the Harbour Commissioners of Montreal so agree, the buoys and beacons within the port of Montreal may, by order of the Governor in Council, be placed and maintained by the said corporation. R.S., c. 70, s. 1; 57-58 V., c. 48, s. 24.

Powers of the Minister.

833. The Minister may direct the construction of all lighthouses, lightships, floating and other lights, lanterns and other signals, buoys, beacons, anchors and land marks, and of all buildings and other works belonging thereto and in connection therewith, hereafter to be constructed at the expense of Canada, for the greater security and facility of navigation, the construction of any of which is, by the Governor in Council placed under the direction of the Minister, as well as the maintenance and repair of the same, when constructed, and the maintenance and repair of all similar buildings and other works placed by this Part under his direct control and management; but nothing in this Part shall give authority to the Minister to cause expenditure not previously sanctioned by Parliament. R.S., c. 70, s. 2.

834. The Minister shall, on the authority of the Governor in Council, from time to time, direct as many buoys, beacons and other marks to be placed in and about the various lakes, rivers, bays and harbours in Canada, as to him appears necessary for the safety of the shipping and convenient navigation of such lakes, rivers, bays and harbours respectively. R.S., c. 70, s. 4.

835. The Minister may,—

(a) appoint any keeper whose salary is two hundred dollars a year or less;
(b) make contracts for supplies or purchase supplies, for 2069

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the use of lighthouses, beacons, lightships, floating and other lights, lanterns and signals; and,

(c) generally do all such things as are necessary for carrying this Part fully into effect. 57-58 V., c. 41, s. 1.

836. The Minister may give any person a license authorizing such person to reside on Sable Island or St. Paul's Island, which license shall describe the person in whose favour it is so issued. R.S., c. 70, s. 6.

Powers of the Governor in Council.

837. The Governor in Council may appoint keepers whose salaries are over two hundred dollars a year, superintendents, and such other officers as are necessary for the purposes of this Part. 57-58 V., c. 41, s. 1.

838. The Governor in Council may, at any time, assign the construction and maintenance of lighthouses, lightships, fog-alarms, buoys and beacons to any other Minister of the Crown and his department; and, from the period appointed for that purpose by order in council, such duties and powers shall be transferred to and vested in such other Minister and his department. 55-56 V., c. 17, s. 4.

839. The Governor in Council may, from time to time, make regulations,—

(a) for the maintenance of buoys, beacons, anchors and marks vested in His Majesty;

(b) for the proper lighting and keeping of lighthouses, lightships, floating and other lights, lanterns and other signals;

(c) for the government of Sable Island and St. Paul's Island, and for defining the duties of the resident keepers thereon, for administering relief to shipwrecked persons and their removal, for preserving and removing shipwrecked property and preventing persons not authorized by the Minister from taking up their residence thereon, and for the general management of the said islands. R.S., c. 70, s. 10.

840. The Governor in Council may prescribe for any violation of the said regulations penalties not exceeding two hundred dollars. R.S., c. 70, s. 10.

Powers of the Superintendent and of the Keeper.

841. The superintendent, or the resident keeper or any officer of the Department of Marine, or any other person acting under the authority of the Minister, may apprehend any person residing on Sable Island or St. Paul's Island, having voluntarily
voluntarily gone there for any purpose whatever, without a license from the Minister, and bring him and all property found in his possession to Halifax, and any stipendiary magistrate, or police magistrate or two justices of the peace, upon proof that he was so found, may commit him to the common gaol for not more than six months, and further thereafter, until he gives security for his future good behaviour. R.S., c. 70, s. 6.

842. Whatever property is found on the said islands belonging to any such offender shall, by order of such magistrate or justices, be sold, and the proceeds applied to pay the expense of the removal of such offender and goods, and the residue, if any, returned to the owner: Provided that, if it appears that such property has been cast on the shores of the islands, or proceeds from some wrecked or stranded vessel, it shall be sold, and the proceeds, after payment of the expenses, paid to the owner or his agent, or, otherwise, be paid to the Minister of Finance for the owner when discovered, who shall, upon proof of his right thereto to the satisfaction of a judge of the Supreme Court of Nova Scotia, receive the same. R.S., c. 70, s. 6.

843. When vessels or goods are stranded on Sable Island or St. Paul's Island, or on any of the bars or coasts thereof, and such vessels or goods, or any part thereof, are saved by the superintendent or by any other officer of the Department of Marine, or by any person under the authority of the Minister, such vessels or goods shall be taken in charge by the superintendent or keeper, and sent to Halifax, to be disposed of under the direction of the Minister, for the benefit of the owners, after payment of such salvage as the Minister directs, to the establishment of Sable Island or St. Paul's Island, as the case may be, and all other expenses incurred with respect to such vessels or goods, unless the Minister gives contrary orders to the superintendent or keepers. R.S., c. 70, s. 7.

844. All goods so saved shall be held to be in possession of the Minister, and shall not, on any pretense, be taken out of the custody of such superintendent or keepers, or persons employed by either of them, except by order of the Minister, nor until payment of the salvage and expenses; and such goods shall be liable to duties of Customs. R.S., c. 70, s. 7.

845. The superintendent, or resident keeper, shall have and exercise in every respect, upon Sable Island and St. Paul's Island, and in relation to wrecks or wrecked goods there and elsewhere, the same power and authority as a justice of the peace. R.S., c. 70, s. 8.

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Jurisdiction

R.S., 1906.
In what counties such islands shall be deemed to be.

**Summary recovery of penalties.**

846. In all proceedings in any court, Sable Island shall be held to be within the county of Halifax, and St. Paul’s Island to be within the county of Victoria, in the province of Nova Scotia; and any person charged with committing any indictable offence committed thereon, or on the shores, banks or bars thereof, may be proceeded against and tried as if the islands were actually within the body of such counties respectively. R.S., c. 70, s. 9.

847. The penalties incurred under this Part may be recovered in the name of His Majesty, on the information of any officer of the Department of Marine and Fisheries, or any person employed by the Minister in carrying this Part or regulations made thereunder into effect, or of any person aggrieved, before any stipendiary magistrate, or police magistrate, or judge of the sessions of the peace, or two justices of the peace, under the provisions of the Criminal Code.

2. In default of payment of such penalty, such magistrate, judge or justices may commit the offender to gaol for any period not exceeding three months.

3. All such penalties shall be paid over to the Minister of Finance. R.S., c. 70, s. 11.

**PART XII.**

**PUBLIC HARBOURS AND HARBOUR MASTERS.**

**Interpretation.**

848. In this Part, unless the context otherwise requires,—

**(a)** ‘harbour master’ means a harbour master appointed under this Part;

**(b)** ‘port’ means a port to which this Part applies. R.S., c. 86, s. 2.

**Proclamation of Public Harbours.**

849. The Governor in Council may by proclamation,—

**(a)** declare to be a public harbour any area covered with water within the jurisdiction of the Parliament of Canada; and,

**(b)** extend the area of any existing public harbour in Canada.

2. Upon such proclamation being issued, all statutes, rules and regulations affecting such public harbour shall apply thereto as so extended. 57-58 V., c. 47, s. 1.

**Application.**

850. This Part applies to such ports only as are, from time to time, designated for that purpose by proclamation or are created.

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created public harbours by proclamation under this Part, but does not apply to the ports of Quebec, Montreal and Three
Exceptions. Rivers, in the province of Quebec, or to the port of Toronto, in the province of Ontario, or to the ports of Halifax and Pictou, in Nova Scotia, or to the port of St. John, in New Brunswick.
R.S., c. 86, s. 3; 57-58 V., c. 47, s. 2.

Appointment of Harbour Masters.

851. The Governor in Council may, from time to time, appoint a fit and proper person to be harbour master for any port to which this Part applies and may also appoint deputy harbour masters for any such port. 57-58 V., c. 50, s. 1.

No Pilot to be Harbour Master.

852. No licensed pilot shall be appointed to act or shall act as harbour master of any port, unless he first surrenders his license. R.S., c. 80, s. 43.

Rules and Regulations.

853. The Governor in Council may, from time to time, by regulation, define the rights, powers and duties of the harbour master in respect of the port for which he is appointed and determine his remuneration. R.S., c. 86, s. 6.

854. The Governor in Council may make rules and regulations for the government of any public harbour or port in Canada, but, in the case of the ports of Quebec, Montreal, Three Rivers, Toronto, Halifax, Pictou, and the port of St. John, in the province of New Brunswick, such rules and regulations as are inconsistent with any rule or regulation of any of these ports shall not be made, until application therefor from the local authorities in charge of the port has been received by the Governor in Council. 57-58 V., c. 47, s. 3.

855. The Governor in Council may by any such regulation impose,—

(a) a penalty, not exceeding in any case one hundred dollars, for any violation of the same; and,

(b) in the case of a continuing violation, a further penalty not exceeding, in any case, ten dollars for every twelve hours during which such violation continues. R.S., c. 86, s. 7; 57-58 V., c. 47, s. 4.

856. Every violation of any such regulation shall be deemed a violation of this Part, and every such penalty shall be held to be a penalty imposed by this Part, but no such regulation shall impose a minimum penalty. R.S., c. 86, s. 7; 57-58 V., c. 47, s. 4.

2073

Duties

R.S., 1906.
Duties of the Harbour Master.

857. The harbour master of any port shall furnish copies of regulations to every licensed pilot of the port who shall give one of such copies to the master of every ship which he takes in charge. R.S., c. 86, s. 8.

858. The harbour master of any port shall prosecute every person violating any such regulation. R.S., c. 86, s. 9.

859. Every harbour master shall be under the control of the Minister, and, shall, as soon as possible after the thirty-first day of December in each year, furnish the Minister with a report in writing on oath of his doings in office, and of the fees of office received by him during such year. R.S., c. 86, s. 5.

860. Each harbour master appointed under this Part shall direct and superintend the placing, maintaining and taking up of buoys in the port for which he is appointed, and perform such other services and duties connected with such port or harbour as he is directed to perform by the Minister or by the proper officer, without any additional remuneration beyond the amount allowed him out of fees received by him under this Part. R.S., c. 86, s. 10.

Fees.

861. The harbour master shall be remunerated for his services solely by the fees hereinafter mentioned, or such portion thereof as he is, from time to time, authorized to retain by the regulations made by the Governor in Council under this Part. R.S., c. 86, s. 11.

862. For and in respect of all ships entering a port to which this Part applies, and at which a harbour master is appointed, and discharging or taking in cargo, ballast, stores, wood or water, there shall be paid as fees,—

(a) for every ship of fifty tons register or under, fifty cents;
(b) for every ship over fifty tons and not over one hundred tons register, one dollar;
(c) for every ship over one hundred tons and not over two hundred tons register, one dollar and fifty cents;
(d) for every ship over two hundred tons and not over three hundred tons register, two dollars;
(e) for every ship over three hundred tons and not over four hundred tons register, two dollars and fifty cents;
(f) for every ship over four hundred tons and not over five hundred tons register, three dollars;
(g) for every ship over five hundred tons and not over seven hundred tons register, four dollars;

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(h) for every ship over seven hundred tons register, five dollars.  R.S., c. 86, s. 11.

863. Such fees shall also be payable for ships with cargo and steamers passing through or arriving at the harbours of Sorel, St. Johns, Three Rivers or Lachine, in the province of Quebec; and the Governor in Council may, from time to time, appoint a fit and proper person to be harbour master at each of the said harbours.  R.S., c. 86, s. 12.

864. Such fees shall not be payable for any ship more than twice in each calendar year, whatever is the number of ports at which she arrives or through which she passes, or the number of times of her arriving or passing; and shall be payable by the master of the ship to the harbour master immediately on her entering or arriving at the first and second ports where there is a harbour master; and the collector or principal officer of Customs thereat shall not grant any clearance, transire or let-pass to any ship on which they are payable, until the master thereof produces to him a certificate of the payment of such fees or certificates of the payment of fees under this Part, once or twice within the then current year, as the case requires.  R.S., c. 86, s. 13.

865. The salary or remuneration of each harbour master shall, from time to time, be fixed by the Governor in Council, but shall not exceed the rate of six hundred dollars per annum, and shall be subject to the provisions hereinafter contained.  R.S., c. 86, s. 14.

866. The harbour master of each port shall pay over, as soon as possible after the thirty-first day of December in each year, to the Minister of Finance, to form part of the Consolidated Revenue Fund, all moneys received by him for fees under this Part, during such year, after deducting therefrom the salary or remuneration fixed as aforesaid.

2. If the moneys received by him for fees in any year amount to a less sum than is so fixed, then such less sum shall be his salary or remuneration for that year.  R.S., c. 86, s. 15.

867. The harbour master of each port shall keep a book in which he shall enter, from day to day, the name of every ship, not exempt from the payment of fees under this Part, entering such port, the name of her master, her registered tonnage, the date of her entering the port and the sum, if any, received by him for his fee on her entering, which shall be at all times, during office hours, open to inspection by any person, on demand, without fee or reward.  R.S., c. 86, s. 16.

2075  Recovery

R.S., 1906.
Recovery of Penalties.

868. Every penalty incurred for any violation of any regulations made by the Governor in Council under this Part, may be recovered with costs by summary conviction under Part XV. of the Criminal Code and shall belong,—

(a) if the informer is not the harbour master, one-half to the informer, and the other half to His Majesty; and,

(b) if the informer is the harbour master, the whole to His Majesty. R.S., c. 86, s. 17.

PART XIII.

PORT WARDENS.

Interpretation.

869. In this Part, unless the context otherwise requires,—

(a) 'the harbour' means the harbour for which the port warden is appointed;

(b) 'the board of trade' or 'chamber of commerce' means the board of trade or chamber of commerce for the city or town or place adjoining the harbour for which the port warden is appointed. R.S., c. 85, s. 2.

Application.

870. This Part shall not apply to the ports of Quebec, or Montreal or St. John, in the province of New Brunswick. R.S., c. 85, s. 32.

Port Wardens and Deputies.

871. The Governor in Council may, from time to time, determine at what other ports in Canada port wardens shall be appointed. R.S., c. 85, s. 3.

872. At and for every port so determined, a port warden may be appointed who may appoint a deputy or deputies, for whose conduct as such he shall be responsible. R.S., c. 85, ss. 3 and 4.

873. Every provision of this Part relating to the port wardens shall be deemed to apply to every deputy he appoints. R.S., c. 85, s. 4.

Office, Books and Seal of the Port Warden.

874. The port warden shall, at his own expense, keep an office during the season of navigation, and shall have a seal of office and the necessary books in which all his acts as port warden.
warden shall be recorded, which books shall be open for inspection on payment of a fee of twenty-five cents. R.S., c. 85, s. 6.

**Duties and Powers of Port Wardens.**

875. The port warden shall, at the request of any person interested, proceed in person on board of any vessel for the purpose of examining the condition and stowage of her cargo; and, if there are any goods damaged on board of such vessel, he shall inquire, examine and ascertain the cause of such damage, and make a memorandum thereof, and enter the same in full on the books of his office. R.S., c. 85, s. 7.

876. The master of any vessel which has broken bulk for the purpose of lightening such vessel or other necessary purpose, previous to her arrival in any harbour for which there is then a port warden, shall, immediately on the discovery of any damaged cargo, proceed to have a survey held on the same in the manner prescribed in this Part, before the same is moved out of the place in which it was originally stowed. R.S., c. 85, s. 8.

877. If, after the arrival in port of any vessel from beyond the seas, or from a passage over any of the great lakes contiguous to the province of Ontario, which has not had occasion to lighten, break bulk, or otherwise discharge any portion of her cargo before coming into the harbour, the hatches of such vessel have been first opened by any person not a port warden and the cargo or any part thereof comes from on board such ship in a damaged condition, such facts shall be *prima facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel; and such default shall, until the contrary is shown, be chargeable to the owner, master or other person interested as part owner or master of the said vessel. R.S., c. 85, s. 8.

878. The port warden shall, when required, proceed to any ship, steamer or other vessel, warehouse, dwelling or wharf, and examine any merchandise, vessel, material, produce or other property said to have been damaged on board of any vessel, and inquire, examine and ascertain the cause of such damage, make a memorandum thereof, and of such property, and record, in the books of his office a full and correct statement thereof. R.S., c. 85, s. 9.

879. The port warden shall, when required,—

(a) be surveyor on any vessel which has suffered wreck or damage, or which is deemed unfit to proceed on her voyage;

(b) examine the hull, spars, rigging and all appurtenances thereof;

(c) R.S., 1906.
(c) specify what damage has occurred;
(d) record, in the books of his office, a full and particular
account of all surveys held on such vessel.

2. The port warden shall call to his assistance, if necessary,
in such survey, one or more carpenters, sail makers, riggers,
shipwrights or other persons skilled in their calling. R.S.,
c. 85, s. 10.

880. The port warden shall also, if required, be surveyor
of the repairs necessary to render such vessel seaworthy, and
his certificate that such repairs have been properly made shall
be evidence that the vessel is seaworthy. R.S., c. 85, s. 10.

881. The port warden shall have cognizance of all matters
relating to the surveys of vessels and cargoes arriving in port
damaged, and, when requested, shall, on payment of the regular
fee, give certificates of such surveys. R.S., c. 85, s. 11.

882. The master of any vessel intending to load grain in
bulk, for any port not within the limits of inland navigation
and not within Canada, shall, before taking in any of such
grain, notify the port warden, from time to time, while the
different chambers are being prepared, to survey and inspect
the said vessel as well as the dunnage and lining boards.

2. The port warden shall, in such case, ascertain whether
such vessel is in a fit state to receive and carry the cargo in-
tended for her to its destination, and record in his books the
condition of the vessel; and, if he finds she is not fit to carry
the cargo in safety, he shall record a statement of what repairs
are necessary to render her seaworthy.

3. Before beginning to load each chamber, he shall see that
it is properly dunnaged and lined and provided with shifting
boards, and shall also see that the boards and planks used for
such purposes have been properly seasoned, examine the pumps,
see that they are properly lined and dunnaged, enter in the
books of his office all particulars connected with such surveys,
and grant the necessary certificates. R.S., c. 85, s. 12.

883. The port warden shall, when required, decide what
amount of dunnage is necessary to be placed below the cargo,
and also between wheat or other grain, and the flour stowed
over it.

2. His certificate that such dunnage has been used shall be
prima facie evidence of the good stowage of the cargo so far as
these facts are concerned. R.S., c. 85, s. 13.

884. The master of any vessel wholly or partly laden with
grain bound to any port not within the limits of inland naviga-
tion or within Canada, shall, before proceeding on his voyage,
or clearing at the Custom-house, notify the port warden, who
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shall then proceed on board such vessel, and examine whether she is in a fit state to proceed to sea or not.

2. If she is found unfit, the port warden shall state in what particulars, and on what condition only she will be deemed in a fit state to leave, and shall notify the master not to leave the port until the required conditions are fulfilled. R.S., c. 85, s. 14.

885. If the master refuses or neglects to fulfil such conditions, the port warden shall notify the collector of Customs, in order that no clearance may be granted for the vessel until the same are fulfilled, and a certificate to that effect is granted by the port warden. R.S., c. 85, s. 14.

886. No officer of Customs shall grant a clearance to any vessel wholly or partly loaded with grain, for the purpose of enabling her to leave the harbour for any port not within the limits of inland navigation and not within Canada, unless the master of such vessel produces to him a certificate from the port warden, that all the requirements of this Part have been fully complied with, if such grain is laden in bulk, or if such vessel is wholly or partly laden with grain otherwise than wholly or partly in bulk. R.S., c. 85, s. 15.

887. If any vessel wholly or partly loaded with grain attempts to leave the harbour for any port not within the limits of inland navigation and not within Canada, without a clearance, any officer of Customs, or the chief officer of the river police, or any person acting under the direction of the Minister, may detain such vessel until such certificate is produced to him. R.S., c. 85, s. 15.

888. The port warden shall, when required, estimate the value and measurement of any vessel, when the same is in dispute or otherwise needed, and shall record the same in the books of his office. R.S., c. 85, s. 16.

889. Every auctioneer who makes a sale of any condemned vessel, or ship's materials, or goods damaged on board a ship or vessel, whether sea-going or navigating inland waters, sold for the benefit of underwriters or others concerned, in any harbour for which there is a port warden, shall file a statement of the same at the office of the port warden, within ten days after such sale. R.S., c. 85, s. 17.

890. No such sale shall take place until after at least two days' public advertisement or notice is given, and such sale shall not take place at an hour earlier than eleven o'clock in the forenoon, or later than three o'clock in the afternoon. R.S., c. 85, s. 17.

891. R.S., 1906.
891. The port warden, when required in writing by all parties in interest, shall hear and arbitrate upon any difficulty or matter in dispute between the master or consignee of any vessel and any proprietor, shipper or consignee of the cargo, and shall keep a record of the proceedings. R.S., c. 85, s. 18.

892. No goods, vessels or other property at a place where there is a port warden shall be sold as damaged for the benefit of underwriters or others concerned, unless there has been a regular survey and condemnation; and the port warden shall, in all such cases, be one of the surveyors. R.S., c. 85, s. 19.

893. Before proceeding to act in any case in the performance of his duties, the port warden shall give reasonable notice, when practicable, to all parties interested or concerned in the case. R.S., c. 85, s. 20.

894. All notices, requests or requirements to or from the port warden, shall be given in writing a reasonable time before action is required or taken. R.S., c. 85, s. 21.

895. If the consignee of a vessel or cargo, or other person upon whose requisition any proceedings should be taken under this Part, cannot be found or cannot be communicated with by the port warden before or at the time at which it is necessary that such proceeding should be taken to avoid loss or damage to the persons interested in such vessel or cargo, the port warden may initiate proceedings in such case and hold surveys and obtain process under this Part, as if required by the proper persons under this Part. R.S., c. 85, s. 22.

896. If any dispute arises between the port warden and any person interested in any case where his presence has been required, either party may appeal to the council of the board of trade or chamber of commerce, if there is one at the port.

1. The secretary of such board of trade or chamber, shall in any such case summon forthwith a meeting of the said council upon being required so to do by either of the said parties; and the council, or not less than three members thereof, shall immediately investigate and report on the case submitted to them.

2. The determination of a majority investigating such case made in writing, shall be final and conclusive. R.S., c. 85, s. 23.

897. The person against whom the council of the board of trade or chamber of commerce decides, shall pay all the expenses; and the council shall determine the amount of fees or charges payable in each case; but such fees and charges shall never exceed twenty dollars. R.S., c. 85, s. 24.

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898. In all matters regarding surveys and other matters concerning the value, state or classification of vessels and like subjects, the port warden shall conform to and be governed by the regulations of Lloyds, so far as they are applicable to the circumstances of the case. R.S., c. 85, s. 29.

899. The port warden shall, within seven days after the thirty-first day of December in each year, make to the Minister a certified annual return of the receipts and expenses of his office and a report of the proceedings therein. R.S., c. 85, s. 5.

Rules and Regulations.

900. The port warden shall perform such other duties as are assigned to him, from time to time, by regulations made by the Governor in Council and the council of the board of trade or chamber of commerce may, from time to time, make suggestions to the Governor in Council with respect to any such other duties, or any modification of the duties in this Part assigned to the port warden for the harbour; and such other duties may be assigned or such modification made by the Governor in Council accordingly.

2. Every regulation made under this Part shall have the force of law. R.S., c. 85, s. 25.

Certificates and Copies.

901. On the demand of any person interested, the port warden shall furnish certificates in writing, under his hand, of any matters of record in his office; and he shall also furnish, when required, copies of any entries in his books or documents filed in his office, upon payment of a reasonable compensation. R.S., c. 85, s. 26.

902. All certificates issued under the hand of the port warden and sealed with the seal of his office, referring to matters recorded in his books, shall be received as prima facie evidence of the existence and contents of such record in any court of justice. R.S., c. 85, s. 27.

903. On application, the port warden shall supply, once in each year, to any master of a vessel arriving in the harbour, a copy of the regulations relating to the office of port warden. R.S., c. 85, s. 28.

Fees.

904. The port warden shall receive no fees other than such as strictly appertain to the business of his office.

2. All such fees shall be entered in his books. R.S., c. 85, Entry of.

905. R.S., 1906.
905. Each of the inspectors called by any port warden to assist him in the survey of any vessel which has suffered wreck or damage, or which is deemed unfit to proceed on her voyage, shall be entitled to a fee not exceeding five dollars; but no such surveyor shall act in any case in which he is interested. R.S., c. 85, s. 10.

906. The council of the board of trade or chamber of commerce, if there is one at the port, may, from time to time, establish a tariff of fees, not to exceed the rates mentioned in the next following section, to be paid to the port warden for services performed by him and his deputies by the masters or owners of sea-going vessels and by the others in respect of whom the duties of the said port warden are required to be performed, which tariff shall be subject to the approval of the Governor in Council. R.S., c. 85, s. 30.

907. When there is no board of trade or chamber of commerce, the Governor in Council shall make such tariff; but such fees shall not exceed the rates hereinafter mentioned, that is to say:—

(a) For every survey and the certificate thereof by the port warden and his assistant, of the hatches and cargo of any vessel, or of the hull, spars and rigging thereof, or of damaged goods, a fee not exceeding eight dollars; and such further sum, not exceeding five dollars, as is payable to each shipwright or other skilled person employed by him;

(b) For every valuation of a vessel for average, and every inspection of a vessel intended to load, a fee to be graduated according to the tonnage of such vessel, but in no case to exceed ten dollars;

(c) For hearing and settling disputes of which the port warden is authorized to take cognizance, and for the fees on appeal to the council of the board of trade or chamber of commerce, a sum to be graduated according to the value of the thing or the amount in dispute, but in no case to exceed twenty dollars. R.S., c. 85, s. 30.

908. The foregoing maximum rates, including the fees for incidental proceedings, certificates and copies, may be altered and apportioned, and the particular service distinguished, and the fee therefore assigned, and the person by whom the same shall be paid may be indicated in such a way as the council of the board of trade or chamber of commerce, from time to time, appoints.

2. All rates and fees so established shall be subject to the approval of the Governor in Council, who may from time to time, disallow or alter such rates and fees. R.S., c. 85, s. 30.

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Offences and Penalties.

909. (a) Every master of a vessel intending to load grain
in bulk for any port not within the limits of inland navi-
gation and not within Canada who, before taking in any
of such grain, fails to notify the port warden, from time to
time, while the different chambers are being prepared, to
survey and inspect the said vessel as well as the dunnage
and lining boards; and,

(b) Any such port warden who, in such case, fails to ascer-
tain whether such vessel is in a fit state to receive and carry
the cargo intended for her to its destination, or to record in
his books the condition of the vessel, if he finds she is not
fit to carry the cargo in safety, and a statement of what
repairs are necessary to render her seaworthy, or to see
before beginning to load that each chamber is properly
dunnaged and lined, and provided with shifting boards, and
that the boards and planks used for such purposes have
been properly seasoned, or to examine the pumps and see
that they are properly lined and dunnaged, or to enter in
the books of his office all particulars connected with such
surveys, and grant the necessary certificates; and,

(c) Every master of any vessel wholly or partly laden with
grain bound to any port not within the limits of inland
navigation or within Canada, who before proceeding on
his voyage, or clearing at the Custom-house, fails to notify
the port warden, or to fulfil the conditions under which his
ship shall be in a fit state to leave, as stated by the port
warden; or,

(d) Every such port warden who, upon such notification, fails
to proceed on board such vessel, examine whether she is in
a fit state to proceed to sea or not, and, if she is found unfit,
to state in what particulars, and on what conditions only
she will be deemed in a fit state to leave, or to notify the
master not to leave the port until the required conditions
are fulfilled, and, if the master refuses or neglects to fulfil
such conditions, to notify the collector of Customs in order
that no clearance may be granted for the vessel until the
same are fulfilled, and a certificate to that effect is granted
by the warden;

shall incur a penalty of eight hundred dollars. R.S., c. 85, Penalty.
ss. 12 and 14.

910. Every auctioneer who makes a sale of any condemned
vessel, or ship's materials, or goods damaged on board a ship or
vessel, whether sea-going or navigating inland waters, sold for
the benefit of underwriters or others concerned, in any harbour
for which there is a port warden, who causes such sale to take
place without at least two days' public advertisement or notice
is given, or at an hour earlier than eleven o'clock in the fore-
noon, or later than three o'clock in the afternoon, or, in case of
131½ sale, 2083 R.S., 1906.

Auctioneer failing in his duty as re-
gards auction

of condemn-
ed vessels,

etc.

Failure of

Master loading

grain in

bulk failing to notify

port warden.

Failure of

port warden
to ascertain

state of

vessel.

Failure of

master of

vessel laden

with grain
to notify

port warden.

Port warden
failing to
examine
vessel.
sale, fails to file a statement thereof at the office of the port
warden within ten days after such sale, shall incur a penalty of
twenty dollars. R.S., c. 85, s. 17.

Penalty.

911. The whole of any penalty recovered under this Part
shall belong to the Crown, and shall be paid over to the Minister
of Finance by the officer or person receiving it. R.S., c. 85,
s. 31.

PART XIV.

NAVIGATION OF CANADIAN WATERS.

Interpretation.

912. In this Part, unless the context otherwise requires,—
(a) 'vessel' includes every description of vessel used in
navigation;
(b) 'steamship' or 'steamboat' includes every vessel pro-
pelled wholly or in part by steam or by any machinery
or power other than sails or oars;
(c) 'ordinary practice of seamen,' as applied to any case,
means and includes the ordinary practice of skilful and
careful persons engaged in navigating the waters of Canada
in like cases;
(d) 'owner' includes the lessee or charterer of any vessel
having the control of the navigation thereof. R.S., c. 79,
s. 1.

Regulations for Preventing Collisions and for Distress Signals.

913. The regulations with respect to lights, fog-signals,
steering and sailing and rafts, at present in force, shall con-
tinue to apply, to all the rivers, lakes and other navigable waters
within Canada, or within the jurisdiction of the Parliament
thereof: Provided that,—

(a) if His Majesty, acting on the joint recommendation of
the Admiralty and the Board of Trade, by order in council,
has annulled or modified, or annuls or modifies any of the
regulations for preventing collision on navigable waters
which, by order of Her late Majesty in Council of the
twenty-seventh day of November of the year one thousand
eight hundred and ninety-six, were substituted for those
theretofore in force for like purposes in the United King-
dom, or has made or makes new regulations in addition
thereof or in substitution therefor, the Governor in Council
may from time to time make corresponding changes, as
respect Canadian waters, in said regulations hereby con-
tinued in force, or suspend such or any of such regulations,
and make others in their stead, or may revive all or any

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of the said regulations, as he deems best, for ensuring the correspondence of the regulations of His Majesty in Council with those of the Governor in Council; and,

(b) the Governor in Council may repeal the whole or any part of such regulations so far as they apply to the inland waters of Canada, and may make new regulations to be in force in such inland waters and may direct to what inland waters such regulations shall apply.

2. All such regulations shall be published in the Canada Gazette. R.S., c. 79, ss. 2 and 14; 4 E. VII., c. 26, s. 1.

Local By-laws.

914. No rule or by-law of the Harbour Commissioners of Montreal, or the Trinity House of Quebec, or the Quebec Harbour Commissioners, or other local rule or by-law, inconsistent with this Part, or the regulations from time to time in force thereunder, as provided by the last preceding section, shall be of any force or effect; but, so far as it is not inconsistent therewith, any such rule or by-law made by the said Harbour Commissioners of Montreal or Trinity House of Quebec, or the Quebec Harbour Commissioners, or other competent local authority, shall be of full force within the locality to which it applies. R.S., c. 79, s. 3.

915. All owners, masters and persons in charge of any ship, vessel or raft, shall obey the regulations in force for the time being, under this Part, and shall not carry and exhibit any other lights, or use any other lights or any other fog-signals than such as are required by the said regulations. R.S., c. 79, s. 4.

916. If, in any case of collision, it appears to the court before which the case is tried, that such collision was occasioned by the non-observance of any of such regulations, the vessel or raft by which such regulations have been violated shall be deemed to be in fault, unless it can be shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said regulations necessary. R.S., c. 79, s. 5.

917. If any damage to person or property arises from the non-observance by any vessel or raft of any of the said regulations, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of such raft, or of the deck of such vessel at the time, unless the contrary is proved, or it is shown to the satisfaction of the court that the circumstances of the case rendered a departure from the said regulations necessary.

2. The owner of the vessel or raft, in all civil proceedings, and the master or person in charge as aforesaid, or the owner, if it appears that he was in fault, in all proceedings, civil or criminal.

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criminal, shall be subject to the legal consequences of such default. R.S., c. 79, s. 6.

Cases where both vessels are in fault.

918. In any cause or proceeding for damages arising out of a collision between two vessels, or a vessel and a raft, if both vessels or both the vessel and the raft are found to have been in fault, the rules in force in His Majesty’s High Court of Justice, in England, so far as they are at variance with the rules in force in the courts of common law, shall prevail, and the damages shall be borne equally by the two vessels, or the vessel and the raft, one-half by each. R.S., c. 79, s. 7.

Foreign Ships.

919. Whenever foreign ships are within Canadian waters the regulations for preventing collisions in force for the time being under the provisions of this Part, and all provisions of this Part relating to such rules, or otherwise relating to collisions, shall apply to such foreign ships; and, in any case arising in any court of justice in Canada concerning matters happening within Canadian waters, foreign ships shall, so far as regards such regulations and provisions, be treated as if they were British or Canadian ships. R.S., c. 79, s. 9.

Duty of Masters; Liability of Owners of Ships.

920. In every case of collision between two ships, the person in charge of each ship shall, if and so far as he can do so without danger to his own ship and crew, render to the other ship, her master, crew and passengers such assistance as is practicable and as is necessary in order to save them from any danger caused by such collision, and shall also give to the master or other person in charge of the other ship the name of his own ship and of her port of registry, or of the port or place to which she belongs, and also the names of the ports and places from and to which she is bound; and if he fails so to do, and no reasonable excuse for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect or default. R.S., c. 79, s. 10.

921. The owners of any ship, whether British, Canadian or foreign, shall not, whenever without their actual fault or privity,—

(a) any loss of life or personal injury is caused to any person being carried in such ship; or,
(b) any damage or loss is caused to any goods, merchandise or other things whatsoever on board any such ship; or,
(c) any loss of life or personal injury is, by reason of the improper navigation of such ship as aforesaid, caused to any person in any other ship or boat; or,

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(d) any loss or damage, is, by reason of the improper navigation of such ship as aforesaid, caused to any other ship or boat, or to any goods, merchandise or other things whatsoever on board any other ship or boat; be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise or other things, or in respect of loss or damage to ships, goods, merchandise or other things, whether there is in addition loss of life or personal injury or not, to an aggregate amount exceeding thirty-eight dollars and ninety-two cents for each ton of the ship's tonnage. R.S., c. 79, s. 12.

922. The tonnage for the purposes of the last preceding section shall be,—

(a) in the case of sailing ships, the registered tonnage; and,

(b) in the case of steamships, the gross tonnage without deduction on account of engine room. R.S., c. 79, s. 12.

923. The measurement of such tonnage shall be,—

(a) in the case of a British ship, according to British law;

(b) in the case of a Canadian ship, according to Canadian law;

(c) in the case of a foreign ship, according to Canadian law, if capable of being so measured, and, if not so capable, then according to British law.

2. In the case of any foreign ship, which is incapable of being measured under Canadian or British law, the Deputy Minister shall, on receiving from or by the direction of the court hearing the case, such evidence concerning the dimensions of the ship, as it is found practicable to furnish, give a certificate under his hand stating what would, in his opinion, have been the tonnage of such ship if she had been duly measured according to Canadian law; and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship. R.S., c. 79, s. 12.

Offences and Penalties.

924. Every owner, master or person in charge of any ship, vessel, or raft who wilfully omits to obey the regulations in force for the time being under this Part, or to carry, exhibit or use any of the lights or fog-signals as are required by the said regulations, and every owner of any such ship, vessel, or raft, if it appears that he was in fault, in respect of any such omission, shall, for each occasion on which any of the said regulations is violated, incur a penalty not exceeding two hundred dollars and not less than twenty dollars. R.S., c. 79, s. 4.

925. Every master or person in charge of a British or Canadian ship who, in case of collision, fails without reasonable cause to render assistance in cases R.S., 1906.
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of collision, or give information.

Penalty.

able cause to render such assistance, or to give such information as is required by this Part, is guilty of an indictable offence, and, if the person so offending is a certificated officer under Canadian authority, an inquiry into his conduct may be held and his certificate may be cancelled or suspended. R.S., c. 79, s. 11.

Recovery of penalties.

926. Unless in this Part otherwise provided, all penalties incurred thereunder may be recovered in the name of His Majesty, by an inspector of steamboats, or by any person aggrieved by any act, neglect or wilful omission by which the penalty is incurred, on summary conviction, before two justices of the peace.

2. In default of payment of such penalty, such justices may commit the offender to gaol for any term not exceeding three months. R.S., c. 79, s. 8.

Imprisonment.

Penalties sued for as for violation of by-laws of Harbour Commissioners of Quebec or Montreal.

927. All penalties incurred for any offence against this Part, shall, if such offence is committed within the jurisdiction of the Quebec Harbour Commissioners, or of the Harbour Commissioners of Montreal, be sued for, recovered, enforced and applied in like manner as penalties imposed for the violation of the by-laws of the said harbour commissioners within whose jurisdiction the offence is committed. R.S., c. 79, s. 8.

Application of penalties.

928. Except as aforesaid, all penalties recovered under this Part shall be paid over to the Minister of Finance, and shall be by him placed at the credit of and shall form part of the Steamboat Inspection Fund. R.S., c. 79, s. 8.

General.

929. Insurances effected against any loss of life or personal injury, or loss or damage to any goods, merchandise, or other things on board any ship, whether British, Canadian or foreign, and occurring without actual fault or privity of the owners of such ship shall not be invalid by reason of the nature of the risk,—

(a) when such loss of life or personal injury is caused to any person being carried in such ship; or,

(b) when such damage or loss is caused to any goods, merchandise or other things whatsoever on board any such ship; or,

(c) when such loss of life or personal injury is, by reason of the improper navigation of such ship as aforesaid, caused to any person in another ship or boat; or,

(d) when such loss or damage is, by reason of the improper navigation of such ship, caused to any other ship or boat, or to any goods, merchandise or other things whatsoever on board any other ship or boat. R.S., c. 79, s. 13.

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Part XV. Shipping.

Chapter 113.

Part XV.

Deck and Load Lines.

Interpretation.

930. In this Part, unless the context otherwise requires,—

(a) 'certificate' means a certificate issued under and for the purposes of this Part;

(b) 'ship subject to this Part' includes every ship leaving a port or place in Canada for any other port or place on the salt-water coast of Canada or in the river St. Lawrence below Quebec, or leaving a port or place in Canada for any port or place out of Canada, not being a port or place on any inland water;

(c) 'amidships' means the middle of the load water-line as measured from the fore side of the stem to the aft side of the stern post. 54-55 V., c. 40, s. 2.

Application.

931. This Part shall not apply to ships,—

(a) belonging to His Majesty; or,

(b) registered elsewhere than in Canada; or,

(c) registered in Canada under one hundred and fifty tons register tonnage; or,

(d) registered in Canada marked as regards deck and load lines according to the requirements of the Merchant Shipping Act, 1894. 54-55 V., c. 40, s. 3.

932. Notwithstanding anything contained in the last preceding section, the Governor in Council may direct that any ship or class of ships registered elsewhere than in Canada, but leaving a port or place in Canada for any other port or place on the salt-water coast of Canada or in the river St. Lawrence below Quebec, or leaving a port or place in Canada for any port or place out of Canada, not being a port or place on any inland water, shall be subject to this Part. 54-55 V., c. 40, s. 4.

Deck Lines.

933. Every ship subject to this Part shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

2. The upper edge of each of these lines shall be level with the upper side of the deck plank next the waterway at the place of marking.

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3. The lines shall be white or yellow on a dark ground, or black on a light ground. 54-55 V., c. 40, s. 5.

Load Line.

Load line. 934. With respect to the marking of a load line on ships subject to this Part,—

(a) the owner of every ship shall, before clearing his ship or entering her outwards from any port or place in Canada, cause a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre, to be marked on each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground or in black on a light ground: and,

(b) the centre of this disc shall be placed at such a level below the deck line marked under this Part as is approved by the owner or master of the ship, and by a surveyor of British Lloyds, or a surveyor of French Bureau Veritas, or any port warden duly appointed by the Governor in Council, and shall indicate the maximum load line in saltwater to which the ship may be lawfully loaded.

Preservation of mark. 2. When a ship has been marked as by this section required she shall be kept so marked until her next return to a port of discharge in Canada.

Re-marking. 3. A ship may, at the option of her owner, be re-marked at any time in Canada, or in a port in the United Kingdom under the provisions of the Merchant Shipping Act, 1894.

Not to clear unmarked, etc. 4. No ship subject to this Part shall clear or proceed on any voyage without a load line being marked on her or with more than one load line marked on her. 54-55 V., c. 40, s. 7.

Disputes.

Settlement of disputes. 935. Any matter in dispute between the owner or the master of the ship, and a surveyor of British Lloyds, or a surveyor of French Bureau Veritas or any port warden appointed by the Governor in Council, in regard to the marking of the load line, shall be referred to the Minister, who may decide the matter, or may refer it to a person skilled in the construction or surveying of ships, and in either event the decision of the Minister or of such skilled person shall be final.

Decision how rendered. 2. When the matter in dispute has been referred by the Minister to a skilled person, such person shall render his decision in writing to the Minister and the owner or master of the ship, and to such other person as is, under this Part, a party to such dispute. 54-55 V., c. 40, s. 10.

Fees.

Fees payable by master. 936. Any surveyor of British Lloyds, or of French Bureau Veritas, or any port warden associated with an owner or master of

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of a ship under this Part for the purposes of marking load line, shall receive from the owner or the master of the ship a fee of four dollars, and in addition thereto any travelling expenses actually and necessarily paid by him for the purposes aforesaid.

2. Such person may refuse to sign the certificate hereinafter mentioned until such fee and expenses have been paid.

3. Any skilled person to whom the Minister refers a matter in dispute under the last preceding section shall receive a fee of four dollars from the owner or the master of the ship, and in addition thereto any travelling expenses actually and necessarily paid by him under this Part, and may withhold his decision until such fee and expenses have been paid. 54-55 V., c. 40, s. 11.

Certificates.

937. When the load line required by this Part has been marked on a ship, the persons who, under this Part, determined the position of the said line, shall make and sign, in triplicate, a certificate stating that the ship is marked in accordance with the requirements of this Part, and such certificate shall be in such form and contain such other particulars as the Minister approves. 54-55 V., c. 40, s. 12.

938. When such certificate has been made and signed, one triplicate shall be retained by the owner or the master of the ship, one shall be delivered to the Customs officer who clears the ship, and one shall be forwarded to the Minister. 54-55 V., c. 40, s. 13.

939. No officer of Customs shall grant a clearance to any ship subject to this Part until he has had produced before him the triplicate of such certificate, or, in the case of a ship herein otherwise provided for, satisfactory evidence that such ship was marked in the United Kingdom, as regards deck and load lines, according to the requirements of the Merchant Shipping Act, 1894. 54-55 V., c. 40, s. 14.

940. After a ship has been marked according to the requirements of this Part and returns to a port in Canada with the marks unchanged, the officer of Customs who afterwards clears such ship shall, before clearing her, require the production of the triplicate certificate retained by the owner or master under this Part, and shall require the owner or master to make an affidavit to the effect that the deck and load lines so marked have not been altered, removed or defaced since the date of the certificate.

2. If such ship has been marked in the United Kingdom, satisfactory certificate of foreign marking, according to the requirements of the Merchant Shipping Act, 1894, such officer of Customs shall, before clearing her, require R.S., 1906.
satisfactory evidence that such ship was so marked, and shall require from the owner or master an affidavit to the effect that the said marks have not been altered, removed or defaced after such ship was last so marked in the United Kingdom.

3. No officer of Customs shall grant a clearance to any such ship until such certificate or the evidence aforesaid has been produced and the said affidavit has been made. 54-55 V., c. 40, s. 14.

**Penalties.**

**941.** Any owner or master of a ship subject to this Part, who neglects to cause his ship to be marked with deck lines as required by this Part or to keep her so marked, and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate the said marks, except for the purpose of escaping capture by an enemy, shall, for each offence, be liable to a penalty not exceeding five hundred dollars.

2. If the said marks are in any way inaccurate, so as to be likely to mislead, the owner or the master of the ship shall be liable to a penalty not exceeding five hundred dollars. 54-55 V., c. 40, s. 6.

**942.** Any owner or master who neglects to cause his ship to be marked with a load line as required by this Part, or who allows the ship to be so loaded as to submerge in salt water the centre of the disc, and any person who conceals, removes, alters, defaces or obliterates, or suffers or causes any person under his control to conceal, remove, alter, deface or obliterate any of such marks, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy, shall, for each offence, be liable to a penalty not exceeding five hundred dollars. 54-55 V., c. 40, s. 8.

**943.** If any mark required by this Part is, in any respect, inaccurate, so as to be likely to mislead, the owner of the ship shall be liable to a penalty not exceeding five hundred dollars. 54-55 V., c. 40, s. 9.

**944.** Any person who clears or attempts to clear, or who takes or attempts to take to sea, any ship subject to this Part, before all the requirements of this Part have been complied with, shall be liable to a penalty not exceeding five hundred dollars.

2. Such ship shall be liable for such penalty and may be seized and detained by any chief officer of Customs wherever and whenever found in Canada until the said penalty and the costs and expenses of the seizure have been paid. 54-55 V., c. 40, s. 14.

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945. Every person who makes, or procures to be made, or assists in making any false representation, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered any certificate or evidence required by this Part for the purpose of obtaining a clearance for any ship subject to this Part, is guilty of an indictable offence and liable to a fine not exceeding five hundred dollars, or to one year's imprisonment, or to both such fine and imprisonment. 54-55 V., c. 40, s. 15.

946. All penalties incurred under this Part may be recovered with costs in a summary manner under Part XV. of the Criminal Code. 54-55 V., c. 40, s. 16.

947. All penalties recovered under this Part shall be paid over to the Minister of Finance to form part of the Consolidated Revenue Fund of Canada. 54-55 V., c. 40, s. 17.

948. Any information or complaint in respect of any offence against this Part may, whenever the prosecution, suit or proceeding is instituted under Part XV. of the Criminal Code, be laid or made within twelve months of the time when the matter of the information or complaint arose. 54-55 V., c. 40, s. 18.

949. No prosecution under this Part shall be instituted except by or with the consent of the Minister. 54-55 V., c. 40, s. 19.

Commencement of Part.

950. This Part shall not take effect until His Majesty, by order in council published in the Canada Gazette, has made the declaration prescribed under section four hundred and forty-four of the Merchant Shipping Act, 1894, nor until a proclamation bringing it into effect has been also published in the Canada Gazette. 54-55 V., c. 40, s. 21.

Repeal.

951. Whereas by section seven hundred and thirty-five of the Merchant Shipping Act, 1894, it is enacted and provided that the legislature of any British possession shall have power, by any act or ordinance confirmed by His Majesty in Council, to repeal wholly or in part any provisions of the said Act relating to ships registered in such possession, so much of the said Act and of any amending Act as is inconsistent with this Part, is hereby repealed, so far as relates to ships registered in Canada. 54-55 V., c. 40, s. 20.
Definitions.

'British ship.'

'Coasting trade of Canada.'

952. In this Part, unless the context otherwise requires,—

(a) 'British ships' means and includes all ships belonging wholly to persons qualified or entitled to be owners of British ships under the provisions of the Merchant Shipping Act, 1894, or any other Act of the Parliament of the United Kingdom in that behalf, in force for the time being;

(b) 'the coasting trade of Canada' includes the carriage by water of goods or passengers from one port or place in Canada to another port or place in Canada. 2 E. VII., c. 7, s. 1.

General.

953. No foreign built British ship, whether registered in Canada or elsewhere, as a British ship, after the first day of September, one thousand nine hundred and two, shall be entitled to engage or take part in the coasting trade of Canada unless such foreign built ship has first obtained a license for that purpose, which may be granted by the Minister of Customs. 2 E. VII., c. 7, s. 2.

954. The Minister of Customs shall issue such license to any such foreign-built British ship upon application therefor and upon the payment of a duty of twenty-five per centum ad valorem on the fair market value of the hull, rigging, machinery, boilers, furniture and appurtenances of such ship. 2 E. VII., c. 7, s. 2.

955. No goods or passengers shall be carried by water, from one port of Canada to another, except in British ships.

2. If any goods or passengers are so carried, contrary to this Part, the master of the ship or vessel so carrying them shall incur a penalty of four hundred dollars; and any goods so carried shall be forfeited, as smuggled.

3. Such ship or vessel may be detained by the collector of Customs at any port or place to which such goods or passengers are brought, until such penalty is paid, or security for the payment thereof given to his satisfaction, and until such goods are delivered up to him, to be dealt with as goods forfeited under the provisions of the Customs Act. 2 E. VII., c. 7, s. 3.

956. The master of any steam vessel, not being a British ship, engaged or having been engaged in towing any ship, vessel or raft, from one port or place in Canada to another, except in case of distress, shall incur a penalty of four hundred dollars; 2094 and

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and such steam vessel may be detained by the collector of Customs at any port or place to or in which such ship, vessel or raft is towed, until such penalty is paid. 2 E. VII., c. 7, s. 4.

957. Penalties and forfeitures under this Part may be recovered and enforced in the manner provided by the Customs Act, with respect to penalties and forfeitures incurred under it, and as if imposed by it; and this Part shall accordingly be construed with reference to the said Act, and as forming one Act with it, and all words and expressions in this Part shall have the same meaning as the like words and expressions in the Customs Act. 2 E. VII., c. 7, s. 5.

958. The Governor in Council may, from time to time, declare that the foregoing provisions of this Part shall not apply to the ships or vessels of any foreign country in which British ships are admitted to the coasting trade of such country, and to carry goods and passengers from one port or place to another in such country. 2 E. VII., c. 7, s. 6.

959. Where, by treaty made before the thirteenth day of May, one thousand eight hundred and sixty-nine, Her late Majesty, Queen Victoria, agreed to grant to any ships of any foreign state such rights or privileges in respect of the coasting trade of Canada, those rights and privileges shall be enjoyed by those ships for so long as Her late Majesty agreed, or His Majesty the King may hereafter agree, to grant them. 2 E. VII., c. 7, s. 7.

960. The Governor in Council may grant yearly coasting licenses to British vessels navigating the inland waters of Canada, above Montreal, and may direct that a fee of fifty cents shall be payable for each such license, and that the master or person in charge of any vessel navigating the said waters, and not having a coasting license, shall, on entering any port in Canada, with such vessel, pay a fee of fifty cents, if such vessel is not over fifty tons burthen, and of one dollar, if she is more than fifty tons burthen, to the collector on each entry, and a like fee of fifty cents, or one dollar, according to the burthen of the vessel, on each clearance of such vessel at any port; and such fee shall be payable accordingly before such vessel shall be entered or cleared: Provided that,—

(a) the Governor in Council may reduce or readjust such fees, but may not increase them beyond the amount hereby fixed; and

(b) vessels merely passing through any of the Canadian canals, without breaking bulk, shall not be liable to such fees. R.S., c. 32, s. 112.
PART XVII.

LIABILITIES OF CARRIERS BY WATER.

Interpretation.

961. In this Part, unless the context otherwise requires,—
(a) 'goods' means and includes goods, wares, merchandise, and articles of any kind whatsoever;
(b) 'valuable securities' includes every document forming the title or evidence of the title to any property of any kind whatsoever. R.S., c. 82, s. 1.

Responsibility of Carriers.

962. Carriers by water shall, at the times and in the manner and on the terms of which they have respectively given public notice, receive and convey according to such notice all persons applying for passage, and all goods offered for conveyance, unless, in either case, there is reasonable and sufficient cause for not doing so. R.S., c. 82, s. 2.

963. Carriers by water shall be responsible not only for goods received on board their vessels, but also for goods delivered to them for conveyance by any such vessel, and they shall be bound to use due care and diligence in the safe-keeping and punctual conveyance of such goods, subject to the provisions hereinafter made. R.S., c. 82, s. 2.

964. Carriers by water shall be liable for the loss of or damage to goods entrusted to them for conveyance, except that they shall not be liable when such loss or damage happens,—
(a) without their actual fault or privity, or without the fault or neglect of their agents, servants or employees; or,
(b) by reason of fire or the dangers of navigation; or,
(c) from any defect in or from the nature of the goods themselves; or,
(d) from armed robbery or other irresistible force. R.S., c. 82, s. 2.

965. Carriers by water shall not be liable for any total or partial loss of gold or silver, diamonds, watches, jewels or precious stones, money or valuable securities or articles of great value not being ordinary merchandise, by reason of any robbery, theft, removal or secreting thereof, unless the true nature and value thereof has, at the time of delivery for conveyance, been declared by the owner or shipper thereof to the carrier or his agent or servant, and entered in the bill of lading or otherwise in writing. R.S., c. 82, s. 2.

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966. Carriers by water shall be liable for the loss of or damage to the personal baggage of passengers by their vessels: Provided that such liability shall not extend to any greater amount than five hundred dollars, or to the loss of or damage to any such valuable articles as are mentioned in the last preceding section, unless the true nature and value of such articles so lost or damaged have been declared and entered, as provided by the said section. R.S., c. 82, s. 3.

PART XVIII.

SUPPLEMENT.

Tonnage dues levied in Canadian Ports.

967. Whenever, under any Canadian Act or law, any tax, duty or due is to be levied on any ship in a Canadian port, according to the tonnage of such ship, such tonnage shall be exclusive of any space added to the ship's registered tonnage by the Merchant Shipping Act, 1894. R.S., c. 87, s. 1.

Exemption of Transports from Port and Harbour Dues.

968. All transports or vessels employed exclusively in carrying troops shall be exempt from any port or harbour duties, at any port or harbour in Canada, whether the same are imposed directly by the Parliament of Canada, or by any local or other authorities subject to its control. R.S., c. 88, s. 1.

Discharging of cargoes of vessels arriving at ports in Quebec.

969. Whenever any sailing vessel or steamer has arrived at its destination in any port in the province of Quebec, and the master thereof or his agent has notified the person to whom the cargo is consigned or his agent, either by public advertisement or otherwise, that such cargo has reached the place designated in the bill of lading, the person to whom the cargo is consigned shall be bound to receive the same within twenty-four hours after notice to that effect has been given to him as aforesaid; and thereafter such cargo as soon as placed on the wharf, either direct from the vessel or otherwise, shall be at the risk and charges of the consignee or owner. R.S., c. 90, s. 1.

970. When the cargo of any vessel or steamship arriving at any port in the said Province consists,—

(a) of coal, such coal shall be discharged at the rate of fifty-one tons per diem;

(b) of metal, the freight of which is estimated by the ton, not less than sixty tons shall in like manner be discharged daily;

(c) of salt or grain, not less than two thousand one hundred and forty-six bushels shall be discharged daily;

(d) R.S., 1906.
(d) of salt in sacks, not less than one thousand sacks shall be discharged daily;
(e) of sawed lumber, not less than fifty thousand feet shall be discharged daily; and,
(f) of bricks, not less than twenty thousand of such bricks shall be discharged daily. R.S., c. 90, s. 2.

SCHEDULE.

FORM A.

FORM OF DECLARATION OF OWNER OR OWNERS FOR CHANGE OF MASTERS.

I (or we) of (residence and occupation) being registered owner (or owners) of sixty-fourth shares of the ship of official number tons registered, hereby declare that I (or we) have appointed A. B. master of the ship above mentioned in the place of C. D.

Declared before me this day of R.S., c. 72, first schedule.

FORM B.

DECLARATION.

I, the undersigned, A. B., of in declare as follows:
I am entitled to take a license for the ship (or vessel, as the case may be) now in this port (or at this place as the case may be), of which the following are the particulars:—

2008 Measurements.

R.S., 1906.
### Measurements

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### Names of Owners (or Name of Owner)

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### Master

(or Managing Owner, or Owner, as the case may be.)

Dated this 19 day of

---

*Rif the property in the ship or vessel is not divided into shares, this column need not be filled up.

R.S., c. 72, second sch., form A.

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### Form C

Port of Registry.

**LICENSE.

This is to certify that the ship (or vessel, as the case may be), of which the particulars are herein contained, was this day licensed by me, the collector (or principal officer, as the case may be), of Customs at under the provisions of Part I. of the Canada Shipping Act.

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<td>2093</td>
<td></td>
<td>Name</td>
</tr>
</tbody>
</table>

R.S., 1906
Names of Owners (or Name of Owner) | Number of Shares held by each. *
--- | ---

Dated this day of 19.

*If the property in the ship or vessel is not divided into shares, this column need not be filled up.

R.S., c. 72, second sch., form B.

Form D.

DESCRIPTION OF SHIP PROPOSED TO BE BUILT.

Temporary Name. | Port of Record. | Propelled.
--- | --- | ---
Number of decks. | Build. |  
Number of masts. | Gallery. |  
How rigged. | Head. |  
Stern. | Frame work. |  

ESTIMATED MEASUREMENT.

Feet. Tents. | Tons.
--- | ---
Length. | Under deck.
Breadth. | Closed in.
Depth. | Space between decks.

I, the undersigned (name and residence), ship builder, declare that I propose to build a ship, the particulars of which are contained in the above description, in the (here describe the place, what ship yard, where situated and to whom belonging), and that I intend to launch the said ship on or about the day of 19 and to register her at the port of

(Signed),

Dated at the day of

In the presence of

R.S., c. 72, third sch., form A.

R.S., 1906.
MORTGAGE (TO SECURE ACCOUNT CURRENT, ETC.).

<table>
<thead>
<tr>
<th>Record No.</th>
<th>Where Building</th>
<th>When intended to be launched</th>
<th>Port of intended Registry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intended to Measure</td>
<td>Intended Tonnage and Temporary Name</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Length, feet</td>
<td>Tonnage, Name</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Breadth, feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depth, feet</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Whereas (state that there is an account current between mortgagor and mortgagee (describing both), and describe the nature of the transaction so as to show how the amount of principal and interest due at any given time is to be ascertained, and the manner and time of payment).

Now, I (or we), the undersigned (describe them), in consideration of the premises for myself (or ourselves) and my (or our) heirs, covenant with the said (name him or them) and his (or their) assigns, to pay to him (or them) the sums for the time being due on this security, whether by way of principal or interest, at the times and in the manner above mentioned, and for better securing to the said (name), the payment of such sums as last aforesaid, I, (or we) do hereby mortgage to the said (name) the ship above described.

Lastly, I (or we), for myself (or ourselves), and my (or our) heirs, covenant with the said (name of him or them) and his (or their) assigns that I (or we) have power to mortgage in manner aforesaid, the above mentioned ship, and that the same is free from encumbrances, save as appear by the record of the said ship.

N.B.—The last ten words to be omitted if the ship is free from encumbrances.

In witness whereof I (or we) have hereunto subscribed my (or our) name and affixed my (or our) seal, at this day of , one thousand nine hundred and

Executed by the above named
in the presence of

R.S., c. 72, third sch., form B.
FORM F.

N.B.—In case of transfer it may be made by endorsement in the following form:

TRANSFER OF MORTGAGE.

(a) "I" or "We." (a) the within mentioned in consideration of this day paid to
(b) "Me" or "Us." (b) by hereby transfer to
(c) "Him" or (c) the benefit of the
"Them." within written security.

(d) "I" or "We." In witness whereof (d) have hereunto subscribed (e) and affixed (f) this
(e) "My name or (e) the benefit of
"Our names." the above written security.
(f) "My seal" or (f) day of , one thousand nine
"Our seals." hundred and

Executed by the above named in the presence of

N.B.—In case a mortgage is paid off, the following memorandum of its discharge may be used:

Received the sum of in discharge of the within security. Dated at this day of 19.
Witness of
R.S., c. 72, third sch., form C.

FORM G.

Declaration by Representative of taking by Transmission*
For †

*(or decease, or marriage, or bankruptcy).
† (Steamer or for sailing).

<table>
<thead>
<tr>
<th>Record No.</th>
<th>Date of record</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>19</td>
</tr>
</tbody>
</table>

R.S., 1906. 2102 Temporary
Temporary name of ship.
Where building
Proposed measurement, length \( ft. \), breadth \( ft. \),
depth \( ft. \).
Proposed tonnage, \( \text{tons} \).

I (or we) the undersigned (declarant's name, description and place of birth), declare as follows: I am (or we are)

I (or we) declare that the person appearing by the record book to be the (owner or mortgagee) of the ship above described (cause of transmission) in the county of (county) on the \( \text{day of} \) \( \text{nature of cause of transmission} \).

Made and subscribed the \( \text{day} \) of \( 19 \) by the above named \( \text{in the presence of} \)

R.S., c. 72, third sch., form D.
### Agreement or Articles for a Canadian, Foreign, Name of ship.

<table>
<thead>
<tr>
<th>Name of ship.</th>
<th>Official Number.</th>
<th>Port of registry.</th>
<th>Port Number and Date of register.</th>
<th>Registered Tonnage.</th>
<th>MANAGING Name.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The several persons whose names are hereto below, and of whom are engaged as Sailors, the several capacities expressed against their (or which Ship is to be employed)

And the said Crew agree to conduct themselves and to be at all times diligent in their respective hands of the said Master, or of any person who officers, in everything relating to the said Ship board, in boats, or on shore; in consideration of Master hereby agrees to pay to the said Crew as expressed, and to supply them with provisions agreed; That any embezzlement or willful or cargo or stores shall be made good to the owner. And, if any person enters himself as qualified for his wages shall be reduced in proportion to his Regulations, which in the paper annexed hereto by the parties hereto, and shall be considered as That if any member of the Crew considers him or otherwise, he shall represent the same officer in charge of the Ship, who shall thereupon is also agreed: That

In witness whereof the said parties have sub their respective signatures mentioned.

Signed by Master

---

5. Here any stipulation for changes or substitution of one article for another may be inserted.

<table>
<thead>
<tr>
<th>Scale of Provisions to be allowed and served out to the Crew.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SUNDAY</td>
</tr>
<tr>
<td>--------</td>
</tr>
</tbody>
</table>

PLACE FOR SIGNATURES AND

**Note.**—Here the entries are to be made as above, except that the signature engaged, is to be substituted

ACCOUNT OF APPRENTICE

Christian and Surname of the Apprentices at length.

Date of Registry of Indenture.

R.S., 1906.
### Sea-going or Canadian Home-trade Ship.

<table>
<thead>
<tr>
<th>OWNER</th>
<th>MASTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>Name</td>
</tr>
</tbody>
</table>

subscribed, and whose descriptions are contained hereby agree to serve on board the said Ship, in respective names on a voyage from 1 in an orderly, faithful, honest and sober manner, duties, and to be obedient to the lawful commands lawfully succeed him, and of their superior and the stores and cargo thereof, whether on which services to be duly performed, the said wages the sums against their names respectively according to the annexed scale; and it is hereby negligent destruction of any part of the Ship's out of the wages of the person guilty of the same; a duty which he proves incompetent to perform, incompetency: And it is also agreed, That the are numbered 3 are adopted embodied in this agreement; And it is also agreed: self to be aggrieved by any breach of the agree- in a quiet and orderly manner to the Master or take such steps as the case may require: And it subscribed their names hereto on the days against on the…….day of……….19…

<table>
<thead>
<tr>
<th>Date and place of joining this Ship.</th>
<th>In what Capacity engaged; and if Mate, No. of his Certificate (if any).</th>
<th>Time to which last entry must be made</th>
<th>Amount of Wages per Calendar Month, Share or Voyage.</th>
<th>Amount of Wages Advanced on entry.</th>
<th>Amount of Monthly Allotment.</th>
<th>Shipping Master’s or Witness’ Signature.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date.</td>
<td>Place.</td>
<td></td>
<td>$ ets.</td>
<td>$ ets.</td>
<td>$ ets.</td>
<td></td>
</tr>
</tbody>
</table>

**DESCRIPTIONS OF SUBSTITUTEs.**

of the Consul, Vice-Consul, Officer of Customs or Witness before whom the Man is for that of the Shipping Master.

**TICES ON BOARD.**

Port at which Indenture was Registered. Date of Registry of Assignment (if any). Port at which Assignment (if any) was Registered. I declare to the truth of the entries in this Agreement, delivered to the Shipping Master at………..on the……….day of……….19…

R.S., c. 74, sch. A. 2105 ENDORSEMENTS.

R.S., 1906.
<table>
<thead>
<tr>
<th>ENDORSEMENTS</th>
<th>ENDORSEMENTS</th>
<th>ENDORSEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

R.S., 1906.
**Form I.**

**Seaman’s Allotment Note.**

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>Official Number</th>
<th>Now bound on a voyage to</th>
</tr>
</thead>
</table>

No. | Dated at | this day of 19 | Month after pay |
--- | --- | --- | --- |

the sum of | dollars and cents, part of the wages of |

in the above-named ship, to his (1) and continue to make such payment monthly, until duly stopped according to law (2). |

$ | : | Master (3). |
| Seaman |

To Payable at Witness.

1 Here insert the word ‘Wife,’ ‘Sister,’ or other description of relationship if any. In case of a Wife the Marriage Certificate must be produced if required when payment is demanded.

2 Security for re-payment in case of desertion, if required, is to be given by the Seaman when this Allotment Note is granted.

3 If the Owner or Agent give the note, this must be altered accordingly.

**Received on the Within (or Above) Written Note.**

<table>
<thead>
<tr>
<th>Date</th>
<th>Sums Received</th>
<th>Signature of Payee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
<td>ets.</td>
</tr>
</tbody>
</table>

R.S., c. 74, sch. B. 2107 Form R.S., 1906.
### ACCOUNT OF WAGES

<table>
<thead>
<tr>
<th>Name of the Ship and Official Number</th>
<th>Name of Master</th>
<th>Description of Voyage or Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Seaman</th>
<th>Date of Engagement</th>
<th>Date of Discharge</th>
<th>Rate of Wages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount</th>
<th>Deductions</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Wages:—
for months days....

Advance ............
Allotment ..........
Fines and Forfeitures 

Deductions as per contra...

Balance due. $...

Total Deductions. $...

Dated at the port of this day of 19.

Signature of Master.

R.S., c. 74, sch. C. 2108

R.S., 1906.
FORM K.

CERTIFICATE OF DISCHARGE FOR SEAMEN.

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>Official Number</th>
<th>Port of Registry</th>
<th>Registered Tonnage</th>
<th>Description of Voyage or Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Seaman</th>
<th>Place of Birth</th>
<th>Date of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Date of Entry</th>
<th>Date of Discharge</th>
<th>Place of Discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Character for Ability in whatever Capacity</th>
<th>Character for Conduct</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I certify that the above particulars are correct, and that the above named Seaman was discharged accordingly.

Dated this day of 19 .

(Countersigned) Seaman. (Signed) Master.

Witness

Address of Witness

Occupation of Witness

NOTE.—One of these certificates must be filled up and delivered to every Seaman who is discharged.

R.S., c. 74, sch. D.

FORM L.

CERTIFICATE.

Shipping Office.

Port of 19 .

I hereby certify that all the requirements of Part III. of the Canada Shipping Act have been complied with to my satisfaction.

R.S., 1906.
faction in the case of the ship , official No. , of tons, master (or, as the case may be), that master of the , official No. , of tons, has opened articles at this office, and the master and mate have duly signed the same, producing their certificates of competency to me before signing, and that the said agreement so partially signed is in my office waiting an engagement of a portion of the crew.

Master, No. of Certificate
Mate do do

Shipping Master.

R.S., c. 74, sch. E.

**Form M.**

**REGULATIONS FOR MAINTAINING DISCIPLINE.**

*(Referred to in the Form of Agreement H.)*

All or any of these regulations may be adopted by agreement between a master and his crew, and thereupon the offences specified in such of them as are so adopted will be legally punishable by the appropriate fines or punishments. These regulations are all numbered, and the numbers of such of them as are adopted shall be inserted in the space left for that purpose in the agreement, and a copy of these regulations shall be made to correspond with the agreement by erasing such of the regulations as are not adopted and must then be attached to and kept with the agreement which the master of the ship takes with him. If the agreement is made before a shipping master, his signature shall be placed opposite such of the regulations as are adopted.

For the purpose of legally enforcing any of the following penalties, the same steps shall be adopted as in the case of other offences punishable under Part III. of the Canada Shipping Act,—that is to say, a statement of the offence shall, immediately after its commission, be entered in the log-book by the direction of the master, and shall, at the same time, be attested to be true by the signatures of the master and the mate or one of the crew; and a copy of such entry shall be furnished, or the same shall be read over, to the offender, before the ship reaches any port or departs from the port at which she is, and an entry that the same has been so furnished or read over, and of the reply, if any, of the offender, shall be made and signed in the same manner as the entry of the offence. These entries shall, upon discharge of the offender, be shown to the shipping master before whom the offender is discharged, or, in the case of a Canadian home-trade ship, to some shipping master at or near the place where the crew is discharged; and if he is satisfied that the offence is proved, and that the entries have been properly
properly made, the fine shall be deducted from the offender’s wages and paid over to the shipping master.

If, in consequence of subsequent good conduct, the master thinks fit to remit or reduce any fine upon any member of his crew which has been entered in the log-book, and signifies the same to the shipping master, the fine shall be remitted or reduced accordingly. If wages are contracted for by the voyage or by share, the amount of the fines is to be ascertained in the manner in which the amount of forfeiture is ascertained in similar cases under section 295.

<table>
<thead>
<tr>
<th>Offence</th>
<th>Amount of Fine or Punishment</th>
<th>Shipping Master’s Signature or Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Not being on board at the time fixed by the agreement</td>
<td>Two Days’ Pay</td>
<td></td>
</tr>
<tr>
<td>2 Not returning on board at the expiration of leave</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>3 Insolence or contemptuous language or behaviour towards the master or any mate</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>4 Striking or assaulting any person on board or belonging to the ship</td>
<td>Two Days’ Pay</td>
<td></td>
</tr>
<tr>
<td>5 Quarrelling or provoking to quarrel</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>6 Swearing or using improper language</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>7 Bringing or having on board spirituous liquors</td>
<td>Three Days’ Pay</td>
<td></td>
</tr>
<tr>
<td>8 Carrying a sheath-knife</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>9 Drunkenness. First offence</td>
<td>Two Days’ half allowance of Provisions.</td>
<td></td>
</tr>
<tr>
<td>(ditto Second offence)</td>
<td>Two Days’ Pay</td>
<td></td>
</tr>
<tr>
<td>10 Neglect on the part of officer in charge of the watch to place the look-out properly</td>
<td>Two Days’ Pay</td>
<td></td>
</tr>
<tr>
<td>11 Sleeping or gross negligence while on the look-out</td>
<td>Two Days’ Pay</td>
<td></td>
</tr>
<tr>
<td>12 Not extinguishing lights at the time ordered</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>13 Smoking below</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>14 Neglecting to bring up, open out and air bedding, when ordered</td>
<td>Half a Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>15 (For the Cook)—Not having any meat of the Crew ready at the appointed time</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>16 Not attending Divine Service on Sunday, unless prevented by sickness or duty of the Ship</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>17 Interrupting Divine Service by indecent conduct</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>18 Not being cleaned, shaved and washed on Sunday</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>19 Washing clothes on a Sunday</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>20 Secreting contraband goods on board with intent to smuggle</td>
<td>One Month’s Pay</td>
<td></td>
</tr>
<tr>
<td>21 Destroying or defacing the copy of the agreement which is made accessible to the Crew</td>
<td>One Day’s Pay</td>
<td></td>
</tr>
<tr>
<td>22 If any Officer is guilty of any act or default which is made subject to a Fine, he shall be liable to a Fine of twice the number of Days which would be exacted for a like act or default from a Seaman, and such Fine shall be paid and applied in the same manner as other Fines.</td>
<td>2111</td>
<td>Form</td>
</tr>
</tbody>
</table>

R.S., c. 74, sch. F. 2111 Form R.S., 1906.
 AUTHORITY FOR ALLOTMENT NOTES.

I hereby authorize Master of the ship of Official Number to give Allotment or Monthly Notes to the Wives, Fathers, Mothers, Grandfathers, Grandmothers, Children or Grandchildren, Brothers or Sisters, of any of the Crew, to the extent of one part of their respective Monthly Wages.

Dated at the day of 19 .

Signed

Owner, Part Owner or Agent.

Note.—This document, when signed, is to be delivered to the shipping master.

R.S., c. 74, sch. G.
Form O.

**OFFICIAL LOG-BOOK OF THE**

<table>
<thead>
<tr>
<th>FROM</th>
</tr>
</thead>
</table>

**TOWARDS.**

<table>
<thead>
<tr>
<th>Date of the Occurrence entered with Day and Hour.</th>
<th>Place of the Occurrence or Situation by Latitude and Longitude at Sea.</th>
<th>Entries required by Act of Parliament.</th>
<th>Amount of any Fine or Forfeiture inflicted.</th>
</tr>
</thead>
</table>

N. B.—Every Entry in this Log-book required by the Act shall be signed by the Master and by the Mate or some other of the Crew; and every entry of illness, injury or death, shall also be signed by the Surgeon or Medical Practitioner on board, (if any); and every entry of wages due to, or of the sale of the effects of any Seaman or Apprentice who has died shall be signed by the Master and by the Mate, and some other member of the Crew; and every entry of wages due to any Seaman who enters His Majesty’s Service shall be signed by the Master and by the Seaman, or by the Officer authorized to receive the Seaman into such service.

R.S., c. 74, sch. II.
AGREEMENT, or Articles for a Canadian Ship.

The several persons whose names are hereto subscribed, and whose descriptions are contained in the several capacities expressed against their respective names, on a voyage from a

And the said Crew agree to conduct themselves in an orderly, faithful, honest and sober manner and to be obedient to the lawful commands of the said Master, or of any person who shall lawfully relating to the said Ship, and the stores and cargo thereof, whether on board, in boats, or on shore; the said Master hereby agrees to pay to the said Crew as wages the sums against their names respect according to the usual custom: And it is hereby agreed that any embezzlement or wilful or negligent be made good to the owner out of the wages of the person guilty of the same: And if any person enters to perform, his wages shall be reduced in proportion to his incompetency. And it is also agreed

In witness whereof the said parties have subscribed their names hereto on the days against

Signed by. Master, on the.

<table>
<thead>
<tr>
<th>Signatures of Crew.</th>
<th>Age.</th>
<th>Where born.</th>
<th>Ship in which he last served, Official Number, and Port she belonged to, or other Employment.</th>
<th>Date and place of Discharge from such ship.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

PLACE OF SIGNATURES AND

Note.—Here the entries

NOTE.—Any Erasure, Interlineation, or Alteration, in this Agreement, except in the case of Substitutes, will be void, unless attested by some Shipping Master, Officer of Customs, Consul or Vice-Consul, or other respectable witnesses to be made with the consent of the persons interested.

R.S., 1906.
subject to Part IV. of the Canada Shipping Act.

<table>
<thead>
<tr>
<th>OWNER</th>
<th>MASTER</th>
<th>Date and place of first Signature of Agreement, including Name of Shipping Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>Name</td>
<td>No. of certificate</td>
</tr>
</tbody>
</table>

below, hereby agree to serve on board the said Ship, in (or, which Ship is to be employed b) and to be at all times diligent in their respective duties, succeed him, and of the superior officers, in everything in consideration of which services to be duly performed, lively expressed, and to supply them with provisions destruction of any part of the Ship's cargo or stores shall himself as qualified for a duty which he proves incompetent that c

a Here the voyage is to be described, and the places named at which the ship is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated.
b Here state probable nature of Ship's employment, or nature of voyage and period of engagement.
c Here any other stipulations may be inserted to which the parties may agree, and which are not contrary to law.

their respective signatures mentioned.

day of ............ 19 ....

<table>
<thead>
<tr>
<th>Date and Place of joining this Ship.</th>
<th>In what Capacity engaged; and if Mate, No. of his Certificate (if any).</th>
<th>Time at which he is to be on board.</th>
<th>Amount of Wages per Calendar Month, Share, or Voyage.</th>
<th>Shipping Master's or Witness' Signature.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
<td>Place</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

$ ets.

DESCRIPTIONS OF SUBSTITUTES.

are to be made as above.

I declare to the truth of the entries in this Agreement.

............... Master.

1331 2115

ENDORSEMENTS.

R.S., 1906.
<table>
<thead>
<tr>
<th>ENDORSEMENTS</th>
<th>ENDORSEMENTS</th>
<th>ENDORSEMENTS</th>
</tr>
</thead>
</table>

R.S., e. 75, sch.  
R.S., 1906.  

2116  
Form
Form Q.

Form of License to Pilot.

Canada,

Pilotage District of

We, being the pilotage authority having by law power to examine and license pilots for the pilotage district of , do hereby certify that of , having been duly examined by us, has been found in all respects duly qualified, and is deemed by us a fit person to undertake the pilotage of vessels of every description, within and throughout the said pilotage district of , and on this day of A.D. 19 , is by us licensed to act in that capacity.

This license shall not be lent or transferred,

<table>
<thead>
<tr>
<th>Description of</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>Height</td>
</tr>
<tr>
<td>------</td>
<td>--------</td>
</tr>
</tbody>
</table>

R.S., c. 80, first schedule.

Form R.

Form of Pilotage Certificate.

Canada,

Pilotage District of

We, being the pilotage authority having by law power to license pilots for the pilotage district of , do hereby certify that of , Master (or Mate, as the case may be) of the , having been duly examined by us, has been found in all respects duly qualified, and is deemed by us a fit person to undertake the pilotage of the said and of any vessel of her class of which he is acting as master (or mate, as the case may be) at the time, but no other, within and throughout the following limits in the said pilotage district:

R.S., 1906.
strict of, that is to say (here describe the limits), and on this day of , A.D. 19 , is by us licensed in that capacity.

This certificate is good for one year only, and shall not be lent or transferred.

R.S., c. 80, second sch.

Form S.

DOMINION OF CANADA—DEPARTMENT OF MARINE AND FISHERIES.

Certificate of the Inspector of Hulls and Equipment for a Steamboat to carry Passengers, or for a Freight boat of or over 150 tons gross.

Having examined the hull and equipment of the steamboat of , of owner, on this day of , A.D., 19 , the particulars of her gross and registered tonnage as shown on her certificate of registry, being as follows:

Tonnage under tonnage deck Tons.
House on deck "
Gross tonnage "
Deduct for engine-room "
Register tonnage "

I, , inspector of hulls and equipment, do hereby certify that her hull is in all respects staunch, seaworthy and in good condition for navigation; that the equipment of the vessel throughout is in conformity with the requirements of Part VII. of the Canada Shipping Act respecting steamboat inspection, the said steamboat having on board, properly placed and in good order for immediate service, boats having (together) a carrying capacity for persons, life-boats having (together) a carrying capacity for persons, life-preservers, wooden floats, fire buckets, axes, lanterns, life buoy, having a proper heaving line attached; and that she has the fire-pumps, hose and other appliances for extinguishing fire required by said Part and placed as therein provided, and in every way efficient and according to the requirements of the said Part; and I further certify that the said steamboat is permitted to run on the waters between and (or to run in any of the waters in Canada, as the case may be) from this day of , 19 , to day, 2118 and
and that she is adapted and fit to carry (number) passengers and no more (as the case may be).

Dated at this day of 19.

Inspector of Hulls and Equipment.

61 V., c. 46, second sch.

Certificate of the Inspector of Boilers and Machinery for the same boat.

And I, , inspector of boilers and machinery, do hereby certify that the engine, boiler and machinery of the steam-boat are sufficient and suitable to authorize her being lawfully employed without hazard to life on the route between and [or in any of the waters in Canada, as the case may be] from this day of to the day of , 19.

That the engine of the said steamboat is of nominal horse-power, and that her boiler can carry with safety pounds of steam pressure per square inch, and no more.

Dated at this day of 19.

Inspector of Boilers and Machinery.

(* Here insert 'in the carriage of passengers' or 'as a freight boat' or 'as a ferry boat,' as the case may be.)

Note.—The original copy of this certificate to be posted on board.

61 V., c. 46, second sch., form A.

Form T.

DOMINION OF CANADA—DEPARTMENT OF MARINE AND FISHERIES.

Certificate for a Freight Boat, Tug Boat, Fishing Boat, Pleasure Yacht, Steam Dredge, Elevator, or like vessel.

Having examined the boiler or machinery of the steam-boat of whereof of owner, on this day of , A.D. 19.

The particulars of her gross and register tonnage, as shown by her certificate of registry, being as follows:

2119 Tonnage

R.S., 1906.
Tonnage under tonnage deck   Tons.
Houses on deck   "
Gross tonnage   "
Deduct for engine-room   "
Register tonnage   "

I, , inspector of boilers and machinery, do hereby certify that her engine, boiler and machinery are in conformity with the provisions of Part VII. of the Canada Shipping Act respecting Steamboat Inspection for a
and may be so used without hazard to life, until the day 19 ; that the engine of the said is of nominal horse power, and that the boiler of the said can carry with safety pounds per square inch of steam pressure, and no more:— and that she is provided with one life buoy, having a proper heaving line attached, and so placed as to be ready for immediate use when required; and is also provided with signal lights properly located and screened, a fog-bell, steam whistle, a metal waste vessel, and is otherwise equipped as required by law.

Dated at this day 
of 19 .

Inspector of Boilers and Machinery.

61 V., c. 46, second sch., form B.

Form U.

Dominion of Canada—Department of Marine and Fisheries.

Certificate for a Barge, Boat, Bateau, Scow or other vessel, to carry Passengers in tow of a Steamboat.

I, , inspector of hulls and equipment, having examined the of which is owner on this A.D. 19 .
do hereby certify that the said vessel is fit, safe and properly equipped in all respects to carry passengers in tow of a steamboat, on the waters and that she is provided with one life buoy having a proper heaving line attached, and so placed as to be ready for immediate use, and that her equipment throughout is in conformity with the requirements of Part VII. of the Canada Shipping Act 2120

R.S., 1906.
Act respecting Steamboat Inspection, and of the regulations made thereunder.

Dated at this day of 19.

Inspector of Hulls and Equipment.

61 V., c. 46, second sch., form C.

Form V.

FEES OF RECEIVER.

Maximum fees to be charged by Receivers in addition to expenses properly and necessarily incurred.

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. For every inquiry instituted by a receiver with respect to any shipping</td>
<td>$  0 0</td>
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<tr>
<td>casualty, whatever is the number of persons examined, a fee to be</td>
<td></td>
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<tr>
<td>charged on the vessel or cargo in respect of which the examination is</td>
<td></td>
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<tr>
<td>instituted, not exceeding...</td>
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<tr>
<td>2. For furnishing copy of evidence per one hundred words...</td>
<td>0 20</td>
</tr>
<tr>
<td>3. For every salvage dispute heard and determined by the receiver, in</td>
<td>5 00</td>
</tr>
<tr>
<td>which the claim does not exceed one hundred dollars, or the value of the</td>
<td></td>
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<tr>
<td>property saved does not exceed two hundred and fifty dollars, a sum to</td>
<td></td>
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<tr>
<td>be charged on the property saved not exceeding...</td>
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<tr>
<td>4. For all other cases in which salvage disputes are heard and</td>
<td>10 00</td>
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<tr>
<td>determined by the receiver to be charged on the property saved...</td>
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<tr>
<td>5. For wreck received or taken by the receiver into his custody, a</td>
<td></td>
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<tr>
<td>percentage of five per centum upon the value thereof:</td>
<td></td>
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<tr>
<td>But so that in no case shall the whole amount of percentage so payable</td>
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</tr>
<tr>
<td>exceed eighty dollars, to be charged on the wreck or derelict.</td>
<td></td>
</tr>
<tr>
<td>6. For every sale of wreck conducted by a receiver, a sum not exceeding</td>
<td></td>
</tr>
<tr>
<td>one per centum on the value thereof to be charged on the proceeds of sale.</td>
<td></td>
</tr>
<tr>
<td>7. For copies of certificates of valuation, when the value of the</td>
<td>4 00</td>
</tr>
<tr>
<td>property is under three thousand dollars, a sum not exceeding...</td>
<td></td>
</tr>
<tr>
<td>In other cases, to be charged on the property valued...</td>
<td>8 00</td>
</tr>
</tbody>
</table>

2121

R.S., 1906.
S. In cases where any services are rendered by a
receiver in respect of any vessel in distress, not be-
ing wrecked, or in respect of the cargo or other
articles belonging thereto, the following fees in-
stead of a percentage; that is to say:
If such vessel with her cargo equals or exceeds in
value three thousand dollars, the sum of eight
dollars for the first, and the sum of four dollars
for every subsequent day during which the re-
ceiver is employed on such service; but if such
vessel, with her cargo, is less in value than three
thousand dollars, one-half of the above men-
tioned sum;
But so that in no case shall the whole amount ex-
ceed one hundred dollars, to be charged on such
vessel or articles.

R.S., c. 81, sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's
most Excellent Majesty.
CHAPTER 114.

An Act respecting aid by United States Wreckers in Canadian Waters.

1. This Act may be cited as the United States Wreckers Act. Short title.

2. United States vessels and wrecking appliances may salve any property wrecked, and may render aid and assistance including all necessary towing incident thereto to any vessels wrecked, disabled, or in distress, in the waters of Canada contiguous to the United States. 55-56 V., c. 4, ss. 1 and 2.

3. Nothing in the Customs or coasting laws of Canada shall restrict the salving operations of such vessels or wrecking appliances. 55-56 V., c. 4, s. 3.

4. This Act shall cease to be in force from and after a date to be named in a proclamation of the Governor General which may be issued after he is advised that the reciprocal privilege with respect to Canadian vessels or wrecking appliances salving any property wrecked or aiding any vessels wrecked, disabled or distressed in United States waters contiguous to Canada has been withdrawn, revoked or rendered inoperative. 55-56 V., c. 4, s. 5.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 115.

An Act respecting the Protection of Navigable Waters.

SHORT TITLE.

1. This Act may be cited as the Navigable Waters' Protection Act.

PART I.

INTERPRETATION.

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

(a) 'work' includes any bridge, boom, dam, aboiteau, wharf, dock, pier or other structure, and the approaches or other works necessary or appurtenant thereto;

(b) 'lawful work' means any work not contrary to the law in force at the place of the construction thereof at the time of such construction. R.S., c. 92, s. 1.

APPLICATION.

3. Except so much of this Part as relates to rebuilding or repairing any lawful work, nothing hereinafter in this Part contained shall apply to any work constructed under the authority of any Act of the Parliament of Canada or of the legislature of the late province of Canada, or of the legislature of any province now forming part of Canada, passed before such province became a part thereof. R.S., c. 92, ss. 8 and 10.

GENERAL.

4. No bridge, boom, dam or aboiteau shall be constructed so as to interfere with navigation, unless the site thereof has been approved by the Governor in Council, nor unless such bridge, boom, dam or aboiteau is built and maintained in accordance with plans approved by the Governor in Council. R.S., c. 92, s. 2.

5. Any bridge to which this Part applies, which is built upon a site not approved by the Governor in Council, or which is not so regulated, is removed. R.S., 1906.
is not built in accordance with plans so approved, or which, having been so built, is not maintained in accordance with such plans, may, in so far as the same interferes with navigation, be lawfully removed and destroyed under the authority of the Governor in Council. R.S., c. 92, s. 3.

6. The provisions of the two sections last preceding shall not affect any bridge constructed before the seventeenth day of May, one thousand eight hundred and eighty-two, which hereafter requires to be built or repaired, if such bridge, when so rebuilt or repaired, does not interfere to a greater extent with navigation than on the said day or theretofore. R.S., c. 92, s. 4.

7. The local authority, company or person proposing to construct any work in navigable waters, for which no sufficient sanction otherwise exists, may deposit the plans thereof and a description of the proposed site with the Minister of Public Works, and a duplicate of each in the office of the registrar of deeds for the district, county or province in which such work is proposed to be constructed, and may apply to the Governor in Council for approval thereof.

2. Such local authority, company or person shall give one month's notice of the said deposit of plans and application by advertisement in the Canada Gazette, and in two newspapers published in or near the locality where such work is to be constructed. R.S., c. 92, s. 5.

8. Any local authority, company or person may proceed in like manner to obtain the approval by the Governor in Council of the site and plans of any work constructed prior to the first day of March, one thousand eight hundred and ninety-nine. 62-63 V., c. 32, s. 1.

9. Any lawful work may be rebuilt or repaired if the interference with navigation is not increased by such rebuilding or repairing. R.S., c. 92, s. 8.

REGULATIONS.

10. The Governor in Council may make such orders or regulations as he deems expedient for navigation purposes respecting any work to which this Part applies or of which the plan and site are approved under any Act of the Parliament of Canada.

2. The local authority, company or person constructing, owning or in possession of any such work shall be subject to such orders or regulations. R.S., c. 92, s. 11.

11. No approval shall be given under this Part of the site or plans of any bridge over the river St. Lawrence. R.S., c. 92, s. 7.

R.S., 1906.
12. Parliament may, at any time, annul or vary any order of the Governor in Council made under this Part.

2. Any action of Parliament in that behalf shall not be deemed an infringement of the rights of the local authority, company or person concerned. R.S., c. 92, s. 9.

PART II.

INTERPRETATION.

13. In this Part, unless the context otherwise requires,—
(a) "Minister" means the Minister of Marine and Fisheries;
(b) "vessel" includes every description of ship, boat or craft of any kind, and whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only;
(c) "owner" means the registered or other owner at the time any wreck, obstruction or obstacle, as is in this Part referred to, was occasioned, and also includes subsequent purchaser. R.S., c. 91, s. 1; 60-61 V., c. 23, s. 1.

GENERAL.

14. If the navigation of any navigable water over which the Parliament of Canada has jurisdiction is obstructed, impeded or rendered more difficult or dangerous by the wreck, sinking, lying ashore or grounding of any vessel or part thereof or other thing, the owner, master or person in charge of such vessel or other thing, by which any such obstruction or obstacle is caused, shall forthwith give notice of the existence thereof to the Minister or to the collector of Customs at the nearest or most convenient port, and shall place and, as long as such obstruction or obstacle continues, shall maintain, by day, a sufficient signal and, by night, a sufficient light to indicate the position thereof. R.S., c. 91, s. 2.

15. The Minister may cause such signal and light to be placed and maintained, if the owner, master or person in charge of such vessel or other thing by which the obstruction or obstacle is caused fails or neglects so to do. R.S., c. 91, s. 3.

16. The Minister, under the authority of the Governor in Council may, if, in his opinion,—
(a) the navigation of any such navigable water is obstructed, impeded or rendered more difficult or dangerous by reason of the wreck, sinking, or lying ashore or grounding of any vessel, or of any part thereof, or of any other thing; or,
(b) by reason of the situation of any wreck or any vessel, or any part thereof, or of any other thing so lying, sunk, ashore or grounded, the navigation of any such navigable water.

R.S., 1906.
water is likely to be obstructed, impeded or rendered more difficult or dangerous; or,

(c) any vessel or part thereof, wreck or other thing cast ashore, stranded or left upon any property belonging to His Majesty in the right of Canada, is an obstacle or obstruction to such use of the said property as may be required for the public purposes of Canada,

cause such wreck, vessel or part thereof or other thing, if the same continues for more than twenty-four hours, to be removed or destroyed in such manner and by such means as he thinks fit, and may use gunpowder and other explosive substance for that purpose, if he deems it advisable. 60-61, V., c. 23, s. 2.

17. The Minister may cause such vessel, or its cargo, or anything causing or forming part of any such obstruction or obstacle, to be conveyed to such place as he thinks proper, and to be there sold by auction or otherwise as he deems most advisable; and may apply the proceeds of such sale to make good the expenses incurred by him in placing and maintaining any signal or light to indicate the position of such obstruction or obstacle, or in the removal, destruction or sale of such vessel, cargo or thing.

2. He shall pay over any surplus of such proceeds or portion thereof to the owner of the vessel, cargo or thing sold, or to such other persons as shall be entitled to the same respectively. 60-61 V., c. 23, s. 2.

18. Whenever, under the provisions of this Part, the Minister,—

(a) has caused any signal or light to be placed and maintained to indicate the position of any obstruction or obstacle; or,

(b) has, with the authority of the Governor in Council, caused to be removed or destroyed any wreck, vessel or part thereof, or any other thing by reason whereof the navigation of any such navigable waters was or was likely to become obstructed, impeded or rendered more difficult or dangerous; or,

(c) with such authority has caused to be removed any vessel or part thereof, wreck or other thing cast ashore, stranded or left upon any public property belonging to His Majesty in the right of Canada;

and the cost of maintaining such signal or light or of removing or destroying such vessel or part thereof, wreck or other thing has been defrayed out of the public moneys of Canada; and the net proceeds of the sale under this Part of such vessel or its cargo, or the thing which caused or formed part of such obstruction are not sufficient to make good the cost so defrayed out of the public moneys of Canada, the amount by which such net proceeds falls short of the costs so defrayed as aforesaid,

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R.S., 1906.
or the whole amount of such cost, if there is nothing which can be sold as aforesaid, shall be recoverable with costs by the Crown,—

(a) from the owner of such vessel or other thing, or from the managing owner or from the master or person in charge thereof at the time such obstruction or obstacle was occasioned; or,

(b) from any person through whose act or fault, or through the act or fault of whose servants such obstruction or obstacle was occasioned or continued.

2. Any sum so recovered shall form part of the Consolidated Revenue Fund of Canada. 60-61 V., c. 23, s. 3.

19. No owner or tenant of any saw-mill, or any workman therein or other person shall throw or cause to be thrown, or suffer or permit to be thrown any sawdust, edgings, slabs, bark or rubbish of any description whatsoever into any river, stream or other water, any part of which is navigable or which flows into any navigable water. R.S., c. 91, s. 7.

20. No person shall throw or deposit or cause or permit to be thrown or deposited any stone, gravel, earth, cinders, ashes or other material or rubbish liable to sink to the bottom in any navigable tidal waters of Canada where there are not at least twelve fathoms of water at extreme low tide. 62-63 V., c. 31, s. 1.

21. No person shall throw or deposit, or cause or permit to be thrown or deposited any stone, gravel, earth, cinders, ashes or other material or rubbish liable to sink to the bottom in any navigable non-tidal waters of Canada where there are not at all times at least eight fathoms of water. 62-63 V., c. 31, s. 1.

22. The several fishery officers shall, from time to time, examine and report on the condition of such rivers, streams and waters, and prosecute all persons violating the provisions of the three next preceding sections; and, for enforcing the said provisions, such officers shall have and exercise all the powers conferred upon them for like purposes by the Fisheries Act. R.S., c. 91, s. 7.

23. The Governor in Council, when it is shown to his satisfaction that the public interest would not be injuriously affected thereby, may, from time to time, by proclamation published in the Canada Gazette, declare any of such rivers, streams or waters, or part or parts thereof, exempted in whole or in part, from the operation of the said three sections, and may, from time to time, revoke such proclamation. R.S., c. 91, s. 7.

134 2129 24.

R.S., 1906.
24. Nothing in this Part shall be construed to exempt any owner, master or other person from any obligation or responsibility with respect to any obstruction or obstacle imposed on him by any other law or authority not incompatible with the powers by this Part vested in the Minister, or to derogate from or impair any power or right vested by any such law in the Quebec Harbour Commissioners or Montreal Harbour Commissioners with respect to such obstruction or obstacle. R.S., c. 91, s. 6.

25. Nothing in this Part shall affect the legal powers, rights or duties of harbour commissioners, harbour masters or port wardens with respect to materials which, under this Part, are not allowed to be deposited in navigable waters. 62-63 V., c. 31, s. 1.

26. The Minister may appoint places in any navigable water not within the jurisdiction of any of the officers mentioned in the last preceding section where stone, gravel, earth, cinders, ashes or other material may be deposited, notwithstanding that the minimum depth of water at any such place may be less than twelve fathoms in the case of tidal waters and not less than eight fathoms in the case of non-tidal waters, and may make rules regulating the deposit of such materials. 62-63 V., c. 31, s. 1.

OFFENCES AND PENALTIES.

27. Every person required by this Part to give notice to the Minister or to a collector of Customs of any obstruction or obstacle to navigation, or to place and maintain thereon or contiguous thereto a signal or light, who fails to give such notice, or to so place or maintain such signal or light, shall, on summary conviction, be liable to a penalty of forty dollars for every day he neglects so to do without lawful or reasonable excuse. R.S., c. 91, s. 2.

28. Every owner or tenant of any saw-mill, or any workman therein or other person who throws or causes to be thrown, or suffers or permits to be thrown any sawdust, edgings, slabs, bark or rubbish of any description whatsoever into any river, stream or other water any part of which is navigable or which flows into any navigable water, shall, on summary conviction, be liable, for a first offence, to a penalty of not less than twenty dollars, and for each subsequent offence, to a penalty of not less than fifty dollars. R.S., c. 91, s. 7.

29. Every person who throws or deposits or causes or permits to be thrown or deposited any stone, gravel, earth, cinders, ashes or other material or rubbish liable to sink to the bottom, in any navigable tidal waters of Canada where there are not at least twelve

R.S., 1906.
twelve fathoms of water at extreme low tide, or in navigable non-tidal waters of Canada where there are not at all times at least eight fathoms of water, shall, on summary conviction, be liable to a penalty not exceeding three hundred dollars, and not less than twenty dollars, and, in any case where any of such materials are thrown from a vessel and a conviction is obtained therefor, such vessel shall be liable for the penalty and may be detained by any port warden or collector of Customs until it is paid. 62-63 V., c. 31, s. 1.

30. No proceedings shall be instituted for the recovery of any penalty for violation of any of the provisions of this Part with respect to non-tidal waters, unless the approval of the Minister be first obtained. 62-63 V., c. 31, s. 1.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 116.

An Act to encourage the Construction of Dry Docks.

1. This Act may be cited as the Dry Docks Subsidies Act. Short title.

2. In this Act, unless the context otherwise requires, 'Minister,' 'Minister' means the Minister of Public Works.

3. The Governor in Council may, for the construction and completion of any dry dock, authorize the payment out of any unappropriated money forming part of the Consolidated Revenue Fund of Canada of a subsidy not exceeding three per centum per annum of the cost of the work, to any company or body corporate approved by the Governor in Council as having the ability to perform the work, which shall enter into an agreement with His Majesty to construct or to complete any such dry dock in course of construction with all proper and necessary equipments, machinery and plant for the reception and repairing of vessels: Provided that such subsidy shall not exceed thirty thousand dollars per annum.

2. The cost on which the subsidy shall be calculated shall not be greater than the value of the work as estimated by the Minister. 3 E. VII., c. 17, s. 1.

4. The Governor in Council may, for the enlargement and extension of any existing dry dock subsidized by Canada under the Act of the Parliament of Canada passed in the forty-fifth year of Her late Majesty's reign, chapter seventeen, intituled An Act to encourage the construction of Dry Docks by granting assistance on certain conditions to companies constructing them, authorize the payment out of any unappropriated public money forming part of the Consolidated Revenue Fund of Canada of a subsidy not exceeding two per centum per annum of the cost of the work to any incorporated company approved by the Governor in Council as having the ability to perform the work, which shall enter into an agreement with His Majesty to enlarge and extend any such existing dry dock for the reception and repairing of vessels: Provided that such subsidy shall not exceed ten thousand dollars per annum.
2. The cost on which the subsidy shall be calculated shall not be greater than the value of the work incident to such enlargement and extension as estimated by the Minister. 62-63 V., c. 9, s. 2.

5. Any agreement under this Act shall be according to plans and specifications approved on a report of the Minister by the Governor in Council as sufficient for the requirements of the public where such dry dock is located. 62-63 V., c. 9, s. 2; 3 E. VII., c. 17, s. 1.

6. The work of constructing and completing, or of extending and enlarging any dry dock for which a subsidy is authorized under the provisions of this Act shall be done under the supervision of the Department of Public Works, and shall be completed within the time limited by the agreement in that behalf; and the subsidy shall be payable during twenty years from the time the work shall be performed and completed according to the said agreement to the satisfaction of the Minister and accepted by him: Provided that such subsidy shall not be payable for any portion of the said twenty years during which the dock is not in complete repair and working order. 62-63 V., c. 9, s. 2; 3 E. VII., c. 17, s. 1.

7. No tolls or rates shall be charged or taken by such company in respect of the letting or hiring, operation or use of the said dock, or of space therein, or of any works connected therewith, until the company has submitted a tariff of such tolls or rates and the same has been approved by the Governor in Council; and no by-laws, rules, regulations or conditions respecting such letting, hiring, operation or use, shall have any force or effect until so submitted and approved. 3 E. VII., c. 17, s. 2.

8. The Governor in Council may at any time disallow the whole or any part of such tariff or of such by-laws, rules, regulations or conditions, and may require such company, within a specified time, to substitute other tariff, tolls, by-laws, rules, regulations or conditions in lieu thereof, and, in default, may fix and prescribe the same. 3 E. VII., c. 17; s. 2.

9. The company, before receiving its first payment of subsidy under the authority of this Act, and annually thereafter, on or before the first day of January, shall file in the office of the Minister a financial statement verified to the satisfaction of the Minister, setting forth in detail,—

(a) the receipts and expenditures of the company;
(b) all gifts, grants, or aids to the company from any municipal or public body;

R.S., 1906.
(c) the amounts received or to be received by the company on account of stocks, bonds or debentures of the company; and,

(d) particularly the amount of money derived from the issue of stock or loans to the company and actually expended in the construction of the dry dock. 3 E. VII., c. 17, s. 2.
CHAPTER 117.

An Act respecting the Harbour and River Police of the Province of Quebec.

SHORT TITLE.

1. This Act may be cited as the Quebec Harbour and River Police Act.

INTERPRETATION.

2. In this Act unless the context otherwise requires:
   (a) 'Minister' means the Minister of Marine and Fisheries;
   (b) 'vessel' includes every description of vessel used in navigation, not propelled by oars. R.S., c. 89, s. 1.

GENERAL.

3. The Governor in Council may, from time to time, establish, at the ports of Montreal and Quebec respectively, a harbour and river police force, and appoint one or more superintendents of such force, with jurisdiction over such part or parts of the province of Quebec as are defined by the Governor in Council. R.S., c. 89, s. 2.

4. The Minister may, from time to time, appoint harbour and river police constables under and within the jurisdiction of such superintendents of harbour and river police. Their powers and duties.
   2. Such constables shall be subject to all lawful directions of the superintendents, and shall have and be charged with all the powers, rights and responsibilities of police constables. R.S., c. 89, s. 3.

5. The Governor in Council, may, from time to time, make rules and regulations for the government of the superintendents and constables of harbour and river police, and for the general management of the force. R.S., c. 89, s. 4.

6. Any superintendent of harbour and river police, and any constable appointed under the authority of this Act, may, at any time, board any vessel for the purpose of arresting or searching for any person for whose arrest a warrant has been issued.

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issued, or for the purpose of assisting or protecting any officer of Customs or other officer of the Government of Canada in the performance of his duties. R.S., c. 89, s. 6.

7. Subject to the provisions of the next following section, there shall be levied upon every vessel, whether entering at the port of Quebec or at the port of Montreal, a tonnage duty of three cents per ton register of such vessel, for the purposes of this Act; which duty shall be a lien upon the vessel, and shall be payable by the master of such vessel to the collector of Customs at the port: Provided that no vessel bound to or from the port of Montreal shall be liable to pay such duty at the port of Quebec for the same voyage. R.S., c. 89, s. 7.

8. Any vessel of one hundred tons register, or less, shall be subject to the payment of such tonnage duty on her first entry in either of the said ports in any calendar year, but not on any subsequent entry at the same port in the same year.

2. Any vessel of more than one hundred tons register, shall be subject to the said duty on her first and second entry at either of the said ports in any one calendar year, but not on any subsequent entry in the same year. R.S., c. 89, s. 7.

9. No entry inwards or clearance outwards at either of the said ports shall be granted by the collector of Customs to any vessel which requires to make such entry or clearance until the tonnage duty payable on such vessel under this Act has been paid. R.S., c. 89, s. 8.

10. The tonnage duty payable under this Act shall no longer be levied when the harbour and river police force ceases to be maintained under the authority of this Act. 56 V., c. 20, s. 1.

11. The Minister shall annually lay before Parliament, within fifteen days after the meeting thereof, a report of the receipts and expenditures under this Act during the year then next preceding. R.S., c. 89, s. 10.

OFFENCES AND PENALTIES.

12. Every constable appointed under this Act who is guilty of any disobedience of orders, neglect of duty or any misconduct as such constable shall be liable, on summary conviction, before any police magistrate, judge of the sessions of the peace, or two justices of the peace, to a penalty not exceeding twenty dollars and costs, and in default of immediate payment thereof, to imprisonment for any term not exceeding three months, unless the penalty and costs are sooner paid. R.S., c. 89, s. 5.

13. The master of any vessel liable to tonnage duty payable on such vessel under this Act, and not requiring any entry or clearance,

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clearance, who leaves the port at which such duty is payable without paying entry, without having paid the same, shall incur a penalty of fifty dollars. R.S., c. 89, s. 8.

14. All moneys arising from penalties under this Act, or levied at either of the said ports under the authority of this Act, shall be paid over by the collector receiving the same to the Minister of Finance, and shall form part of the Consolidated Revenue Fund. R.S., c. 89, s. 9.

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CHAPTER 118.

An Act respecting Bills of Lading.

1. This Act may be cited as the Bills of Lading Act.

2. Every consignee of goods named in a bill of lading, and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or endorsement, shall have and be vested with all such rights of action and be subject to all such liabilities in respect of such goods as if the contract contained in the bill of lading had been made with himself. 52 V., c. 30, s. 1.

3. Nothing in this Act contained shall prejudice or affect,—

(a) any right of stoppage in transitu; or,

(b) any right of an unpaid vendor under the Civil Code of Lower Canada; or,

(c) any right to claim freight against the original shipper or owner; or,

(d) any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement. 52 V., c. 30, s. 2.

4. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel or train, shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading has actual notice, at the time of receiving the same, that the goods had not in fact been laden on board, or unless such bill of lading has a stipulation to the contrary: Provided that the master or other person so signing, may exonerate himself in respect of such misrepresentation by showing that it was caused without any default on his part, and wholly by the fault of the shipper or of the holder, or of some person under whom the holder claims. 52 V., c. 30, s. 3.

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CHAPTER 119.

An Act relating to Bills of Exchange, Cheques and Promissory Notes.

SHORT TITLE.

1. This Act may be cited as the Bills of Exchange Act. Short title. 53 V., c. 33, s. 1.

INTERPRETATION

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

(a) 'acceptance' means an acceptance completed by delivery 'Acceptance.' or notification;

(b) 'action' includes counter-claim and set off; 'Action.'

(c) 'bank' means an incorporated bank or savings bank 'Bank.' carrying on business in Canada;

(d) 'bearer' means the person in possession of a bill or note 'Bearer.' which is payable to bearer;

(e) 'bill' means bill of exchange, and 'note' means pro- 'Bill,' missory note;

(f) 'delivery' means transfer of possession, actual or con- 'Delivery.' structive, from one person to another;

(g) 'holder' means the payee or endorsee of a bill or note 'Holder.' who is in possession of it, or the bearer thereof;

(h) 'endorsement' means an endorsement completed by 'Endorse- 'Delivery.' ment;

(i) 'issue' means the first delivery of a bill or note, com- 'Issue.' plete in form, to a person who takes it as a holder;

(j) 'value' means valuable consideration; 'Value.'

(k) 'defence' includes counter-claim;

(l) 'non-business days' means days directed by this Act 'Non-busi- ness days.' to be observed as legal holidays or non-juridical days.

2. Any day other than as aforesaid is a business day. 53 V., c. 33, ss. 2 and 91.

PART I.

GENERAL.

3. A thing is deemed to be done in good faith, within the Thing done meaning of this Act, where it is in fact done honestly whether in good faith, it is done negligently or not. 53 V., c. 33, s. 89.

4. Where by this Act, any instrument or writing is required to be signed by any person, it is not necessary that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person by or under his authority. 53 V., c. 33, s. 90.

5. In the case of a corporation, where, by this Act, any instrument or writing is required to be signed, it is sufficient if the instrument or writing is duly sealed with the corporate seal; but nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal. 53 V., c. 33, s. 90.

6. Where, by this Act, the time limited for doing any act or thing is less than three days, in reckoning time, non-business days are excluded. 53 V., c. 33, s. 91.

7. The provisions of this Act as to crossed cheques shall apply to a warrant for payment of dividend. 53 V., c. 33, s. 94.

8. Nothing in this Act shall affect the provisions of the Bank Act. 53 V., c. 33, s. 95.

9. The Act of the Parliament of Great Britain passed in the fifteenth year of the reign of His late Majesty George III., intituled An Act to restrain the negotiation of Promissory Notes and Inland Bills of Exchange under a limited sum within that part of Great Britain called England, and the Act of the said Parliament passed in the seventeenth year of His said Majesty’s reign, intituled An Act for further restraining the negotiation of Promissory Notes and Inland Bills of Exchange under a limited sum within that part of Great Britain called England, shall not extend to or be in force in any province of Canada, nor shall the said Acts make void any bills, notes, drafts or orders made or uttered therein. 53 V., c. 33, s. 95.

10. The rules of the common law of England, including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, shall apply to bills of exchange, promissory notes and cheques. 54-55 V., c. 17, s. 8.

11. A protest of any bill or note within Canada, and any copy thereof as copied by the notary or justice of the peace, shall, in any action be prima facie evidence of presentation and dishonour, and also of service of notice of such presentation and dishonour as stated in such protest or copy. 53 V., c. 33, s. 93.

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12. If a bill or note, presented for acceptance, or payable out of Canada, is protested for non-acceptance or non-payment, a notarial copy of the protest and of the notice of dishonour, and a notarial certificate of the service of such notice, shall be received in all courts, as prima facie evidence of such protest, notice and service. 53 V., c. 33, s. 71.

13. No clerk, teller or agent of any bank shall act as a notary in the protesting of any bill or note payable at the bank or at any of the branches of the bank in which he is employed. 53 V., c. 33, s. 51.

14. Every bill or note the consideration of which consists, in whole or in part, of the purchase money of a patent right, or of a partial interest, limited geographically or otherwise, in a patent right, shall have written or printed prominently and legibly across the face thereof, before the same is issued, the words Given for a patent right.

2. Without such words thereon, such instrument and any renewal thereof shall be void, except in the hands of a holder in due course without notice of such consideration. 53 V., c. 33, s. 30.

15. The endorsee or other transferee of any such instrument having the words aforesaid so printed or written thereon, shall take the same subject to any defence or set-off in respect of the whole or any part thereof which would have existed between the original parties. 53 V., c. 33, s. 30.

16. Every one who issues, sells or transfers, by endorsement or delivery, any such instrument not having the words Given for a patent right printed or written in manner aforesaid across the face thereof, knowing the consideration of such instrument to have consisted, in whole or in part, of the purchase money Indictable offence. of a patent right, or of a partial interest, limited geographically or otherwise, in a patent right, is guilty of an indictable offence and liable to imprisonment for any term not exceeding one Penalty. year, or to such fine, not exceeding two hundred dollars, as the court thinks fit. 53 V., c. 33, s. 30.

PART II.

BILLS OF EXCHANGE.

Form of Bill and Interpretation.

17. A bill of exchange is an unconditional order in writing. Bill of exchange defined. addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay, on demand R.S., 1906.
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2. An instrument which does not comply with the requisites aforesaid, or which orders any act to be done in addition to the payment of money, is not, except as hereinafter provided, a bill of exchange.

3. An order to pay out of a particular fund is not unconditional within the meaning of this section: Provided that an unqualified order to pay, coupled with,—

(a) an indication of a particular fund out of which the drawee is to reimburse himself, or a particular account to be debited with the amount; or,

(b) a statement of the transaction which gives rise to the bill;

is unconditional. 53 V., c. 33, s. 3.

18. An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

2. A bill may be addressed to two or more payees, whether they are partners or not; but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange. 53 V., c. 33, ss. 6 and 11.

19. A bill may be drawn payable to, or to the order of, the drawer; or it may be drawn payable to, or to the order of, the drawee.

2. A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.

3. A bill may be made payable to the holder of an office for the time being. 53 V., c. 33, ss. 5 and 7.

20. The drawee must be named or otherwise indicated in a bill with reasonable certainty. 53 V., c. 33, s. 6.

21. When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto, but it is not negotiable.

2. A negotiable bill may be payable either to order or to bearer.

3. A bill is payable to bearer which is expressed to be so payable, or on which the only or last endorsement is an endorsement in blank.

4. Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty.

5. Where the payee is a fictitious or non-existing person, the bill may be treated as payable to bearer. 53 V., c. 33, ss. 7 and 8.

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22. A bill is payable to order which is expressed to be payable; or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

2. Where a bill, either originally or by endorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order, at his option. 53 V., c. 33, s. 8.

23. A bill is payable on demand,—

(a) which is expressed to be payable on demand, or on presentation; or,

(b) in which no time for payment is expressed.

2. Where a bill is accepted or endorsed when it is overdue, it shall, as regards the acceptor who so accepts, or any endorser who so endorses it, be deemed a bill payable on demand. 53 V., c. 33, s. 10.

24. A bill is payable at a determinable future time, within the meaning of this Act, which is expressed to be payable,—

(a) at sight or at a fixed period after date or sight;

(b) on or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening is uncertain. 53 V., c. 33, s. 11; 54-55 V., c. 17, s. 1.

25. An inland bill is a bill which is, or on the face of it purports to be,—

(a) both drawn and payable within Canada; or,

(b) drawn within Canada upon some person resident therein.

2. Any other bill is a foreign bill.

3. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill. 53 V., c. 33, s. 4.

26. Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note. 53 V., c. 33, s. 5.

27. A bill is not invalid by reason only,—

(a) that it is not dated;

(b) that it does not specify the value given, or that any value has been given therefor;

(c) that it does not specify the place where it is drawn or the place where it is payable;

(d) that it is antedated or postdated, or that it bears date on a Sunday or other non-juridical day. 53 V., c. 33, ss. 3 and 13.

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Sum certain. 28. The sum payable by a bill is a sum certain within the meaning of this Act, although it is required to be paid,—

(a) with interest;

(b) by stated instalments;

(c) by stated instalments, with a provision that upon default in payment of any instalment the whole shall become due;

(d) according to an indicated rate of exchange or according to a rate of exchange to be ascertained as directed by the bill.

Figures and words. 2. Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

With interest. 3. Where a bill is expressed to be payable with interest, unless the instrument otherwise provides, interest runs from the date of the bill, and if the bill is undated, from the issue thereof. 53 V., c. 33, s. 9.

True date presumption. 29. Where a bill or an acceptance, or any endorsement on a bill, is dated, the date shall, unless the contrary is proved, be deemed to be the true date of the drawing, acceptance or endorsement, as the case may be. 53 V., c. 33, s. 13.

Undated bill payable after date. 30. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at sight or at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly: Provided that,—

(a) where the holder in good faith and by mistake inserts a wrong date; and,

(b) in every other case where a wrong date is inserted;

if the bill subsequently comes into the hands of a holder in due course the bill shall not be voided thereby, but shall operate and be payable as if the date so inserted had been the true date. 53 V., c. 33, s. 12; 54-55 V., c. 17, s. 2.

Perfecting bill. 31. Where a simple signature on a blank paper is delivered by the signer in order that it may be converted into a bill, it operates as a prima facie authority to fill it up as a complete bill for any amount, using the signature for that of the drawer or acceptor, or an endorser; and, in like manner, when a bill is wanting in any material particular, the person in possession of it has a prima facie authority to fill up the omission in any way he thinks fit. 53 V., c. 33, s. 20.

When to be complete. 32. In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given: Provided that if any such instrument, after completion, is negotiated to a holder in due course, it shall be valid and effectual.

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tual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.

2. Reasonable time within the meaning of this section is a reasonable time.

33. The drawer of a bill and any endorser may insert therein the name of a person, who shall be called the referee in case of need, to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment.

2. It is in the option of the holder to resort to the referee in case of need or not, as he thinks fit. 53 V., c. 33, s. 15.

34. The drawer of a bill, and any endorser, may insert therein an express stipulation.—

(a) negating or limiting his own liability to the holder;  Limiting.
(b) waiving, as regards himself, some or all of the holder’s duties. 53 V., c. 33, s. 16.

Acceptance and Interpretation.

35. The acceptance of a bill is the signification by the drawer of his assent to the order of the drawer.

2. Where in a bill the drawee is wrongly designated or his name is misspelled, he may accept the bill as therein described, adding, if he thinks fit, his proper signature, or he may accept by his proper signature. 53 V., c. 33, s. 17.

36. An acceptance is invalid unless it complies with the following conditions, namely:—

(a) It must be written on the bill and be signed by the drawee;  On the bill.
(b) It must not express that the drawee will perform his promise by any other means than the payment of money.  For money.

2. The mere signature of the drawee written on the bill without additional words is a sufficient acceptance. 53 V., c. 33, s. 17.

37. A bill may be accepted,—

(a) before it has been signed by the drawer, or while otherwise incomplete;  Before completion.
(b) when it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment.  Overdue.

2. When a bill payable at sight or after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance. 53 V., c. 33, s. 18; 54-55 V., c. 17, s. 3.

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Kinds.

38. An acceptance is either,—
   (a) general; or,
   (b) qualified.

General.

2. A general acceptance assents without qualification to the order of the drawer.

Qualified.

3. A qualified acceptance in express terms varies the effect of the bill as drawn and in particular, an acceptance is qualified which is,—

Conditional.

(a) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;

Partial.

(b) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

Time.

(c) qualified as to time;

Drawees.

(d) the acceptance of some one or more of the drawees, but not of all.

Specified place.

4. An acceptance to pay at a particular specified place is not on that account conditional or qualified. 53 V., c. 33, s. 19.

When acceptance complete.

39. Every contract on a bill, whether it is the drawer’s, the acceptor’s or an endorser’s, is incomplete and revocable, until delivery of the instrument in order to give effect thereto: Provided, that where an acceptance is written on a bill, and the drawee gives notice to, or according to the directions of, the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable. 53 V., c. 33, s. 21.

Delivery.

Requisites.

40. As between immediate parties, and as regards a remote party, other than a holder in due course, the delivery,—

Authority.

(a) in order to be effectual must be made either by or under the authority of the party drawing, accepting or endorsing, as the case may be;

Conditional.

(b) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.

Presumption.

2. If the bill is in the hands of a holder in due course, a valid delivery of the bill by all parties prior to him, so as to make them liable to him, is conclusively presumed. 53 V., c. 33, s. 21.

Parting with possession.

41. Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor or endorser, a valid and unconditional delivery by him is presumed until the contrary is proved. 53 V., c. 33, s. 21.

Computation of Time, non-juridical days and days of grace.

42. Where a bill is not payable on demand, three days, called days of grace, are, in every case, where the bill itself does 2150

does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace: Provided that whenever the last day of grace falls on a legal holiday or non-juridical day in the province where the bill is payable, then the day next following, not being a legal holiday or non-juridical day in such province, shall be the last day of grace. 53 V., c. 33, s. 14.

43. In all matters relating to bills of exchange, the following and no other days shall be observed as legal holidays or non-juridical days:

(a) In all the provinces of Canada,
- Sundays,
- New Year’s Day,
- Good Friday,
- Easter Monday,
- Victoria Day,
- Dominion Day,
- Labour Day,
- Christmas Day,
- The birthday (or the day fixed by proclamation for the celebration of the birthday) of the reigning sovereign;
- Any day appointed by proclamation for a public holiday, or for a general fast, or a general thanksgiving throughout Canada,
- The day next following New Year’s Day, Christmas Day, Victoria Day, Dominion Day, and the birthday of the reigning sovereign when such days respectively fall on Sunday;

(b) In the province of Quebec in addition to the said days, Quebec.
- The Epiphany,
- The Ascension,
- All Saint’s Day,
- Conception Day;

(c) In any one of the provinces of Canada, any day appointed by proclamation of the Lieutenant Governor of such province for a public holiday, or for a fast or thanksgiving within the same, and any non-juridical day by virtue of a statute of such province. 53 V., c. 33, s. 14; 56 V., c. 30, s. 1; 57-58 V., c. 55, s. 2; 1 E. VII., c. 12, ss. 2 and 4.

44. Where a bill is payable at sight, or at a fixed period after the date, sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run and by including the day of payment. 53 V., c. 33, s. 14.

45. Where a bill is payable at sight or at a fixed period after the date of the acceptance if sight, the time begins to run from the date of the acceptance if 2151

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the bill is accepted, and from the date of noting or protest if the bill is noted or protested for non-acceptance, or for non-delivery. 53 V., c. 33, s. 14.

46. Every bill which is made payable at a month or months after date becomes due on the same numbered day of the month in which it is made payable as the day on which it is dated, unless there is no such day in the month in which it is made payable, in which case it becomes due on the last day of that month, with the addition, in all cases, of the days of grace.

2. The term 'month' in a bill means the calendar month. 53 V., c. 33, s. 14.

Capacity and Authority of Parties.

47. Capacity to incur liability as a party to a bill is co-extensive with capacity to contract: Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor or endorser, of a bill, unless it is competent to it so to do under the law for the time being in force relating to such corporation. 53 V., c. 33, s. 22.

48. Where a bill is drawn or endorsed by an infant, minor, or corporation having no capacity or power to incur liability on a bill, the drawing or endorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto. 53 V., c. 33, s. 22.

49. Subject to the provisions of this Act, where a signature on a bill is forged, or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority: Provided that,

(a) nothing in this section shall affect the ratification of an unauthorized signature not amounting to a forgery;

(b) if a cheque payable to order is paid by the drawee upon a forged endorsement out of the funds of the drawer, or is so paid and charged to his account, the drawer shall have no right of action against the drawee for the recovery back of the amount so paid, nor any defence to any claim made by the drawee for the amount so paid, as the case may be, unless he gives notice in writing of such forgery to the drawee within one year after he has acquired notice of such forgery.

2. In case of failure by the drawer to give such notice within the said period, such cheque shall be held to have been paid in 2152 due

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due course as respects every other party thereto or named therein, who has not previously instituted proceedings for the protection of his rights. 53 V., c. 33, s. 24.

50. If a bill bearing a forged or unauthorized endorsement is paid in good faith and in the ordinary course of business, by or on behalf of the drawee or acceptor, the person by whom or on whose behalf such payment is made shall have the right to recover the amount so paid from the person to whom it was so paid or from any endorser who has endorsed the bill subsequently to the forged or unauthorized endorsement if notice of the endorsement being a forged or unauthorized endorsement is given to each such subsequent endorser within the time and in the manner in this section mentioned.

2. Any such person or endorser from whom said amount has been recovered shall have the like right of recovery against any prior endorser subsequent to the forged or unauthorized endorsement.

3. Such notice of the endorsement being a forged or unauthorized endorsement shall be given within a reasonable time after the person seeking to recover the amount has acquired notice that the endorsement is forged or unauthorized, and may be given in the same manner, and if sent by post may be addressed in the same way, as notice of protest or dishonour of a bill may be given or addressed under this Act. 60-61 V., c. 10, s. 1.

51. A signature by procuration operates as notice that the agent has but a limited authority to sign, and the principal is bound by such signature only if the agent in so signing was acting within the actual limits of his authority. 53 V., c. 33, s. 25.

52. Where a person signs a bill as drawer, endorser or acceptor, and adds words to his signature indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability.

2. In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted. 53 V., c. 33, s. 26.

Consideration.

53. Valuable consideration for a bill may be constituted by—

(a) any consideration sufficient to support a simple contract; 53 V., c. 33, s. 26.

(b) an antecedent debt or liability; 53 V., c. 33, s. 26.

Recovery of amount paid on forged endorsement.

Notice of forgery.

Procuration signatures.

Signing in representative capacity.

Rule for determining capacity.
2. Such a debt or liability is deemed valuable consideration, whether the bill is payable on demand or at a future time. 53 V., c. 33, s. 27.

**54.** Where value has, at any time, been given for a bill, the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

2. Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien. 53 V., c. 33, s. 27.

**55.** An accommodation party to a bill is a person who has signed a bill as drawer, acceptor or endorser, without receiving value therefor, and for the purpose of lending his name to some other person.

2. An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not. 53 V., c. 33, s. 28.

**56.** A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely:—

(a) That he became the holder of it before it was overdue and without notice that it had been previously dishonoured, if such was the fact;

(b) That he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

**57.** A holder, whether for value or not, who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder. 53 V., c. 33, s. 29.

**58.** Every party whose signature appears on a bill is *prima facie* deemed to have become a party thereto for value.

2. Every holder of a bill is *prima facie* deemed to be a holder in due course; but if, in an action on a bill it is admitted or proved...
proved that the acceptance, issue or subsequent negotiation of the bill is affected with fraud, duress or force and fear, or illegality, the burden of proof that he is such holder in due course shall be on him, unless and until he proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill by some other holder in due course. 53 V., c. 33, s. 30.

59. No bill, although given for a usurious consideration or upon a usurious contract, is void in the hands of a holder, unless such holder had at the time of its transfer to him actual knowledge that it was originally given for a usurious consideration, or upon a usurious contract. 53 V., c. 33, s. 30.

**Negotiation.**

60. A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

1. A bill payable to bearer is negotiated by delivery.
2. A bill payable to order is negotiated by the endorsement of the holder completed by delivery. 53 V., c. 33, s. 31.

61. Where the holder of a bill payable to his order transfers it for value without endorsing it, the transfer gives the transferee such title as the transferrer had in the bill, and the transferee in addition acquires the right to have the endorsement of the transferrer.

2. Where any person is under obligation to endorse a bill in a representative capacity, he may endorse the bill in such terms as to negative personal liability. 53 V., c. 33, s. 31.

62. An endorsement in order to operate as a negotiation,—Endorsing:

(a) must be written on the bill itself and be signed by the endorser;

(b) must be an endorsement of the entire bill.

2. An endorsement written on an allonge, or on a copy of Allonge, a bill issued or negotiated in a country where copies are recognized, is deemed to be written on the bill itself.

3. A partial endorsement, that is to say, an endorsement which purports to transfer to the endorsee a part only of the amount payable, or which purports to transfer the bill to two or more endorsee se severally, does not operate as a negotiation of the bill. 53 V., c. 33, s. 32.

63. The simple signature of the endorser on the bill, without additional words, is sufficient endorsement.

2. Where a bill is payable to the order of two or more payees, or endorsee se who are not partners, all must endorse, unless the one endorsing has authority to endorse for the others. 53 V., c. 33, s. 32.

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Misspelling payee's name.

64. Where, in a bill payable to order, the payee or endorsee is wrongly designated, or his name is misspelt, he may endorse the bill as therein described, adding his proper signature; or he may endorse by his own proper signature. 53 V., c. 33, s. 32.

Presumption as to order of endorsement.

65. Where there are two or more endorsements on a bill, each endorsement is deemed to have been made in the order in which it appears on the bill, until the contrary is proved. 53 V., c. 33, s. 32.

Disregarding condition.

66. Where a bill purports to be endorsed conditionally, the condition may be disregarded by the payer, and payment to the endorsee is valid, whether the condition has been fulfilled or not. 53 V., c. 33, ss. 32 and 34.

Endorsement in blank.

67. An endorsement may be made in blank or special.

2. An endorsement in blank: specifies no endorsee, and a bill so endorsed becomes payable to bearer.

3. A special endorsement specifies the person to whom, or to whose order, the bill is to be payable.

4. The provisions of this Act relating to a payee apply, with the necessary modifications, to an endorsee under a special endorsement.

Application of Act to conversion of blank endorsement.

5. Where a bill has been endorsed in blank, any holder may convert the blank endorsement into a special endorsement by writing above the endorser's signature a direction to pay the bill to or to the order of himself or some other person. 53 V., c. 33, ss. 32 and 34.

Restrictive endorsement. What is.

68. An endorsement may also contain terms making it restrictive.

2. An endorsement is restrictive which prohibits the further negotiation of the bill, or which expresses that it is a mere authority to deal with the bill as thereby directed, and not a transfer of the ownership thereof, as, for example, if a bill is endorsed 'Pay D only,' or 'Pay D for the account of X,' or 'Pay D, or order, for collection.'

3. A restrictive endorsement gives the endorsee the right to receive payment of the bill and to sue any party thereto that his endorser could have sued, but gives him no power to transfer his rights as endorsee unless it expressly authorizes him to do so.

4. Where a restrictive endorsement authorizes further transfer, all subsequent endorsee take the bill with the same rights and subject to the same liabilities as the first endorsee under the restrictive endorsement. 53 V., c. 33, ss. 32 and 35.

Rights of endorsee.

When negotiability ceases.

69. Where a bill is negotiable in its origin, it continues to be negotiable until it has been,—

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(a) restrictively endorsed; or,
(b) discharged by payment or otherwise. 53 V., c. 33, s. 36.

70. Where an overdue bill is negotiated, it can be negotiated Overdue bill. only subject to any defect of title affecting it at its maturity. and thenceforward no person who takes it can acquire or give a Equities. better title than that which had the person from whom he took it.

2. A bill payable on demand is deemed to be overdue within Demand bill the meaning and for the purposes of this section, when it appears on the face of it to have been in circulation for an un-reasonable length of time.

3. What is an unreasonable length of time for such purpose Time. is a question of fact. 53 V., c. 33, s. 36.

71. Except where an endorsement bears date after the Presump- maturity of the bill, every negotiation is prima facie deemed tion as to. to have been effected before the bill was overdue. 53 V., c. 33, s. 36.

72. Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour; but nothing in this section shall affect the rights of a holder in due course. 53 V., c. 33, s. 36.

73. Where a bill is negotiated back to the drawer, or to a Re-issue of prior endorser, or to the acceptor, such party may, subject to bill the provisions of this Act, re-issue and further negotiate the bill, but he is not entitled to enforce the payment of the bill against any intervening party to whom he was previously liable. 53 V., c. 33, s. 37.

74. The rights and powers of the holder of a bill are as Rights of follows:-
(a) He may sue on the bill in his own name;
(b) Where he is a holder in due course, he holds the bill free Prior defects. from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill;
(c) Where his title is defective, if he negotiates the bill to a Title from holder in due course, that holder obtains a good and com-plete title to the bill; and,
(d) Where his title is defective if he obtains payment of the Discharge bill the person who pays him in due course gets a valid from him. discharge for the bill. 53 V., c. 33, s. 38.

Presentment for Acceptance.

75. Where a bill is payable at sight or after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument.

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2. Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

3. In no other case is presentment for acceptance necessary in order to render liable any party to the bill. 53 V., c. 33, s. 39.

76. Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee, has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and endorsers. 53 V., c. 33, s. 39.

77. Subject to the provisions of this Act, when a bill payable at sight or after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time.

2. If he does not do so, the drawer and all endorsers prior to that holder are discharged.

3. In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills, and the facts of the particular case. 53 V., c. 33, s. 40; 54-55 V., c. 17, s. 5.

78. A bill is duly presented for acceptance which is presented in accordance with the following rules, namely:—

(a) The presentment must be made by or on behalf of the holder to the drawee or to some person authorized to accept or refuse acceptance on his behalf, at a reasonable hour on a business day and before the bill is overdue;

(b) Where a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, when presentment may be made to him only;

(c) Where the drawee is dead, presentment may be made to his personal representative;

(d) Where authorized by agreement or usage, a presentment through the post office is sufficient. 53 V., c. 33, s. 41.

79. Presentment in accordance with the aforesaid rules is excused, and a bill may be treated as dishonoured by non-acceptance,—

(a) where the drawee is dead, or is a fictitious person or a person not having capacity to contract by bill;

(b) where, after the exercise of reasonable diligence, such presentment cannot be effected;

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(c) where although the presentment has been irregular, acceptance has been refused on some other ground.

2. The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured does not excuse presentment. 53 V., c. 33, s. 41; 54-55 V., c. 17, s. 6.

80. The drawee may accept a bill on the day of its due presentment to him for acceptance, or at any time within two days thereafter.

2. When a bill is so duly presented for acceptance and is not accepted within the time aforesaid, the person presenting it must treat it as dishonoured by non-acceptance.

3. If he does not so treat the bill as dishonoured, the holder shall lose his right of recourse against the drawer and endorsers.

4. In the case of a bill payable at sight or after sight, the acceptor may date his acceptance thereon as of any of the days aforesaid but not later than the day of his actual acceptance of the bill.

5. If the acceptance is not so dated, the holder may refuse to take the acceptance and may treat the bill as dishonoured by non-acceptance. 2 E. VII., c. 2, s. 1.

81. A bill is dishonoured by non-acceptance,—

(a) when it is duly presented for acceptance, and such an acceptance as is prescribed by this Act is refused or cannot be obtained; or,

(b) when presentment for acceptance is excused and the bill is not accepted. 53 V., c. 33, s. 43.

82. Subject to the provisions of this Act, when a bill is dishonoured by non-acceptance an immediate right of recourse against the drawer and endorsers accrues to the holder, and no presentment for payment is necessary. 53 V., c. 33, s. 43.

83. The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance.

2. When the drawer or endorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder, he shall be deemed to have assented thereto. 53 V., c. 33, s. 44.

84. Where a qualified acceptance is taken, and the drawer or an endorser has not expressly or impliedly authorized the holder to take a qualified acceptance, or does not subsequently with authority. assent thereto, such drawer or endorser is discharged from his liability on the bill: Provided that this section shall not apply to a partial acceptance, whereof due notice has been given. 53 V., c. 33, s. 44.
Subject to the provisions of this Act, a bill must be duly presented for payment.

2. If it is not so presented, the drawer and endorsers shall be discharged.

3. Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment. 53 V., c. 33, ss. 45 and 52.

A bill is duly presented for payment which is presented,—

(a) when the bill is not payable on demand, on the day it falls due;

(b) when the bill is payable on demand, within a reasonable time after its issue, in order to render the drawer liable, and within a reasonable time after its endorsement, in order to render the endorser liable.

In determining what is a reasonable time within the meaning of this section regard shall be had to the nature of the bill, the usage of trade with regard to similar bills and the facts of the particular case. 53 V., c. 33, s. 45.

Presentment must be made by the holder or by some person authorized to receive payment on his behalf, at the proper place as hereinafter defined, and either to the person designated by the bill as payer or to his representative or some person authorized to pay or to refuse payment on his behalf, if, with the exercise of reasonable diligence such person can there be found.

2. When a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.

3. When the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative if such there is, and with the exercise of reasonable diligence, he can be found. 53 V., c. 33, s. 45.

A bill is presented at the proper place,—

(a) where a place of payment is specified in the bill or acceptance, and the bill is there presented;

(b) where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented;

(c) where no place of payment is specified and no address given, and the bill is presented at the drawee's or acceptor's place of business, if known, and if not at his ordinary residence, if known;

(d) in any other case, if presented to the drawee or acceptor wherever he can be found, or if presented at his last known place of business or residence. 53 V., c. 33, s. 45.
89. Where a bill is presented at the proper place as aforesaid and after the exercise of reasonable diligence, no person authorized to pay or refuse payment can there be found no further presentment to the drawee or acceptor is required. 53 V., c. 33, s. 45.

90. Where the place of payment specified in the bill or acceptance is any city, town or village, and no place therein is specified, and the bill is presented at the drawee's or acceptor's known place of business or known ordinary residence therein, and if there is no such place of business or residence, the bill is presented at the post office, or principal post office in such city, town or village, such presentment is sufficient.

2. Where authorized by agreement or usage, a presentment through the post office is sufficient. 53 V., c. 33, s. 45.

91. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence.

2. When the cause of delay ceases to operate, presentment must be made with reasonable diligence. 53 V., c. 33, s. 46.

92. Presentment for payment is dispensed with,—

(a) where, after the exercise of reasonable diligence, presentment, as required by this Act, cannot be effected;

(b) where the drawee is a fictitious person;

(c) as regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented;

(d) as regards an endorser, where the bill was accepted or made for the accommodation of that endorser, and he has no reason to expect that the bill would be paid if presented:

(e) by waiver of presentment, express or implied.

2. The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment. 53 V., c. 33, s. 46.

93. When no place of payment is specified in the bill or acceptance, presentment for payment is not necessary in order to render the acceptor liable.

2. When a place of payment is specified in the bill or acceptance, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures, but if any suit or action be instituted thereon before presentation the costs thereof shall be in the discretion of the court.

3. When a bill is paid the holder shall forthwith deliver it up to the party paying it. 53 V., c. 33, s. 52.
94. Where the address of the acceptor for honour of a bill is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity.

2. Where the address of the acceptor for honour is in some place other than the place where it is protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

3. Delay in presentment or non-presentment is excused by any circumstance which would in ease of acceptance by a drawee excuse delay in presentment for payment or non-presentment for payment. 53 V., c. 33, s. 66.

Dishonour.

95. A bill is dishonoured by non-payment,—

(a) when it is duly presented for payment and payment is refused or cannot be obtained; or,

(b) when presentment is excused and the bill is overdue and unpaid.

2. Subject to the provisions of this Act, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer, acceptor and endorsers accrues to the holder. 53 V., c. 33, s. 47.

96. Subject to the provisions of this Act, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer, and each endorser, and any drawer or endorser to whom such notice is not given is discharged: Provided that,—

(a) where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course subsequent to the omission shall not be prejudiced by the omission;

(b) where a bill is dishonoured by non-acceptance, and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment, unless the bill shall in the meantime have been accepted.

2. In order to render the acceptor of a bill liable it is not necessary that notice of dishonour should be given to him. 53 V., c. 33, ss. 48 and 52.

97. Notice of dishonour in order to be valid and effectual must be given,—

Time for.

(a) not later than the juridical or business day next following the dishonour of the bill;

By holder or endorser.

(b) by or on behalf of the holder, or by or on behalf of an endorser, who at the time of giving it, is himself liable on the bill;

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(c) in the case of the death, if known to the party giving notice, of the drawer or endorser, to a personal representative, if such there is and with the exercise of reasonable diligence he can be found;
(d) in case of two or more drawers or endorsers who are not partners, to each of them, unless one of them has authority to receive notice for the others. 53 V., c. 33, s. 49.

98. Notice of dishonour may be given,—
(a) as soon as the bill is dishonoured;
(b) to the party to whom the same is required to be given, or to his agent in that behalf;
(c) by an agent either in his own name or in the name of any party entitled to give notice whether that party is his principal or not;
(d) in writing or by personal communication and in any terms which identify the bill and intimate that the bill has been dishonoured by non-acceptance or non-payment.

2. A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby. 53 V., c. 33, s. 49.

99. In point of form,—
(a) the return of a dishonoured bill to the drawer or an endorser is a sufficient notice of dishonour;
(b) a written notice need not be signed.

2. An insufficient written notice may be supplemented and validated by verbal communication. 53 V., c. 33, s. 49.

100. Where a bill when dishonoured is in the hands of an agent he may himself give notice to the parties liable on the bill, or he may give notice to his principal, in which case the principal upon receipt of the notice shall have the same time for giving notice as if the agent had been an independent holder.

2. If the agent gives notice to his principal he must do so within the same time as if he were an independent holder. 53 V., c. 33, s. 49.

101. Where a party to a bill receives due notice of dishonour he has, after the receipt of such notice, the same period of time for giving notice to antecedent parties that a holder has after dishonour. 53 V., c. 33, s. 49.

102. A notice of dishonour enures for the benefit,—
(a) of all subsequent holders and of all prior endorsers who have a right of recourse against the party to whom it is given, where given on behalf of the holder;
(b) Benefit

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Parties to whom. (b) of the holder and of all endorsers subsequent to the party to whom notice is given, where given, by or on behalf of an endorser entitled under this Part to give notice. 53 V., c. 33, s 49.

Sufficiency of giving. 103. Notice of the dishonour of any bill payable in Canada shall, notwithstanding anything in this Act contained be sufficiently given if it is addressed in due time to any party to such bill entitled to such notice, at his customary address or place of residence or at the place at which such bill is dated, unless any such party has, under his signature, designated another place, in which case such notice shall be sufficiently given if addressed to him in due time at such other place.

Sufficiency of notice. 2. Such notice so addressed shall be sufficient, although the place of residence of such party is other than either of the places aforesaid, and shall be deemed to have been duly served and given for all purposes if it is deposited in any post office, with the postage paid thereon, at any time during the day on which presentment has been made, or on the next following juridical or business day.

Death of party. 3. Such notice shall not be invalid by reason only of the fact that the party to whom it is addressed is dead. 53 V., c. 33, s. 49.

Miscarriage in post service. 104. Where a notice of dishonour is duly addressed and posted, as provided in the last preceding section, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post office. 53 V., c. 33, s. 49.

Excuse for delay. 105. Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct or negligence.

Diligence. 2. When the cause of delay ceases to operate the notice must be given with reasonable diligence. 53 V., c. 33, s. 50.

Dispensed with. Reasonable diligence. 106. Notice of dishonour is dispensed with,—
(a) when after the exercise of reasonable diligence, notice as required by this Act cannot be given to or does not reach the drawer or endorser sought to be charged;
(b) by waiver express or implied.

Waiver. Time of. 2. Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice. 53 V., c. 33, s. 50.

Dispensed with. same person. 107. Notice of dishonour is dispensed with as regards the drawer where,—
(a) the drawer and drawee are the same person;
(b) the drawee is a fictitious person or a person not having capacity to contract;

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(c) the drawer is the person to whom the bill is presented for payment;
(d) the drawee or acceptor is, as between himself and the drawer, under no obligation to accept or pay the bill;
(e) the drawer has countermanded payment. 53 V., c. 33, s. 50.

108. Notice of dishonour is dispensed with as regards the endorser where,—

(a) the drawee is a fictitious person or a person not having capacity to contract, and the endorser was aware of the fact at the time he endorsed the bill;
(b) the endorser is the person to whom the bill is presented for payment;
(c) the bill was accepted or made for his accommodation. 53 V., c. 33, s. 50.

Protest.

109. In order to render the acceptor of a bill liable it is not necessary to protest it. 53 V., c. 33, s. 52.

110. Protest is dispensed with by any circumstances which would dispense with notice of dishonour. 53 V., c. 33, s. 51.

111. Delay in noting or protesting is excused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence.

2. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence. 53 V., c. 33, s. 51.

112. Where a foreign bill appearing on the face of it to be such has been dishonoured by non-acceptance it must be duly protested for non-acceptance.

2. Where a foreign bill which has not been previously dishonoured by non-acceptance is dishonoured by non-payment, it must be duly protested for non-payment.

3. Where a foreign bill has been accepted only as to part it must be protested as to the balance.

4. If a foreign bill is not protested as by this section required the drawer and endorsers are discharged. 53 V., c. 33, s. 44 and 51.

113. Where an inland bill has been dishonoured, it may, if the holder thinks fit, be noted and protested for non-acceptance or non-payment as the case may be; but it shall not, except in the province of Quebec, be necessary to note or protest an inland bill in order to have recourse against the drawer or endorsers. 53 V., c. 33, s. 51.

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114. In the case of an inland bill drawn upon any person in the province of Quebec or payable or accepted at any place in the said province the parties liable on the said bill other than the acceptor are, in default of protest for non-acceptance or non-payment as the case may be, and of notice thereof, discharged, except in cases where the circumstances are such as would dispense with notice of dishonour.

2. Except as in this section provided, where a bill does not on the face of it appear to be a foreign bill, protest thereof in case of dishonour is unnecessary. 53 V., c. 33, s. 51.

115. A bill which has been protested for non-acceptance, or a bill of which protest for non-acceptance has been waived, may be subsequently protested for non-payment. 53 V., c. 33, s. 51.

116. Where the acceptor of a bill suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and endorsers. 53 V., c. 33, s. 51; 54-55 V., c. 17, s. 7.

117. Where a dishonoured bill has been accepted for honour supra protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour, or referee in case of need.

2. When a bill of exchange is dishonoured by the acceptor for honour, it must be protested for non-payment by him. 53 V., c. 33, s. 66.

118. For the purposes of this Act, where a bill is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding. 53 V., c. 33, s. 92.

119. Subject to the provisions of this Act, when a bill is protested the protest must be made or noted on the day of its dishonour.

2. When a bill has been duly noted, the formal protest may be extended thereafter at any time as of the date of the noting. 53 V., c. 33, ss. 51 and 92.

120. Where a bill is lost or destroyed, or is wrongly or accidentally detained from the person entitled to hold it, or is accidentally retained in a place other than where payable, protest may be made on a copy or written particulars thereof. 53 V., c. 33, s. 51.

121. A bill must be protested at the place where it is dishonoured, or at some other place in Canada situate within five miles.

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miles of the place of presentment and dishonour of such bill:
Provided that,—

(a) when a bill is presented through the post office and re-
turned by post dishonour ed, it may be protested at the
place to which it is returned, not later than on the day of
its return or the next juridical day;
(b) every protest for dishonour, either for non-acceptance or Time when.
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. 53 V., c. 33, s. 51.

122. A protest must contain a copy of the bill, or the ori-
ginal bill may be annexed thereto, and the protest must be
signed by the notary making it, and must specify,—

(a) the person at whose request the bill is protested;  Contents of
(b) the place and date of protest;  protest.
(c) the cause or reason for protesting the bill;
(d) the demand made and the answer given, if any; or,
(e) the fact that the drawee or acceptor could not be found.  
53 V., c. 33, s. 51.

123. Where a dishonoured bill is authorized or required to be protested, and the services of a notary cannot be obtained at
the place where the bill is dishonoured, any justice of the peace
resident in the place may present and protest such bill and give
all necessary notices and shall have all the necessary powers of
a notary in respect thereto. 53 V., c. 33, s. 93.

124. The expense of noting and protesting any bill and the Expenses.
postages thereby incurred, shall be allowed and paid to the
holder in addition to any interest thereon.
2. Notaries may charge the fees in each province heretofore Fees.
allowed them. 53 V., c. 33, s. 93.

125. The forms in the schedule to this Act may be used in Forms.
noting or protesting any bill and in giving notice thereof.
2. A copy of the bill and endorsement may be included in Contents.
the forms, or the original bill may be annexed and the neces-
sary changes in that behalf made in the forms. 53 V., c. 33,
s. 93.

126. Notice of the protest of any bill payable in Canada shall be sufficiently given and shall be sufficient and deemed to of protest
have been duly given and served, if given during the day on
which protest has been made or on the next following juridical
or business day, to the same parties and in the same manner
and addressed in the same way as is provided by this Part for
notice of dishonour. 53 V., c. 33, s. 49.

2167  Liabilities

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Liabilities of Parties.

127. A bill, of itself, does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Act is not liable on the instrument. 53 V., c. 33, s. 53.

128. The acceptor of a bill, by accepting it, engages that he will pay it according to the tenor of his acceptance. 53 V., c. 33, s. 54.

129. The acceptor of a bill by accepting it is precluded from denying to a holder in due course,—

(a) the existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill;

(b) in the case of a bill payable to drawer's order, the then capacity of the drawer to endorse, but not the genuineness or validity of his endorsement;

(c) in the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to endorse, but not the genuineness or validity of his endorsement. 53 V., c. 33, s. 54.

130. The drawer of a bill, by drawing it,—

(a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it is dishonoured he will compensate the holder or any endorser who is compelled to pay it, if the requisite proceedings on dishonour are duly taken;

(b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to endorse. 53 V., c. 33, s. 55.

131. No person is liable as drawer, endorser or acceptor of a bill who has not signed it as such: Provided that when a person signs a bill otherwise than as a drawer or acceptor he thereby incurs the liabilities of an endorser to a holder in due course and is subject to all the provisions of this Act respecting endorsers. 53 V., c. 33, ss. 23 and 56.

132. Where a person signs a bill in a trade or assumed name he is liable thereon as if he had signed it in his own name.

2. The signature of the name of a firm is equivalent to the signature by the person so signing, of the names of all persons liable as partners in that firm. 53 V., c. 33, s. 23.

133. The endorser of a bill, by endorsing it, subject to the effect of any express stipulation hereinbefore authorized,—

(a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it is dishonoured he will compensate the holder or a subsequent endorser.

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who is compelled to pay it, if the requisite proceedings on
dishonour are duly taken;
(b) is precluded from denying to a holder in due course the
genuineness and regularity in all respects of the drawer's
signature and all previous endorsements;
(c) is precluded from denying to his immediate or a subse-
quent endorser that the bill was, at the time of his endorse-
ment, a valid and subsisting bill, and that he had then a
good title thereto. 53 V., c. 33, s. 55.

134. Where a bill is dishonoured, the measure of damages
which shall be deemed to be liquidated damages shall be,—
(a) the amount of the bill;
(b) interest thereon from the time of presentment for pay-
ment, if the bill is payable on demand, and from the
maturity of the bill in any other case;
(c) the expenses of noting and protest. 53 V., c. 33, s. 57.

135. In case of the dishonour of a bill the holder may
recover from any party liable on the bill, the drawer who has
been compelled to pay the bill may recover from the acceptor,
and an endorser who has been compelled to pay the bill may
recover from the acceptor or from the drawer, or from a prior
endorser, the damages aforesaid. 53 V., c. 33, s. 57.

136. In the case of a bill which has been dishonoured abroad
in addition to the damages aforesaid, the holder may recover
from the drawer or any endorser, and the drawer or an endorser
who has been compelled to pay the bill may recover from any
party liable to him, the amount of the re-exchange with interest
thereon until the time of payment. 53 V., c. 33, s. 57.

137. Where the holder of a bill payable to bearer nego-
tiates it by delivery without endorsing it, he is called a 'trans-
ferrer by delivery.'
2. A transferrer by delivery is not liable on the instrument. Liability of.
53 V., c. 33, s. 58.

138. A transferrer by delivery who negotiates a bill thereby Warranty by.
warrants to his immediate transferee, being a holder for
value,—
(a) that the bill is what it purports to be;
(b) that he has a right to transfer it; and,
(c) that at the time of transfer he is not aware of any fact
which renders it valueless. 53 V., c. 33, s. 58.

Discharge of Bill.

139. A bill is discharged by payment in due course by or Payment.
on behalf of the drawee or acceptor.

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2.

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Payment in due course.

Accommodation bill.

Payment by drawer or endorser.

Gives rights.

Second negotiation.

Acceptor holding at maturity.

Renouncing rights.

Against one party.

Writing.

Holder in due course.

Cancellation of bill.

Of any signature.

Discharge of endorser.

Unintentional cancellation.

Burden of proof.

2. Payment in due course means payment made at or after the maturity of the bill to the holder thereof in good faith and without notice that his title to the bill is defective.

3. Where an accommodation bill is paid in due course by the party accommodated, the bill is discharged. 53 V., c. 33, s. 59.

140. Subject to the provisions aforesaid as to an accommodation bill, when a bill is paid by the drawer or an endorser, it is not discharged; but,—

(a) where a bill payable to, or to the order of, a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill;

(b) where a bill is paid by an endorser, or where a bill payable to drawer's order is paid by the drawer, the party paving it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent endorsements, and again negotiate the bill. 53 V., c. 33, s. 59.

141. When the acceptor of a bill is or becomes the holder of it, at or after its maturity, in his own right, the bill is discharged. 53 V., c. 33, s. 60.

142. When the holder of a bill, at or after its maturity, absolutely and unconditionally renounces his rights against the acceptor, the bill is discharged.

2. The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity.

3. A renunciation must be in writing, unless the bill is delivered up to the acceptor.

4. Nothing in this section shall affect the rights of a holder in due course without notice of renunciation. 53 V., c. 33, s. 61.

143. Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged.

2. In like manner, any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent.

3. In such case, any endorser who would have had a right of recourse against the party whose signature is cancelled is also discharged. 53 V., c. 33, s. 62.

144. A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative: Provided that where a bill or any signature thereon appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority. 53 V., c. 33, s. 62.

145. R.S., 1906.
145. Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is voided, except as against a party who has himself made, authorized, or assented to the alteration and subsequent endorsers: Provided that where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered, and may enforce payment of it according to its original tenor. 53 V., c. 33, s. 63.

146. In particular any alteration,—
(a) of the date;
(b) of the sum payable;
(c) of the time of payment;
(d) of the place of payment;
(e) by the addition of a place of payment without the acceptor's assent where a bill has been accepted generally;
is a material alteration. 53 V., c. 33, s. 63.

Acceptance and Payment for Honour.

147. Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder; intervene and accept the bill supra protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn. 53 V., c. 33, s. 64.

148. A bill may be accepted for honour for part only of the sum for which it is drawn. 53 V., c. 33, s. 64.

149. Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer. 53 V., c. 33, s. 64.

150. Where a bill payable after sight is accepted for honour, Maturity of its maturity is calculated from the date of protesting for non-acceptance, and not from the date of the acceptance for honour. 53 V., c. 33, s. 64.

151. An acceptance for honour supra protest, in order to be valid must,—
(a) be written on the bill, and indicate that it is an acceptance for honour; and,
(b) be signed by the acceptor for honour. 53 V., c. 33, s. 64.

152. The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided R.S., 1906.
provided it has been duly presented for payment and protested for non-payment, and that he receives notice of these facts.

2. The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted. 53 V., c. 33, s. 65.

153. Where a bill has been protested for non-payment, any person may intervene and pay it supra protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

2. Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.

3. Where the holder of a bill refuses to receive payment supra protest, he shall lose his right of recourse against any party who would have been discharged by such payment.

4. The payer for honour, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour, is entitled to receive both the bill itself and the protest.

5. If the holder does not on demand in such case deliver up the bill and protest, he shall be liable to the payer for honour in damages. 53 V., c. 33, s. 67.

154. Payment for honour supra protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour, which may be appended to the protest or form an extension of it.

2. The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays. 53 V., c. 33, s. 67.

155. Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of the holder as regards the party for whose honour he pays, and all parties liable to that party. 53 V., c. 33, s. 67.

Lost Instruments.

156. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever, in case the bill alleged to have been lost shall be found again.

2. If the drawer, on request as aforesaid, refuses to give such duplicate bill, he may be compelled to do so. 53 V., c. 33, s. 68.

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157. In any action or proceeding upon a bill, the court or a judge may order that the loss of the instrument shall not be lost bill. set up, provided an indemnity is given to the satisfaction of the court or judge against the claims of any other person upon the instrument in question. 53 V., c. 33, s. 69.

Bill in a Set.

158. Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill.

1. The acceptance must be written on any part, and it must be written on one part only. 53 V., c. 33, s. 70.

159. Where the holder of a set endorses two or more parts to different persons, he is liable on every such part, and every endorsing subsequent to him is liable on the part he has himself endorsed as if the said parts were separate bills.

2. Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is, as between such holders, deemed the true owner of the bill. Provided that nothing in this subsection shall affect the rights of a person who in due course accepts or pays the part first presented to him.

3. If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

4. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

5. Subject to the provisions of this section, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged. 53 V., c. 33, s. 70.

Conflict of Laws.

160. Where a bill drawn in one country is negotiated, accepted or payable in another, the validity of the bill as regards requisites in form is determined by the law of the place of issue, and the validity as regards requisites in form of the supervening contracts, such as acceptance, or endorsement, or acceptance protest, is determined by the law of the place where the contract was made: Provided that,—

(a) where a bill is issued out of Canada, it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue;

(b) where a bill, issued out of Canada, conforms, as regards requisites in form, to the law of Canada, it may, for the purpose of enforcing payment thereof, be treated as valid as R.S., 1906.
as between all persons who negotiate, hold or become parties to it in Canada. 53 V., c. 33, s. 71.

161. Subject to the provisions of this Act, the interpretation of the drawing, endorsement, acceptance or acceptance supra protest of a bill, drawn in one country and negotiated, accepted or payable in another, is determined by the law of the place where such contract is made: Provided that where an inland bill is endorsed in a foreign country, the endorsement shall, as regards the payer, be interpreted according to the law of Canada. 53 V., c. 33, s. 71.

162. The duties of the holder with respect to presentment for acceptance or payment and the necessity for or sufficiency of a protest or notice of dishonour, are determined by the law of the place where the act is done or the bill is dishonoured. 53 V., c. 33, s. 71.

163. Where a bill is drawn out of but payable in Canada, and the sum payable is not expressed in the currency of Canada, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable. 53 V., c. 33, s. 71.

164. Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable. 53 V., c. 33, s. 71.

PART III.

CHEQUES ON A BANK.

165. A cheque is a bill of exchange drawn on a bank, payable on demand.

2. Except as otherwise provided in this Part, the provisions of this Act applicable to a bill of exchange payable on demand apply to a cheque. 53 V., c. 33, s. 72.

166. Subject to the provisions of this Act,—

(a) where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment, as between him and the bank, to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such bank to a larger amount than he would have been had such cheque been paid;

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(b) the holder of such cheque, as to which such drawer or person is discharged, shall be a creditor, in lieu of such drawer or person, of such bank to the extent of such discharge, and entitled to recover the amount from it.

2. In determining what is a reasonable time, within this section, regard shall be had to the nature of the instrument, the usage of trade and of banks, and the facts of the particular case. 53 V., c. 33, s. 73.

167. The duty and authority of a bank to pay a cheque drawn on it by its customer, are determined by,—

(a) countermand of payment;
(b) notice of the customer's death. 53 V., s. 33, s. 74.

Crossed Cheques.

168. Where a cheque bears across its face an addition of,—

(a) the word 'bank' between two parallel transverse lines, either with or without the words 'not negotiable'; or,
(b) two parallel transverse lines simply, either with or without the words 'not negotiable';

such addition constitutes a crossing, and the cheque is crossed generally.

2. Where a cheque bears across its face an addition of the name of a bank, either with or without the words 'not negotiable,' that addition constitutes a crossing, and the cheque is crossed specially and to that bank. 53 V., c. 33, s. 75.

169. A cheque may be crossed generally or specially by the drawer.

2. Where a cheque is uncrossed, the holder may cross it generally or specially.

3. Where a cheque is crossed generally, the holder may cross it specially.

4. Where a cheque is crossed generally or specially, the holder may add the words Not negotiable.

5. Where a cheque is crossed specially the bank to which it is crossed may again cross it specially to another bank for collection.

6. Where an uncrossed cheque, or a cheque crossed generally, is sent to a bank for collection, it may cross it specially to itself. Uncrossing.

7. A crossed cheque may be re-opened or uncrossed by the drawer writing between the transverse lines, the words Pay cash, and initialling the same. 53 V., c. 33, s. 76.

170. A crossing authorized by this Act is a material part of the cheque.

2. It shall not be lawful for any person to obliterate or, except as authorized by this Act, to add to or alter the crossing. 53 V., c. 33, s. 78.

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171. Where a cheque is crossed specially to more than one bank, except when crossed to another bank as agent for collection, the bank on which it is drawn shall refuse payment thereof. 53 V., c. 33, s. 78.

172. Where the bank on which a cheque so crossed is drawn, nevertheless pays the same, or pays a cheque crossed generally otherwise than to a bank, or, if crossed specially, otherwise than to the bank to which it is crossed, or to the bank acting as its agent for collection, it is liable to the true owner of the cheque for any loss he sustains owing to the cheque having been so paid: Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorized by this Act, the bank paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorized by this Act, and of payment having been made otherwise than to a bank or to the bank to which the cheque is or was crossed, or to the bank acting as its agent for collection, as the case may be. 53 V., c. 33, s. 78.

173. Where the bank, on which a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally to a bank, or, if crossed specially, to the bank to which it is crossed, or to a bank acting as its agent for collection, the bank paying the cheque, and if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof. 53 V., c. 33, s. 79.

174. Where a person takes a crossed cheque which bears on it the words 'not negotiable,' he shall not have and shall not be capable of giving a better title to the cheque than that which had the person from whom he took it. 53 V., c. 33, s. 80.

175. Where a bank, in good faith and without negligence, receives for a customer payment of a cheque crossed generally or specially to itself, and the customer has no title, or a defective title thereto, the bank shall not incur any liability to the true owner of the cheque by reason only of having received such payment. 53 V., c. 33, s. 81.
**PART IV.**

**PROMISSORY NOTES.**

176. A promissory note is an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person, or to bearer.

2. An instrument in the form of a note payable to the maker’s order is not a note within the meaning of this section, unless it is endorsed by the maker.

3. A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof. 53 V., c. 33, s. 82.

177. A note which is, or on the face of it purports to be, both made and payable within Canada, is an inland note. Foreign note.

2. Any other note is a foreign note. 53 V., c. 33, s. 82.

178. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer. 53 V., c. 33, s. 83.

179. A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor.

2. Where a note runs ‘I promise to pay,’ and is signed by two or more persons, it is deemed to be their joint and several promise. 53 V., c. 33, s. 84.

180. Where a note payable on demand has been endorsed, it must be presented for payment within a reasonable time of the endorsement.

2. In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case. 53 V., c. 33, s. 85.

181. If a promissory note payable on demand, which has been endorsed is not presented for payment within a reasonable time the endorser is discharged: Provided that if it has, with the assent of the endorser, been delivered as a collateral or continuing security it need not be presented for payment so long as it is held as such security. 53 V., c. 33, s. 85.

182. Where a note payable on demand is negotiated, it is not deemed overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue. 53 V., c. 33, s. 85.

183. R.S., 1906.
Chap. 119. Bills of Exchange. Part IV.

Presentment, where. 183. Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place.

Liability of maker. 2. In such case the maker is not discharged by the omission to present the note for payment on the day that it matures; but if any suit or action is instituted thereon against him before presentation, the costs thereof shall be in the discretion of the court.

Note payable generally. 3. If no place of payment is specified in the body of the note, presentment for payment is not necessary in order to render the maker liable. 53 V., c. 33, s. 86.

As to endorser. 184. Presentment for payment is necessary in order to render the endorser of a note liable.

Place where. 2. Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an endorser liable.

What sufficient. 3. When a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the endorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice. 53 V., c. 33, s. 86.

Maker. 185. The maker of a promissory note, by making it,—

(a) engages that he will pay it according to its tenor;

(b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to endorse.

53 V., c. 33, s. 87.

Engagement. Application of Act to notes. 186. Subject to the provisions of this Part, and except as by this section provided, the provisions of this Act relating to bills of exchange apply, with the necessary modifications, to promissory notes.

Estoppel. Terms corresponding. 2. In the application of such provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first endorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer’s order.

Provisions inapplicable. 3. The provisions of this Act as to bills relating to,—

(a) presentment for acceptance;

(b) acceptance;

(c) acceptance supra protest;

(d) bills in a set;

do not apply to notes. 53 V., c. 33, s. 88.

Protest of foreign notes. 187. Where a foreign note is dishonoured, protest thereof is unnecessary, except for the preservation of the liabilities of endorsers. 53 V., c. 33, s. 88.

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SCHEDULE.

Form A.

NOTING FOR NON-ACCEPTANCE.

(Copy of Bill and Endorsements.)

On the 19, the above bill was, by me, at the request of presented for acceptance to E. F., the drawee, personally (or, at his residence, office or usual place of business), in the city (town or village) of and I received for answer: ' ;

The said bill is therefore noted for non-acceptance.

A. B., Notary Public.

(Date and place.) 19.

Due notice of the above was by me served upon {A. B.,} {C. D.,}

the } {drawer, } personally, on the day of (or, at his residence, office or usual place of business) in

{endorser, } on the day of (or, by depositing such notice, directed to him at in His Majesty's post office in the city, [town or village], on the day of , and prepaying the postage thereon).

A. B., Notary Public.

(Date and place.) 19.

53 V., c. 33. sch., form A.

Form B.

PROTEST FOR NON-ACCEPTANCE OR FOR NON-PAYMENT OF A BILL PAYABLE GENERALLY.

(Copy of Bill and Endorsements.)

On this day of , in the year 19 , I, A. B., notary public for the province of , dwelling at , in the province of , at the request of , did exhibit the original bill of exchange, whereof a true copy is above written, unto E. F., the } drawee } thereof personally (or, at his residence, office or usual place of business)

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ness) in, and, speaking to himself (or his wife, his clerk, or his servant, &c.) did demand \{ acceptance \} \{ payment \} thereof; unto which demand \{ he \} \{ she \} answered: "

Wherefore I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the acceptor, drawer and endorsers (or drawer and endorsers) of the said bill, and other parties thereto or therein concerned, for all exchange, re-exchange, and all costs, damages and interest, present and to come, for want of \{ acceptance \} \{ payment \} of the said bill.

All of which I attest by my signature.

(Protested in duplicate.)

A. B.,
Notary Public.

53 V., c. 33, sch., form B.

**FORM C.**

**PROTEST FOR NON-ACCEPTANCE OR FOR NON-PAYMENT OF A BILL PAYABLE AT A STATED PLACE.**

*(Copy of Bill and Endorsements.)*

On this day of in the year 19, I, A. B., notary public for the province of , dwelling at , in the province of , at the request of , did exhibit the original bill of exchange whereof a true copy is above written, unto E. F., the \{ drawee \} \{ acceptor \} thereof, at , being the stated place where the said bill is payable, and there speaking to , did demand \{ acceptance \} \{ payment \} of the said bill; unto which demand he answered: "

Wherefore I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the acceptor, drawer and endorsers (or drawer and endorsers) of the said bill and all other parties thereto or therein concerned, for all exchange, re-exchange, costs, damages and interest, present and to come for want of \{ acceptance \} \{ payment \} of the said bill.

All of which I attest by my signature.

(Protested in duplicate.)

A. B.,
Notary Public

53 V., c. 33, sch., form C.

R.S., 1906.
PROTEST FOR NON-PAYMENT OF A BILL NOTED, BUT NOT PROTESTED FOR NON-ACCEPTANCE.

If the protest is made by the same notary who noted the bill, it should immediately follow the act of noting and memorandum of service thereof, and begin with the words 'and afterwards on, etc.,' continuing as in the last preceding form, but introducing between the words 'did' and 'exhibit' the word 'again,' and in a parenthesis, between the words 'written' and 'unto,' the words: 'and which bill was by me duly noted for non-acceptance on the day of ,'

But if the protest is not made by the same notary, then it should follow a copy of the original bill and endorsements and noting marked on the bill—and then in the protest introduce, in a parenthesis, between the words 'written' and 'unto,' the words: 'and which bill was on the day of , by , notary public for the province of noted for non-acceptance, as appears by his note thereof marked on the said bill.'

53 V., c. 33, sch., form D.

FORM E.

PROTEST FOR NON-PAYMENT OF A NOTE PAYABLE GENERALLY.

(Copy of Note and Endorsements.)

On this , in the year 19 , I A. B., notary public for the province of , dwelling at , in the province of , at the request of , did exhibit the original promissory note, whereof a true copy is above written, unto the promisor, personally (or, at his residence, office or usual place of business,) in , and speaking to himself (or his wife, his clerk or his servant, etc.) did demand payment thereof; unto which demand { he } answered: ' .

Wherefore I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the promisor and endorsers of the said note, and all other parties thereto or therein concerned, for all costs, damages and interest, present and to come, for want of payment of the said note.

All of which I attest by my signature.

(Protested in duplicate.)

A. B.,
Notary Public.

53 V., c. 33, sch., form E.

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Form R.S., 1906.
FORM F.

PROTEST FOR NON-PAYMENT OF A NOTE PAYABLE AT A STATED PLACE.

(Copy of Note and Endorsements.)

On this day of , in the year , I, A.B., notary public for the province of , dwelling at , in the province of , at the request of , did exhibit the original promissory note, whereof a true copy is above written, unto the promisor, at , being the stated place where the said note is payable, and there, speaking to did demand payment of the said note, unto which demand he answered: ' 

Wherefore I, the said notary, at the request aforesaid, have protested, and by these presents do protest against the promisor and endorsers of the said note, and all other parties thereto or therein concerned, for all costs, damages and interest, present and to come, for want of payment of the said note.

All of which I attest by my signature.

(Protested in duplicate.)

A. B.,
Notary Public.

53 V., c. 33, sch., form F.

FORM G.

NOTARIAL NOTICE OF A NOTING, OR OF A PROTEST FOR NON-ACCEPTANCE, OR OF A PROTEST FOR NON-PAYMENT OF A BILL.

(Place and Date of Noting or of Protest.)

1st.

To P. Q. (the drawer)

Sir,

Your bill of exchange for $ , dated at the day of , upon E. F., in favour of C. D., payable days after was this day, at the request of duly noted by me for 

A. B.,
Notary Public.

R.S., 1906.
Sch. 

Bills of Exchange. 

Chap. 119. 41

(Place and date of Noting or of Protest.)

2nd.

To C. D., (endorser)
(or F. G.)

at

Sir,

Mr. P. Q.'s bill of exchange for $ , dated at the day of , upon E. F., in your favour (or in favour of C. D.), payable days after date, and by you endorsed, was this day at the request of duly noted by me for non-acceptance 
protested by me for non-payment.

A. B.,
Notary Public.

53 V., c. 33, sch., form G.

FORM H.

NOTARIAL NOTICE OF PROTEST FOR NON-PAYMENT OF A NOTE.

(Place and Date of Protest.)

To

at

Sir,

Mr. P. Q.'s promissory note for $ , dated at the day of payable months after date to you or order, and endorsed by you, was this day, at the request of non-payment.

A. B.,
Notary Public.

53 V., c. 33, sch., form H.

FORM I.

NOTARIAL SERVICE OF NOTICE OF A PROTEST FOR NON-ACCEPTANCE OR NON-PAYMENT OF A BILL, OR NOTE.

(to be subjoined to the Protest.)

And afterwards, I, the aforesaid protesting notary public, did serve due notice, in the form prescribed by law, of the foregoing protest for non-acceptance of the bill thereby protested

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protested upon \{ P. Q., C. D., \} the \{ drawer, endorsers \} personally, on the day of (or, at his residence, office or usual place of business) in , on the day of ; (or, by depositing such notice, directed to the said \{ P. Q., C. D., \} at , in His Majesty's post office in on the day of , and prepaying the postage thereon).

In testimony whereof, I have, on the last mentioned day and year, at aforesaid, signed these presents.

A. B., Notary Public.

53 V., c. 33, sch., form I.

FORM J.

PROTEST BY A JUSTICE OF THE PEACE (WHERE THERE IS NO NOTARY) FOR NON-ACCEPTANCE OF A BILL, OR NON-PAYMENT OF A BILL OR NOTE.

(Copy of Bill or Note and Endorsements.)

On this day of , in the year 19 , I, N. O., one of His Majesty's justices of the peace for the district (or county, etc.), of , in the province of , dwelling at (or near) the village of , in the said district, there being no practising notary public at or near the said village (or any other legal cause), did, at the request of and in the presence of well known unto me, exhibit the original \{ bill, note \} thereof, a true copy of which is above written unto P. Q., the drawer thereof, personally (or at his residence, office or usual place of business) in and speaking to himself (his wife, his clerk or his servant, etc.) did demand \{ acceptance \} thereof, unto which demand \{ he, she \} answered:

Wherefore I, the said justice of the peace, at the request aforesaid, have protested, and by these presents do protest against the \{ promisor and endorsers, drawer and endorsers \} of the said acceptor, and all other parties thereto and therein concerned, for all exchange, re-exchange, and all costs, damages and interest,

R.S., 1906.
terest, present and to come, for want of acceptance of the said bill, of the said note.

All which is by these presents attested by the signature of the said (the witness) and by my hand and seal.

(Protested in duplicate)

(Signature of the witness)

(Signature and seal of the J.P.)

53 V., c. 33, sch., form J.

OTTAWA: Printed by Samuel Edward Dawson, Law Printer to the King's most Excellent Majesty.
CHAPTER 120.

An Act respecting Interest.

SHORT TITLE.

1. This Act may be cited as the Interest Act. Short title.

RATE OF INTEREST.

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 which is agreed upon. R.S., c. 127, s. 1.

3. Except as to liabilities existing immediately before the seventh day of July, one thousand nine hundred, whenever any interest is payable by the agreement of parties or by law, and no rate is fixed by such agreement or by law, the rate of interest shall be five per centum per annum. R.S., c. 127, s. 2; 63-64 V., c. 29, s. 1.

4. Except as to mortgages on real estate, whenever any interest is, by the terms of any written or printed contract, whether under seal or not, made payable at a rate or percentage per day, week, month, or at any rate or percentage for any period less than a year, no interest exceeding the rate or percentage of five per centum per annum shall be chargeable, payable or recoverable on any part of the principal money unless the contract contains an express statement of the yearly rate or percentage of interest to which such other rate or percentage is equivalent. 60-61 V., c. 8, ss. 2 and 4; 63-64 V., c. 29, s. 1.

5. If any sum is paid on account of any interest not chargeable, payable or recoverable under the last preceding section, such sum may be recovered back or deducted from any principal or interest payable under such contract. 60-61 V., c. 8, s. 3.

INTEREST ON MONEYS SECURED BY MORTGAGE ON REAL ESTATE.

6. Whenever any principal money or interest secured by mortgage of real estate is, by the same, made payable on the 2187 sinking R.S., 1906.
sinking fund plan, or on any plan under which the payments of principal money and interest are blended, or on any plan which involves an allowance of interest on stipulated repayments, no interest whatever shall be chargeable, payable or recoverable, on any part of the principal money advanced, unless the mortgage contains a statement showing the amount of such principal money and the rate of interest chargeable thereon, calculated yearly or half-yearly, not in advance. R.S., c. 127, s. 3.

7. Whenever the rate of interest shown in such statement is less than the rate of interest which would be chargeable by virtue of any other provision, calculation or stipulation in the mortgage, no greater rate of interest shall be chargeable, payable or recoverable, on the principal money advanced, than the rate shown in such statement. R.S., c. 127, s. 4.

8. No fine or penalty or rate of interest shall be stipulated for, taken, reserved or exacted on any arrears of principal or interest secured by mortgage of real estate, which has the effect of increasing the charge on any such arrears beyond the rate of interest payable on principal money not in arrear: Provided that nothing in this section contained shall have the effect of prohibiting a contract for the payment of interest on arrears of interest or principal at any rate not greater than the rate payable on principal money not in arrear. R.S., c. 127, s. 5.

9. If any sum is paid on account of any interest, fine or penalty not chargeable, payable or recoverable under the three sections last preceding, such sum may be recovered back, or deducted from any other interest, fine or penalty chargeable, payable or recoverable on the principal. R.S., c. 127, s. 6.

10. Whenever any principal money or interest secured by mortgage of real estate is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then, if, at any time after the expiration of such five years, any person liable to pay or entitled to redeem the mortgage tenders or pays, to the person entitled to receive the money, the amount due for principal money and interest to the time of payment, as calculated under the provisions of the four sections last preceding, together with three months' further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage: Provided that nothing contained in this section shall apply to any mortgage upon real estate given by a joint stock company or other corporation, nor to any debenture issued by any such company or corporation, for the payment of which security has been given

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given by way of mortgage on real estate. R.S., c. 127, s. 7; 53 V., c. 34, s. 1.

11. The provisions of the five sections last preceding shall apply only to moneys so secured by mortgage executed after the first day of July, one thousand eight hundred and eighty. R.S., c. 127, s. 8.

BRITISH COLUMBIA, SASKATCHEWAN AND ALBERTA AND THE TERRITORIES.

12. The three sections next following apply to the provinces of British Columbia, Saskatchewan and Alberta and to the Northwest Territories and the Yukon Territory only. 52 V., c. 31, s. 1; 57-58 V., c. 22, s. 1.

13. Every judgment debt shall bear interest at the rate of five per centum per annum until it is satisfied. 52 V., c. 31, s. 2; 57-58 V., c. 22, s. 2; 63-64 V., c. 29, s. 1.

14. Unless it is otherwise ordered by the court, such interest shall be calculated from the time of the rendering of the verdict or of the giving of the judgment, as the case may be, notwithstanding that the entry of judgment upon the verdict or upon the giving of the judgment has been suspended by any proceedings either in the same court or in appeal. 52 V., c. 31, s. 3; 57-58 V., c. 22, s. 3.

15. Any sum of money or any costs, charges or expenses made payable by or under any judgment, decree, rule or order of any court whatsoever in any civil proceeding shall for the purposes of this Act be deemed to be a judgment debt. 52 V., c. 31, s. 4; 57-58 V., c. 22, s. 4.
CHAPTER 121.

An Act respecting Pawnbrokers.

SHORT TITLE.

1. This Act may be cited as the Pawnbrokers Act.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, 'pawnbroker' means any person who lawfully exercises the trade of receiving or taking, by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon. R.S., c. 128, s. 1.

RATES AND CONDITIONS.

3. Every pawnbroker may take the following rates above the principal sum advanced, before he is obliged to re-deliver the goods pawned, that is to say, for every pledge upon which there has been lent not exceeding fifty cents, the sum of one cent for any time not exceeding one month, and the same for every month afterwards, including the current month in which the pledge is redeemed, although such month has not expired; and so on progressively and in the same proportion for every sum of fifty cents up to twenty dollars. R.S., c. 128, s. 2.

4. When the sum lent exceeds twenty dollars, the pawnbroker may take upon all beyond that amount after the rate of five cents for every four dollars by the month, and so on in proportion for any fractional sum. R.S., c. 128, s. 3.

5. Such sums respectively shall be in lieu of and taken as a full satisfaction for all interest due and charges for warehouse room. R.S., c. 128, s. 4.

6. Except as to amounts advanced on goods not exceeding twenty dollars hereinbefore provided for, the person entitled to redeem, shall on application during any current and unexpired month have the right of redemption on payment of the full rate for each expired month and in addition,—

(a) for any portion of any current and unexpired month not exceeding fourteen days, a one-half month rate; and,

(b) R.S., 1906.
Not exceeding $20.

2. The person entitled may redeem goods upon which any sum not exceeding twenty dollars has been advanced on payment of the amount specially provided by this Act as a rate for sums advanced up to twenty dollars. R.S., c. 128, ss. 2 and 5.

OFFENCES AND PENALTIES.

7. Every pawnbroker who, in any case, stipulates for or takes a higher rate than that herein prescribed, shall, on summary conviction, be liable to a penalty not exceeding fifty dollars. R.S., c. 128, s. 6.

8. Every person who counterfeits, forges or alters any note or memorandum given by a pawnbroker for goods pledged, or causes or procures the same to be done, or utters, vends or sells such note or memorandum, knowing the same to be counterfeited, forged or altered, with intent to defraud any person, shall be liable, on summary conviction, to imprisonment for any term not exceeding three months. R.S., c. 128, s. 7.

9. If any note or memorandum aforesaid is uttered, shown or offered to any person, and such person has reason to suspect that the same has been forged, he may seize the person offering the same, and deliver him to a peace officer or constable, who shall convey him before a justice of the peace to be dealt with according to law. R.S., c. 128, s. 8.

10. If any person offers to any pawnbroker, by way of pawn or pledge, or of exchange or sale, any goods, and is not able or refuses to give a satisfactory account of himself, or of the means whereby he became possessed of the goods, or willfully gives any false information to the pawnbroker or his servant, as to whether such goods are his own property or not, or as to his name and place of abode, or as to the owner of the goods; or if there is any other reason to suspect that such goods have been stolen or otherwise illegally or clandestinely obtained; or if any person not entitled, or not having any colour of title by law to redeem goods that have been pawned, attempts to redeem them, the person to whom the goods first above mentioned are offered to be pawned, or to whom the offer to redeem the goods in pawn is made, may seize and detain the person offering to pawn, and the goods offered to be pawned, or the person offering to redeem as aforesaid, and shall convey such person and the goods offered to be pawned, or the person offering to redeem, and immediately deliver the person so offering to pawn and the goods offered to be pawned, or the person so offering to redeem, into the custody of a peace officer or constable, who shall, as soon as possible, convey such person and
and goods, or such person, as the case may be, before a justice of the peace of the district or county. R.S., c. 128, s. 9.

11. If such justice of the peace, upon examination and inquiry, has cause to suspect that such goods have been stolen or illegally or clandestinely obtained, or that the person offering to redeem them has not any pretense or colour of right so to do, he shall commit the offender into safe custody for such reasonable time as is necessary for obtaining proper information, in order to be further examined; and if, upon either examination, it appears to the satisfaction of the justice that such goods were stolen or illegally or clandestinely obtained, or that the person offering to redeem them had not any pretense or colour or right so to do, he shall, unless the commitment is authorized by some other law, commit the offender to the common gaol of the district or county where the offence was committed, for any term not exceeding three months. R.S., c. 128, s. 10.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 122.

An Act respecting Money-Lenders.

1. This Act may be cited as the Money-Lenders Act. Short title. 6 E. VII., c. 32, s. 1.

2. 'Money-lender' in this Act includes any person who carries on the business of money-lending, or advertises, or announces himself, or holds himself out in any way, as carrying on that business, and who makes a practice of lending money at a higher rate than ten per centum per annum, but does not comprise registered pawnbrokers as such. 6 E. VII., c. 32, s. 2.

3. This Act shall not apply to the Yukon Territory. Not applicable to Yukon. 6 E. VII., c. 32, s. 11.

4. This Act shall not apply to any loan or transaction in which the whole interest or discount charged or collected in connection therewith does not exceed the sum of fifty cents. 6 E. VII., c. 32, s. 10.

5. Nothing in this Act shall operate to increase the rate of interest that may be recovered in any case where by law the rate is fixed at less than twelve per centum per annum. 6 E. VII., c. 32, s. 8.

6. Notwithstanding the provisions of the Interest Act, no money-lender shall stipulate for, allow or exact on any negotiable instrument, contract or agreement, concerning a loan of money, the principal of which is under five hundred dollars, a rate of interest or discount greater than twelve per centum per annum; and the said rate of interest shall be reduced to the rate of five per centum per annum from the date of judgment in any suit, action or other proceeding for the recovery of the amount due. 6 E. VII., c. 32, s. 3.

7. In any suit, action or other proceeding concerning a loan of money by a money-lender the principal of which was originally under five hundred dollars, wherein it is alleged that the amount of interest paid or claimed exceeds the rate of twelve per centum per annum, including the charges for discount, commission, expenses, inquiries, fines, bonus, renewals, or any other R.S., 1906.
other charges, but not including taxable conveyancing charges, the court may re-open the transaction and take an account between the parties, and may, notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, re-open any account already taken between the parties, and relieve the person under obligation to pay from payment of any sum in excess of the said rate of interest; and if any such excess has been paid, or allowed in account, by the debtor, may order the creditor to repay it, and may set aside, either wholly or in part, or revise, or alter, any security given in respect of the transaction. 6 E. VII., c. 32, s. 4.

8. The bona fide holder, before maturity, of a negotiable instrument discounted by a preceding holder at a rate of interest exceeding that authorized by this Act, may nevertheless recover the amount thereof, but the party discharging such instrument may reclaim from the money-lender any amount paid thereon for interest or discount in excess of the amount allowed by this Act. 6 E. VII., c. 32, s. 5.

9. The principal of any sum of money, originally under five hundred dollars, due and payable before the thirteenth day of July, one thousand nine hundred and six, in virtue of any negotiable instrument given to a money-lender, or of any contract or agreement entered into with such money-lender in respect of money lent by him, shall not, from and after the said date, bear a rate of interest greater than twelve per centum per annum; and from and after the said date no rate of interest greater than five per centum per annum shall be recovered upon any judgment, rendered before the said date, upon any such negotiable instrument, contract or agreement for the payment of money lent by a money-lender, and which allows a greater rate than five per centum per annum. 6 E. VII., c. 32, s. 6.

10. In the case of any such negotiable instrument made before the thirteenth day of July, one thousand nine hundred and six, and maturing after the said date, and in the case of any such contract or agreement made before the said date and to be performed thereafter, the foregoing provisions of this Act shall apply only from the date of maturity or performance, as the case may be. 6 E. VII., c. 32, s. 7.

11. Every money-lender is guilty of an indictable offence and liable to imprisonment for a term not exceeding one year, or to a penalty not exceeding one thousand dollars, who lends money at a rate of interest greater than that authorized by this Act. 6 E. VII., c. 32, s. 9.
CHAPTER 123.

An Act to empower the employees of incorporated companies to establish Pension Fund Societies.

1. This Act may be cited as the Pension Fund Societies Act.

2. In this Act, unless the context otherwise requires, 'parent corporation' means the corporation any of whose officers establish or take proceedings to establish a pension fund society under the provisions of this Act. 50-51 V., c. 21, s. 1.

3. The president, vice-president, general manager, assistant general manager, or person acting as such, cashier, assistant cashier and inspector of any corporation legally transacting business in Canada, under any Act of the Parliament of Canada, or any two of the said officers, with any other of the superior officers, may at any time establish a pension fund society in connection with the administration of such corporation, under the regulations and subject to the supervision and control hereinafter designated, and thereupon they and the employees of such corporation who join the said society and those who replace them from time to time, shall be and be designated as the pension fund society of the corporation; and under such name shall be and become a body corporate and politic. 50-51 V., c. 21, s. 1.

4. Such of the said officers of any corporation as desire to establish a pension fund society under the provisions of this Act, may make and sign in duplicate a declaration in effect according to the schedule to this Act setting forth therein the names, residences and official positions of the said officers, the name of the parent corporation, the exact name adopted for such society and the place within Canada which is to be its chief place of business, and shall file such declaration in the office of the Secretary of State of Canada, and in the office of the registrar of deeds for the county or registration division within which the chief place of business of the society shall be situated; and the officers who make and sign such declaration shall be the provisional directors of the society, and shall hold

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hold office until their successors are appointed or elected. 50-51 V., c. 21, s. 2.

5. Notice of the incorporation of such society shall also be given by publication in the Canada Gazette for four weeks and in such notice shall be given,—

(a) the exact name adopted by such society;
(b) the designation of the chief place of business of the society; and,
(c) the name of the secretary thereof upon whom legal process may be served.

2. Notice of any change in such place or in the person of the secretary shall also be given in a similar way. 50-51 V., c. 21, s. 3.

6. The provisional directors shall have power to call the first meeting of the society, and at such meeting directors may be elected and by-laws may be passed under the provisions of this Act; and upon the passage of such by-laws, a copy thereof and subsequent copies of other by-laws in amendment thereof, in addition thereto or diminution thereof shall also be filed with the Secretary of State within two weeks from the passage thereof. 50-51 V., c. 21, s. 4.

7. The affairs of the society shall be administered by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications, and for such period as are determined by the by-laws; but at the first meeting of the society to be held under this Act five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers may be appointed in such manner, with such remuneration, and under such provisions touching their powers and duties as are established by the by-laws.

2. Each contributory to the funds of the society, including the parent corporation, shall have such right to vote at general meetings of the society, on such occasions, subject to such restrictions and on such conditions as are determined by the by-laws. 50-51 V., c. 21, s. 5.

8. After its incorporation under this Act every pension fund society shall have the power by means of voluntary contribution or otherwise as its by-laws provide, to form a fund, and may invest, hold and administer the same and from and out of the said fund may,—

(a) provide for the support and payment of pensions to officers and employees of the parent corporation incapacitated by age or infirmity; and,
(b) upon the death of such officers or employees, pay annuities or gratuities to their widows and minor children.

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or other surviving relatives in such manner as by the by-laws may be specified. 50-51 V., c. 21, s. 6.

9. Every such incorporated society shall have all corporate powers necessary for the purposes of this Act and may make by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of all the rights, powers and duties of,—

(a) the society;
(b) the individual members thereof;
(c) the officers and employees of the parent corporation;
(d) the widows and orphans or other surviving relatives of such officers and employees;
(e) the parent corporation.

2. Every such incorporated society may also make by-laws for,—

(a) the formation and maintenance of the said pension fund;
(b) the management and distribution thereof generally;
(c) enforcing any penalty or forfeiture in the premises; and,
(d) the government and ordering of all business and affairs of the society.

3. No such by-law shall have any force or effect unless the same has been sanctioned by the board of directors of the parent corporation. 50-51 V., c. 21, s. 6.

10. All the powers, authority, rights, penalties and forfeitures whatsoever in the premises, whether of the society or of the individual members thereof, or of the officers and employees thereof or of such widows and orphans and relatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws shall be defined and limited. 50-51 V., c. 21, s. 6.

11. All the revenues of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects aforesaid of the said fund and to no other purpose whatever. 50-51 V., c. 21, s. 7.

12. The parent corporation may, and is hereby authorized to contribute annually or otherwise to the funds of the said society, by a vote of either its directors or its shareholders. 50-51 V., c. 21, s. 8.

13. The interest of any member in the funds of the society shall not be transferable or assignable in any manner whatsoever by way of pledge, hypothecation, sale or security. 50-51 V., c. 21, s. 9.

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14. Every society formed under this Act shall at all times when thereunto required by the Governor in Council or by either House of Parliament make a full return of their property and of their receipts and expenditure for such period and with such details and other information as the Governor in Council or either House of Parliament requires. 50-51 V., c. 21, s. 10.

SCHEDULE.

Declaration of Incorporation.

We the undersigned (describe the officials establishing the society) do hereby declare that we have associated ourselves together for the purpose of establishing a pension fund society in connection with the administration of the Pension Fund Societies Act; that the proposed corporate name of the society shall be the Pension Fund Society of the

That the chief place of business of the said society is to be within the of

And we make this declaration for the purpose of establishing the said society under the said Act.

In witness whereof we have executed these presents in duplicate at in the presence of this day of 19 .

(Signatures.)

Signed in the presence of

50-51 V., c. 21, sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 124.

An Act respecting the incorporation of Boards of Trade.

SHORT TITLE.

1. This Act may be cited as the Boards of Trade Act.

INTERPRETATION.

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

(a) 'district' means and includes any judicial district, or temporary judicial district, which is set apart or constituted as such by any Act of the Parliament of Canada, or by any act of the legislature of any province of Canada, or by any proclamation issued under or by virtue of the provisions of any such act, and also any city, county, town or village, to any of which may be added one or more townships selected for that purpose, within and for which a board of trade is established under this Act; and, with regard to the provinces of Saskatchewan and Alberta, means and includes also any electoral district, as constituted for elections to the legislative assembly for either of the said provinces, within and for which a board of trade is established; and, in the province of British Columbia and in the Yukon Territory, means and includes also a mining division, or any tract of country described as extending to certain specified distances and in certain specified directions from any stated point;

(b) 'board of trade' includes chamber of commerce, and, for the purposes of the appointment of weighers of grain trade, under the provisions of this Act, means any board of trade or chamber of commerce incorporated under the provisions of any Act of the Parliament of Canada, or of the Legislature of the late province of Canada, or of the legislature of any province now forming part of Canada. R.S., c. 130, s. 1; 50-51 V., c. 37, s. 1; 58-59 V., c. 17, ss. 1 and 2; 2 E. VII., c. 3, s. 1.

INCORPORATION.

3. Any number of persons, not less than thirty, who are merchants, traders, brokers, mechanics, manufacturers, managaers of boards of trade.

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agers of banks or insurance agents, and residents of any
district which has a population of not less than two thousand
five hundred or in the province of British Columbia, or in the
Yukon Territory, not less than one thousand five hundred,
may associate themselves together as a board of trade, and
appoint a secretary. R.S., c. 130, s. 2; 2 E. VII., c. 3, s. 2.

Certificate of formation.

4. The persons so associating themselves together as a board of
trade shall, under their hands and seals, make a certificate
specifying the name assumed by the association, and by which
it shall be known, also the name as hereinbefore defined, of
the district in which the same is situate and its business is
transacted, and the name of the person by them appointed
secretary to the said board of trade. R.S., c. 130, s. 3.

Certificate to be sent to Secretary of State.

5. Such certificate shall be acknowledged before a notary
public, commissioner for taking affidavits, or justice of the
peace, by the secretary of the said board of trade, and shall
be forwarded to the Secretary of State, who shall cause the
same to be recorded in a register to be kept for that purpose;
and a copy thereof, duly certified by the Secretary of State,
shall be evidence of the existence of such association. R.S.,
c. 130, s. 4.

Persons incorporated to have certain powers.

6. The persons named as corporators in the said certificate,
and such other persons as afterwards join them, are hereby
authorized to carry into effect the objects for which such asso-
ciation was constituted, and to exercise the powers and
privileges conferred by this Act; and they and their associates,
successors and assigns, by the name and style specified in the
said certificate, shall be a body corporate and politic, with
power to acquire, sell and convey any real estate, necessary for
the objects of such association. R.S., c. 130, s. 5.

Officers. By-laws.

7. When the foregoing provisions have been complied with,
it shall be competent for a majority of the persons named
as corporators in the said certificate, to hold a meeting for the
election of a president, vice-president and members of the said
council and, without notice, to make and enact such by-laws,
rules and regulations as are hereinafter mentioned. R.S.,
c. 130, s. 7.

Usual place of meeting.

8. The usual place of meeting of the said corporation shall
be held to be the legal domicile thereof, at which service of any
notice or process may be made. R.S., c. 130, s. 6.

Officers of board of trade.

9. The officers of every board of trade shall be a president,
vice-president and secretary, who, together with not less than
eight other members, shall constitute a council, which shall be
called

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called 'The Council of the Board of Trade of [adding the name of the district as hereinbefore defined], and who shall have the powers and perform the duties hereinafter mentioned. R.S., c. 130, s. 7.

10. At the first quarterly meeting held in each year, the members of the said corporation present, or a majority of them, shall elect, in the manner prescribed by the by-laws, from among the members of the corporation, a president, vice-president and secretary, and at least eight other members of the council, who, with the president, vice-president and secretary, shall form the council of the corporation, and shall hold their offices until others are elected in their stead, at the next first quarterly meeting of the ensuing year, as aforesaid, or until they are removed from office, or vacate the same under the provisions of the by-laws of the corporation. R.S., c. 130, s. 8.

11. If the said election does not take place at such first quarterly meeting, as aforesaid, the said corporation shall not be thereby dissolved, but such election may be held at any general meeting of the corporation, called in the manner hereinafter provided, and the members of the council in office shall remain members until the election is held. R.S., c. 130, s. 8.

12. The president and vice-president shall, before entering upon the duties of their office, take and subscribe before the mayor of the city or town, constituting the district, or before any justice of the peace, an oath in the form following, that is to say:

'I swear that I will faithfully and truly perform my duty as a member of the board of trade, and that I will, in all matters connected with the discharge of such duty, do all things, and such things only, as I shall truly and conscientiously believe to be adapted to promote the objects for which the said board was constituted, according to the true intent and meaning of the same. So help me God.' R.S., c. 130, s. 9.

13. If any member of the council dies or resigns his office, or is absent for six months continuously from the meetings of the council, the council may, at any meeting thereof, elect a member of the corporation to be a member of the council, in the place of the member who has died or resigned, or is absent; and such new member shall be so elected by a majority of the members of the council present at any meeting of the same, if there is a quorum present at such meeting; and the member so elected shall hold office until the next annual election. R.S., c. 130, s. 10.
14. At any annual or general meeting of the corporation, whether for the purpose of electing members of the council or for any other purpose, a majority of members present at such meeting shall be competent to do and perform all acts which, either under this Act or under any by-law of the corporation, are or shall be directed to be done at any such general meeting. R.S., c. 130, s. 11.

15. The members of the said corporation shall hold general quarterly meetings in each year, at some place within the district,—of which, notice, naming the time and place, shall be given by the secretary of the council for the time being, at least three days previous to such meeting, through one newspaper or otherwise, as is thought necessary by the council. R.S., c. 130, s. 8.

16. The council, or a majority of them, by a notice inserted in one or more newspapers published within the district, one day previously to the meeting, or by a circular letter to each member, signed by the secretary of the corporation, and mailed one day previously to the meeting, may call a general meeting of the corporation for any of the purposes of this Act. R.S., c. 130, s. 15.

17. The meetings of the council shall be open to all members of the corporation who may attend at the same, but who shall take no part in any proceedings thereat; and minutes of the proceedings at all meetings, whether of the council or of the corporation, shall be entered, in books to be kept for that purpose, by the secretary of the corporation; and the entry thereof shall be signed by the president or vice-president or the other person who presides at the meeting; and such books shall be open at all reasonable hours to any member of the corporation free of any charge. R.S., c. 130, s. 20.

18. Every person resident within the district, who is or has been a merchant, broker, trader, mechanic, manufacturer, manager of a bank or insurance agent, shall be eligible to become a member of the corporation; and at any general meeting of the corporation any member of the corporation may propose any such person, as aforesaid, as a candidate for becoming a member of the corporation; and if such proposition is carried by a majority of two-thirds of the members of the corporation then present, he shall thereupon become a member of the corporation, and shall have all the rights and be subject to all the obligations which the other members possess or are subject to: 2204 Provided
Provided that any person who is not a merchant or trader, broker, mechanic, manufacturer, manager of a bank or insurance agent, shall be eligible to become a member of the corporation, in manner aforesaid, if such person is recommended by the council of the board of trade at any general meeting. R.S., c. 130, s. 14.

19. Any member of the corporation, who intends to retire therefrom or to resign his membership, may do so, at any time, upon giving to the secretary ten days' notice in writing, of such intention, and upon discharging any lawful liability which is standing upon the books of the corporation against him at the time of such notice. R.S., c. 130, s. 12.

BY-LAWS.

20. The majority of the members of the corporation present at any general meeting may make by-laws and regulations for the government of the corporation providing for,—

(a) the admission and subscriptions of members;
(b) the imposing of penalties;
(c) the expulsion or retirement of members;
(d) the management of its council, officers and affairs;
(e) the guidance of the board of arbitrators in this Act mentioned;
(f) the fixing of the date and place of the regular meetings of the council;
(g) the powers to be exercised by the council; and,
(h) all other matters concerning the government of the corporation not inconsistent with this Act or the laws of Canada. R.S., c. 130, s. 13.

21. Such by-laws shall be binding on all members of the corporation, its officers and servants, and all other persons, whomsoever, lawfully under its control. R.S., c. 130, s. 13.

22. No by-law shall be made by the corporation, except as hereinbefore mentioned, without notice in writing thereof having been given by one member and seconded by another member at a previous meeting, and duly entered in the books of the corporation as a minute of the corporation. R.S., c. 130, s. 13.

SUBSCRIPTIONS AND DUES.

23. All subscriptions of members due to the corporation, recovery of under any by-law, all penalties incurred under any by-law by any person bound thereby, and all other sums of money due to the corporation, shall be paid to the secretary thereof, and in default of payment, shall be recoverable in an action brought in R.S., 1906.
in the name of the corporation; and it shall only be necessary, in such action, to allege that such person is indebted to the corporation in the sum of money, the amount of such arrearage on account of such subscription, penalty or otherwise, whereby an action has accrued to the corporation by virtue of this Act. R.S., c. 130, s. 18.

24. On the trial or hearing of any such action, it shall be sufficient for the corporation to prove that the defendant, at the time the demand was made, was or had been a member of the corporation, and that the amount claimed as such subscription, penalty or otherwise, was standing unpaid upon the books of the corporation. R.S., c. 130, s. 19.

POWERS OF COUNCIL.

25. The council may hold meetings, from time to time, and adjourn the same when necessary, and may, at such meetings, transact such business as is, by this Act or by the by-laws of the corporation, assigned to it; and such meetings of the council shall be convened by the secretary, at the instance of the president, or upon the request of any two members of the council. R.S., c. 130, s. 16.

26. The council shall, in addition to the powers hereby expressly conferred on it, have such powers as are assigned to it by any by-law of the corporation not inconsistent with this Act: Provided that the council shall not have or be given by any by-law the power of enacting or altering any by-law, or admitting any member. R.S., c. 130, s. 16.

27. Any five or more members of council, lawfully met, shall be a quorum, and a majority of such quorum may do all things within the powers of the council. R.S., c. 130, s. 16.

28. At all meetings of the council, and all general meetings of the corporation, the president, or in his absence, the vice-president, or if both are absent, any member of the council then present who is chosen for the occasion, shall preside; and in all cases of equality of votes upon any division, he shall have a casting vote. R.S., c. 130, s. 16.

29. The council shall frame such by-laws, rules and regulations, as appear to it best adapted to promote the welfare of the corporation and the purposes of this Act, and shall submit the same for adoption, at a general meeting of the corporation, called for that purpose, in the manner hereinbefore provided.

2. The council may also make by-laws requiring that every weigher employed in connection with a grain elevator within the district for which such board of trade is established shall be licensed and shall take the oath to faithfully, truly and impartially
impartially execute and perform the duties of weigher, and cause any person applying to be licensed as such weigher to be examined as to his capacity in such manner as the council deems meet, and may, if satisfied as to his fitness to perform his duties, issue to such applicant a license to act as weigher. R.S., c. 130, s. 17; 50-51 V., c. 37, s. 2.

**BOARD OF ARBITRATION.**

30. At the time hereby appointed for the election of the council, and in the same manner, the members of the corporation may elect, from their number, twelve persons, who shall form a board, which shall be called the Board of Arbitration; and any three of such persons shall have power to arbitrate upon, and make their award in any commercial case or difference which is voluntarily referred to them by the parties concerned.

2. Whenever the parties agree to bind themselves, by bond or otherwise, to submit the matter in dispute between them to the decision of the Board of Arbitration, such submission shall be understood to be made to any three members of the Board, who may, either by the special order of the Board, or by virtue of any general rules adopted by the Board, or under any by-law of the corporation touching the consideration of any cases so submitted, be appointed to hear, arbitrate and decide upon the cases so submitted to them; and such decision shall be binding upon the Board and the parties making the submission.

3. The submission shall be according to the form A in the schedule to this Act, or to the same effect. R.S., c. 130, s. 21.

31. The several members of the Board shall, before they act as such, take and subscribe, before the president or vice-president of the corporation, an oath in the form B in the schedule to this Act, that they will faithfully, impartially and diligently perform their duties as members of the Board, and such oath shall be kept among the documents of the corporation. R.S., c. 130, s. 22.

32. Any member of the council may, at the same time, be a member of the Board of Arbitration. R.S., c. 130, s. 23.

33. The three members appointed to hear any case submitted for arbitration, as aforesaid, or any two of them shall have full power to examine, upon oath, which oath any one of such three members is hereby empowered to administer, any party or witness who, appearing before them, is so examined, and shall give their award thereupon in writing; and their decision, or that of any two of them, given in such award shall bind the parties according to the terms of the submission and the provisions of this Act. R.S., c. 130, s. 24.
34. The council of the corporation may appoint five persons to constitute a board of examiners to examine applicants for the office of inspector of flour and meal, or of any other article subject to inspection, and may do all such other acts, matters and things connected with the inspection of flour and meal or any other article, and shall have as full power and be subject to the same conditions as those required of and conferred upon the councils of the boards of trade by the Inspection and Sale Act; and the said examiners and inspector shall be subject to all the provisions touching their office set forth in the said Act. R.S., c. 130, s. 25.

LICENSING OF WEIGHERS.

35. Whenever the council of any board of trade has passed a by-law, requiring that every weigher employed in connection with a grain elevator within the district for which such board of trade is established, shall be licensed and shall take the oath hereinafter provided, such board of trade may cause any person who makes application to be licensed as a weigher at grain elevators, to be examined as to his capacity in such manner as the council deems meet, which council may, if satisfied of the fitness of the applicant to perform his duties, issue a license to him to act as a weigher; and in such case every person who acts as a weigher at a grain elevator within such district shall, unless he has been so licensed and has taken the oath of office hereinafter mentioned, be liable, on summary conviction, to a penalty of ten dollars for each offence. 50-51 V., c. 37, s. 2.

36. Every weigher so licensed shall forthwith take and subscribe before a justice of the peace an oath of office in the form or to the effect following:—

1. I, A.B., do solemnly swear (or affirm) that I will faithfully, truly and impartially, to the best of my skill and ability, execute and perform the duties of weigher. So help me God.

2. The oath so taken shall remain in the custody of the justice of the peace administering it, and any copy thereof certified by the said justice of the peace shall be prima facie evidence of such oath having been taken and subscribed in accordance with the provisions of this Act. 50-51 V., c. 37, s. 3.

AFFILIATION WITH DOMINION BOARD.

37. Any board of trade duly registered as aforesaid, under the provisions of this Act, may become affiliated with the Dominion Board of Trade, on duly complying with all the terms and requirements of that organization, and may be represented at all its ordinary or special general meetings, held from time to time until
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to time: Provided that the delegates or representatives to the Dominion board of trade shall be elected at a general meeting, duly convened, of the board of trade desiring such affiliation as aforesaid. R.S., c. 130, s. 26.

CHANGE OF NAME.

38. Upon application by the corporation under its corporate seal, and signed by its president and secretary, the name of any such corporation may be changed, if the Governor in Council is satisfied that such change is not desired for any improper purpose and is not otherwise objectionable. 57-58 V., c. 23, s. 3.

39. Any such change of name shall be conclusively established by the insertion in the Canada Gazette by the Secretary of State of a notice of such change. 57-58 V., c. 23, s. 3.

40. No rights or liabilities of the corporation shall be affected by a change of its name, and all actions commenced by or against the corporation prior to such change may be proceeded with by or against it under its former name. 57-58 V., c. 23, s. 3.

SCHEDULE.

Form A.

Know all men, that the undersigned and the undersigned (if there are more parties, that is, more separate interests, mention them) having a difference as to the respective rights of the said parties, as in the case hereunto subjoined, have agreed and bound themselves under a penalty of dollars, to perform and abide by the award to be made by the Board of Arbitration of the Board of Trade of in the case aforesaid, under the penalty aforesaid, to be paid by the party refusing to perform or abide by such award to the party ready and willing to perform or abide by the same.

In witness whereof, the said parties have hereunto set their hands and affixed their seals at the on the day of , A.D. 19 .

A.B. [L.S.]
C.D. [L.S.]

R.S., c. 130, sch. A.
139 2209 Form R.S., 1906.
FORM B.

I swear that I will faithfully, impartially and diligently perform my duty as a member of the Board of Arbitration of the Board of Trade of , and that I will, in all cases in which I shall act as arbitrator, give a true and just award, according to the best of my judgment and ability, without fear, favour or affection, of or for any person whomsoever. So help me God. R.S., c. 130, sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 125.

An Act respecting Trade Unions.

SHORT TITLE.

1. This Act may be cited as the Trade Unions Act. R.S., Short title. c. 131, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, 'trade union' means such combination, whether temporary or permanent, for regulating the relations between workmen and masters, or for imposing restrictive conditions on the conduct of any trade or business, as would, but for this Act, have been deemed to be an unlawful combination by reason of some one or more of its purposes being in restraint of trade. R.S., c. 131, s. 2.

APPLICATION.

3. This Act shall not affect,—
   (a) any agreement between partners as to their own business;
   (b) any agreement between an employer and those employed by him as to such employment;
   (c) any agreement in consideration of the sale of the goodwill of a business, or of instruction in any profession, trade or handicraft. R.S., c. 131, s. 3.

4. Nothing in this Act shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any agreement,—
   (a) between members of a trade union, as such, concerning the conditions on which any members for the time being of the trade union shall, or shall not, sell their goods, transact business, employ or be employed;
   (b) for the payment by any person of any subscription or penalty to a trade union;
   (c) for the application of the funds of a trade union,
      (i) to provide benefits to members, or
      (ii) to provide benefits to members, or
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(ii) to furnish contributions to any employer or workman, not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union, or

(iii) to discharge any fine imposed upon any person by sentence of a court of justice;

(d) made between one trade union and another; or,

(e) bond to secure the performance of any of the above mentioned agreements.

2. Nothing in this section shall be deemed to constitute any of the agreements above mentioned unlawful. R.S., c. 131, s. 4.

5. No Act in force in Canada providing for the constitution and incorporation of charitable, benevolent or provident institutions, shall include or apply to trade unions; and this Act shall not apply to any trade union not registered under this Act. R.S., c. 131, s. 5.

CONSTITUTION AND REGISTRY.

6. Any seven or more members of a trade union may, by subscribing their names to the rules of the union and otherwise complying with the provisions of this Act with respect to registry, register such trade union under this Act, but if any one of the purposes of such trade union is unlawful, such registration shall be void. R.S., c. 131, s. 6.

7. The Registrar General of Canada shall be the Registrar under this Act. R.S., c. 131, s. 13.

8. With respect to the registry, under this Act, of trade unions, the following provisions shall have effect:—

(a) An application to register the trade union and printed copies of its rules, together with a list of the titles and names of its officers, shall be sent to the Registrar under this Act;

(b) The Registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this Act, shall register such trade union and such rules;

(c) No trade union shall be registered under a name identical with that under which any other trade union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public;

(d) If a trade union which applies to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the Registrar, before the registry thereof, a general statement of the receipts, funds, effects and expenditure of such trade union, in the same form and showing the same particulars as if it was the

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the annual general statement required, as hereinafter mentioned to be transmitted annually to the Registrar;

(e) The Registrar, upon registering such trade union, shall issue a certificate of registry, which certificate, unless it is proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Act, with respect to registry, have been complied with. R.S., c. 131, s. 14.

9. The Governor in Council may, from time to time, make regulations respecting registry under this Act, and respecting the seal, if any, to be used for the purpose of such registry, and the inspection of documents kept by the Registrar under this Act, and respecting the fees, if any, to be paid on registry, not exceeding the fees specified in the first schedule to this Act, and generally for carrying into effect the provisions of this Act as to registry of trade unions. R.S., c. 131, s. 14.

10. With respect to the rules of a trade union registered under this Act, the following provisions shall have effect:

(a) The rules shall contain provisions in respect of the several matters mentioned in the second schedule to this Act;

(b) A copy of the rules shall be delivered by the trade union to every person on demand, on payment of a sum not exceeding twenty-five cents. R.S., c. 131, s. 15.

11. Every trade union registered under this Act shall have a registered office, to which all communications and notices may be addressed. R.S., c. 131, s. 16.

12. Notice of the situation of such registered office and of any change therein, shall be given to the Registrar and recorded by him; and until such notice is given, the trade union shall not be deemed to have complied with the provisions of this Act. R.S., c. 131, s. 16.

ANNUAL STATEMENT.

13. A general statement of the receipts, funds, effects and expenditure of every trade union registered under this Act shall be transmitted to the Registrar, before the first day of June in each year, and shall show fully the assets and liabilities at the date, and the receipts and expenditure of the trade union, during the year next preceding the date to which it is made out, and separately, the expenditure in respect of the several objects of the trade union, and such statement shall be prepared and made out to such date, in such form and shall comprise such particulars as the Registrar, from time to time, requires.

2. Every member of and depositor in any such trade union shall be entitled to receive, on application to the secretary or treasurer

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14. There shall be sent to the Registrar, together with such general statement, a copy of all new rules and of all alterations of rules, and a statement showing the changes of officers, made by the trade union during the year preceding the date up to which the general statement is made out, and a copy of the rules of the trade union as they exist at that date. R.S., c. 131, s. 17.

RESPECTING PROPERTY.

15. Any trade union registered under this Act may purchase, or take upon lease, in the names of the trustees for the time being of such trade union, any land not exceeding one acre, and may sell, exchange, mortgage or let the same; and no purchaser, assignee, mortgagee or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom; and for the purposes of this section, every branch of a trade union shall be considered a distinct union. R.S., c. 131, s. 7.

16. All real and personal property whatsoever belonging to any trade union registered under this Act shall be vested in the trustees for the time being of such trade union, appointed as provided by this Act, for the use and benefit of such trade union and the members thereof, and the real or personal property of any branch of a trade union shall be vested in the trustees of such branch and be under the control of such trustees, their respective executors or administrators, according to their respective claims or interests; and upon the death or removal of any such trustees the same shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever, save and except in the case of Dominion stock, which shall be transferred into the names of such new trustees. R.S., c. 131, s. 8.

PROCEDURE.

17. In all actions, suits or indictments or summary proceedings before any court of summary jurisdiction, touching or concerning any property of a trade union or branch, the same shall be stated to be the property of the persons for the time being holding the said office of trustee, in their proper names, as trustees of such trade union without any further description. R.S., c. 131, s. 8.

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18. The trustees of any trade union registered under this Act, or any other officer of such trade union who is authorized so to do by the order thereof, may bring or defend, or cause to be brought or defended, any action, suit, prosecution or complaint, in any court of competent jurisdiction, touching or concerning the property, right or claim to property of the trade union, and may, in all cases concerning the property, real or personal, of such trade union, sue and be sued, plead and be impleaded, in any such court, in their proper names, without other description than the title of their office.

2. No such action, suit, prosecution or complaint, shall be discontinued or abated by the death or removal from office of such persons, or any of them, but the same shall be proceeded in by or against their successor or successors, as if such death, resignation or removal had not taken place; and such successors shall pay and receive the like costs as if the action, suit, prosecution or complaint had been commenced in their names, for the benefit of, or to be reimbursed from the funds of such trade union.

3. Any summons to any such trustee or other officer may be served by leaving the same at the registered office of the trade union. R.S., c. 131, s. 9.

ACCOUNTING.

19. A trustee of any trade union registered under this Act shall not be liable to make good any deficiency which arises or happens in the funds of such trade union; but such trustee shall be liable only for the moneys actually received by him on account of such trade union. R.S., c. 131, s. 10.

20. Every treasurer or other officer of a trade union registered under this Act shall, at such times as he is required by the rules of such trade union, or at any other time, when called upon by such trade union so to do, render to the trustees of the trade union, or to the members of such trade union, at a meeting thereof, a just and true account of all moneys received and paid by him since he last rendered a like account, and of the balance then remaining in his hands, and of all bonds or securities of such trade union. R.S., c. 131, s. 11.

21. The trustees shall cause such account to be audited by some fit and proper person or persons appointed by them; and such treasurer, if thereunto required, upon such account being audited, shall forthwith hand over to the trustees the balance which, on such audit, appears to be due by him, and shall also, if required, hand over to such trustees all securities and effects, books, papers and property of such trade union in his hands or custody; and if he fails so to do, the said trustees may sue such treasurer, in any court of competent jurisdiction, for the balance appearing to have been due from him upon the last account.

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account rendered by him, and for all moneys since received by him on account of such trade union, and for the securities and effects, books, papers and property in his hands or custody, leaving him to set off in such action the sums, if any, which he has since paid on account of such trade union; and in such action the trustees shall be entitled to recover their full costs of suit, to be taxed as between solicitor and client. R.S., c. 131, s. 11.

OFFENCES AND PENALTIES.

22. If any officer, member or other person who is, or represents himself to be a member of a trade union registered under this Act, or the nominee, executor, administrator or assignee of a member thereof, or any person whatsoever, by false representation or imposition, obtains possession of any moneys, securities, books, papers or effects of such trade union, or, having the same in his possession, wilfully withholds or fraudulently misapplies the same, or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of such trade union, or any of them, the magistrate or justices having jurisdiction in cases of complaint for offences under this Act, for the place in which the registered office of the trade union is situate, may, by summary order, upon a complaint made by any person on behalf of such trade union, or by the Registrar, order such officer, member or other person, to deliver up all such moneys, securities, books, papers or other effects to the trade union, or to repay the amount of money paid improperly, and to pay, if such magistrate or justices think fit, a further sum of money not exceeding one hundred dollars, together with costs not exceeding five dollars; and in default of such delivery of effects or payment of such amount of money, or payment of such penalty and costs, as aforesaid, the said magistrate or justices may order the person so convicted to be imprisoned, with or without hard labour, for any term not exceeding three months.

2. Nothing in this Act shall prevent the trade union from proceeding by indictment against the said person; but no person shall be proceeded against by indictment if a conviction has been previously obtained for the same offence under the provisions of this Act. R.S., c. 131, s. 12.

23. If any trade union registered under this Act is in operation for seven days without having a registered office, to which all communications and notices may be addressed, such trade union and every officer thereof shall each incur a penalty not exceeding twenty-five dollars for every day during which it is so in operation. R.S., c. 131, s. 16.

24. (a) Every trade union registered under this Act that fails to transmit to the Registrar, before the first day of

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June in each year, a general statement of its receipts, funds, effects and expenditure, showing fully the assets and liabilities at that date, and the receipts and expenditure of such trade union during the year next preceding, and showing separately the expenditure in respect of the several objects of the trade union, prepared and made out to such date, and in such form, and comprising such particulars as the Registrar from time to time requires, together with a copy of all alterations of rules, and new rules and changes of officers made by the trade union, and a copy of the rules of the trade union as they exist at that date; and,

(b) Every officer of such trade union whose duty it is to transmit any such statement who fails so to do; shall each incur a penalty not exceeding twenty-five dollars for each such offence.

2. If the secretary or treasurer of any trade union so registered refuses or fails to furnish to any member thereof or depositor therein, upon application, a copy of such general statement, he shall, for each such offence, incur a penalty not exceeding twenty-five dollars. R.S., c. 131, s. 18.

25. Every person who wilfully makes, or orders to be made, any false entry in or any omission from any such statement, or in or from the return of such copies or alterations of rules as hereinbefore required shall incur a penalty not exceeding two hundred dollars for each offence. R.S., c. 131, s. 18.

26. Every person who, with intent to mislead or defraud, gives to any member of a trade union registered under this Act, or to any person intending or applying to become a member of such trade union, a copy of any rules or of any alterations or amendments of the same falsely pretending that the same are the existing rules of such trade union, or that there are no other rules of such trade union, or who, with the intent aforesaid, gives a copy of any rules of any trade union not registered under this Act to any person under the pretense that such rules are the rules of a trade union registered under this Act, is guilty of an indictable offence, and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both, in the discretion of the court. R.S., c. 131, s. 19.

Mode of Recovery.

27. All offences and penalties under this Act may be pro-secuted and recovered by summary conviction. R.S., c. 131, s. 20.

28. Any complaint or information shall be brought, heard before and determined before a stipendiary or police magistrate or whom com-
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plaint may be brought.

Description of offence.

other functionary having, by law, the powers of two justices of the peace, if the offence is committed in any city, town or place in which any such magistrate or functionary has jurisdiction; and if the offence is committed elsewhere, then before two justices of the peace.  R.S., c. 131, s. 20.

29. The description of any offence against this Act in the words of this Act shall be sufficient in law.  R.S., c. 131, s. 20.

30. Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of any offence charged under this Act, may be proved by the defendant, but need not be specified in the information; and if so specified and negatived in such information, no proof in relation to the matters specified and negatived shall be required on the part of the informant or prosecutor.  R.S., c. 131, s. 20.

GENERAL.

31. No person who is a master, or the father, son or brother of a master, in the particular trade or business in or in connection with which any offence under this Act is charged to have been committed, shall act as a magistrate or justice of the peace, in any case of complaint or information under this Act, or as a member of any court for hearing any appeal in any such case.  R.S., c. 131, s. 21.

32. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise, or so as to render void or voidable any agreement or trust.  R.S., c. 131, s. 22.

33. The Registrar General of Canada shall lay before Parliament annual reports with respect to the matters transacted by him as Registrar under this Act and in pursuance thereof.  R.S., c. 131, s. 23.

SCHEDULES.

FIRST SCHEDULE.

Maximum Fees.

For registering a trade union . . . . . . . . . . . . $4 00
For registering alterations in rules . . . . . . 2 00
For inspection of documents . . . . . . . . . . . . 0 50

R.S., c. 131, 1st sch.  2218

SECOND
SECOND SCHEDULE.

Matters to be provided for by the Rules of Trade Unions registered under this Act.

1. The name of the trade union and the place of meeting for the business of the trade union;
2. Every object for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures which may be imposed on any member of such trade union;
3. The manner of making, altering, amending and rescinding rules;
4. A provision for the appointment and removal of a general committee of management, and of a trustee or trustees, treasurer and other officers;
5. A provision for the investment of the funds, and for an annual or periodical audit of accounts;
6. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.

R.S., c. 131, 2nd sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 126.

An Act respecting Telegraphs.

SHORT TITLE.

1. This Act may be cited as the Telegraphs Act.

PART I.

SECRECY.

2. The Minister of Public Works or such officer or person as he appoints for that purpose, may determine and decide that any employee in connection with any telegraph line wholly or partly under the control of the Government of Canada, shall not be required to make the declaration as to secrecy provided for in this Part. R.S., c. 134, s. 1.

3. Subject to the foregoing provision, every person who is employed in connection with any telegraph line wholly or partly under the control of the Government of Canada as an operator or in any other capacity in which he has opportunities of becoming acquainted with information connected with matters of state or with any other information, shall before entering upon the duties of such employment, take and subscribe a declaration in the form set forth in the schedule to this Act before a justice of the peace or before a person appointed by the Governor in Council to take declarations under this Part. R.S., c. 134, s. 1.

4. All declarations taken under this Part shall be forwarded to the Department of Public Works, and shall there be kept on file; and a register thereof shall be kept in the said Department. R.S., c. 134, s. 2.

5. Every person who has made the declaration hereinbefore mentioned, and who, either directly or indirectly, divulges to any person, except when lawfully authorized or directed so to do, any information which he acquires by virtue of his employment, is guilty of an offence against this Part, and shall, on summary conviction before a justice of the peace, be liable R.S., 1906.
liable to a penalty not exceeding one hundred dollars and not
less than fifty dollars, or to imprisonment for a term not
exceeding six months, or to both penalty and imprisonment.
R.S., c. 134, s. 3.

6. Every telegraph operator or other person in the employ
of a telegraph company, who divulges the contents of any
telegram, except when lawfully authorized or directed so to
do, is guilty of an offence against this Part, and shall, on
summary conviction before a justice of the peace, be liable to
a penalty not exceeding one hundred dollars and not less than
fifty dollars, or to imprisonment for a term not exceeding six
months, or to both penalty and imprisonment. R.S., c. 134.
s. 4.

PART II.

ELECTRIC TELEGRAPH COMPANIES.

Interpretation.

7. In this Part, unless the context otherwise requires, 'the
company' means a company incorporated by letters patent
under the Companies Act for the purpose of constructing a
line or lines of electric telegraph in Canada. R.S., c. 132,
s. 2.

Construction of Lines.

8. Every company may construct the lines of telegraph,
authorized by its charter, along and upon any of the public
roads and highways, or across or under any of the navigable
waters within Canada, by the erection of the necessary fixtures,
including posts, piers or abutments for sustaining or protect-
ing the wires or cables of such lines; but the same shall be so
constructed as not to incommode the public use of such roads
or highways, or to impede free access to any house or other
building erected in the vicinity of the same, or injuriously to
interrupt the navigation of such waters. R.S., c. 132, s. 3.

9. Nothing herein contained shall confer on the company
the right of building a bridge over any navigable water. R.S.,
c. 132, s. 4.

Transmission of Messages.

10. The company shall transmit all despatches in the order
in which they are received: Provided that every message in
relation to the administration of justice, the arrest of criminals,
the discovery or prevention of crime, and Government messages
or despatches, shall always be transmitted in preference to any
other
other message or despatch, if so required by any person connected with the administration of justice, or any person thereunto authorized by the Secretary of State of Canada. R.S., c. 132, ss. 5 and 6.

Expropriation.

11. His Majesty may, at any time, assume, and for any length of time retain, possession of any such telegraph line and of all things necessary to the sufficient working thereof, and may, for the same time, require the exclusive service of the operators and other persons employed in working such line; and the company shall give up possession thereof, and the operators and other persons so employed shall, during the time of such possession, diligently and faithfully obey such orders, and transmit and receive such despatches as they are required to receive and transmit by any duly authorized officer of the Government of Canada. R.S., c. 132, s. 7.

12. His Majesty may, at any time after the commencement of the operation of a telegraph line under this Part, and after two months' notice to the company, assume the possession and property thereof, and upon such assumption, such line and all the property, real or personal, essential to the working thereof, and all the rights and privileges of the company, as regards such line, shall be vested in the Crown. R.S., c. 132, s. 8.

Arbitration.

13. If any differences arise between the company and those who act for the Crown, as to the compensation which ought to be paid to the company, for any telegraph line and appurtenances taken possession of or temporarily and exclusively used by the Crown under this Part, such difference shall be referred to three arbitrators, one to be appointed on the part of the Crown, another by the company, and the third by the two arbitrators so appointed; and the award of any two of the said arbitrators shall be final; and if the company refuses or neglects to appoint an arbitrator on its behalf, or if the two arbitrators cannot agree upon a third arbitrator, then such arbitrator or third arbitrator shall be appointed by any two judges of the Supreme Court of Canada, on application on the part of the Crown. R.S., c. 132, s. 9.

Penalties.

14. Every company which violates the provisions of this Part in reference to the order in which messages received by it are to be transmitted, shall incur a penalty not exceeding one hundred dollars and not less than twenty dollars, which shall be recoverable on summary conviction with costs by the person R.S., 1906.
person whose despatch has been postponed out of its order. R.S., c. 132, s. 5.

15. Every company which shall on request duly made in that behalf refuse or neglect to give up and transfer possession of any telegraph line and of all things necessary to the sufficient working thereof, or, having so given up and transferred possession, shall neglect or refuse to allow His Majesty to continue in such possession for any length of time required in that behalf, or shall refuse or neglect on request duly made in that behalf to give and hand over to His Majesty the exclusive service of the operators and other persons employed in working such line, and every operator and other person in the employ of the said company who shall not after such possession taken and during the whole period of such possession, diligently and faithfully obey such orders and transmit or receive such despatches as they are required to transmit and receive by any duly authorized officer of the Government of Canada, shall incur a penalty not exceeding one hundred dollars for every such refusal or neglect, which shall be recoverable by the Crown for the public uses of Canada with costs in any way in which debts of like amount are recoverable by the Crown. R.S., c. 132, s. 7.

PART III.

MARINE ELECTRIC TELEGRAPH COMPANIES.

Interpretation.

16. In this Part, unless the context otherwise requires,—
(a) 'company' means any company or association of persons to which this Part applies;
(b) 'Minister' means the Minister of Marine and Fisheries. R.S., c. 133, s. 1.

Application.

17. This Part applies to every company,—
(a) hereafter authorized by any special or general Act of the Parliament of Canada, or under the provisions of this Part to construct or maintain telegraphic wires or cables, in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Canada, or the shore or bed thereof respectively, so as to connect any province with any other province of Canada, or to extend beyond the limits of any province;
(b) authorized to construct or maintain such telegraphic wires or cables before the eighth day of April, one thousand eight hundred and seventy-five, by any such special
special or general Act of the Parliament of Canada, or by any other special Act or charter of any of the provinces constituting the Dominion, and at the said date in force in Canada. R.S., c. 133, s. 2.

18. This Act shall not affect any franchise, right or privilege which the New York, Newfoundland and London Telegraph Company or any other company, or person lawfully entitled thereto, actually acquired and exercised or operated in Prince Edward Island before and up to the first day of July, eighteen hundred and seventy-three, under and subject to the provisions of any act of the legislature of Prince Edward Island made and passed before the said first day of July, one thousand eight hundred and seventy-three. R.S., c. 133, s. 19.

Powers.

19. The company may, with the consent of the Governor in Council, take and appropriate for the use of the company, for its stations, offices and works, but shall not alienate, so much of the land held by the Crown for the purposes of Canada, and the shore or bed adjacent to or covered by any gulf, bay or branch of the sea, or by any tidal water, as is necessary for constructing, completing and using the telegraph and works of the company. R.S., c. 133, s. 8.

20. The company may also acquire from any province of Canada any land or other property necessary for the construction, maintenance, accommodation and use of the telegraph and works of the company, and may also alienate, sell and dispose of the same when no longer required for the purposes of the company. R.S., c. 133, s. 9.

21. The company may also acquire any land necessary for the construction, maintenance and use of the telegraphic cable and works of the company, adjacent to or near the shore end or place of landing of the telegraph; and, if the company and the person from whom the land is to be acquired fail to agree as to the possession or price of such land, the company may enter upon and take such land, not exceeding five acres in extent, under the powers, authorities and provisions of the Railway Act, the sections of which, in respect to compulsory powers for the acquisition of lands, shall apply to every company to which this Part applies; and the powers and authorities contained in the said sections of the Railway Act shall be vested in and may be exercised by every such company for the purpose aforesaid. R.S., c. 133, s. 10.

22. Until the company has submitted to the Governor in Council, a plan and survey of the proposed site and location of the cable, terminal stations, interchange stations, offices, and other works necessary for the construction, maintenance and use of the telegraph, the company shall have the use of the telegraph, station, and any other telegraph works of the Company not to pro-
of such telegraph and its approaches at the shore, and of its stations, offices and accommodations on land and of all the intended works thereto appertaining, and until such plan, site and location have been approved by the Governor in Council, and until such conditions as he thinks fit for the public good to impose touching the said telegraph and works, have been complied with, the company shall not exercise any of the powers by this Part conferred. R.S., c. 133, s. 11.

Construction.

23. The company shall not place any telegraphic wire, cable or work connected therewith in, under, upon, over, along or across any gulf, bay or branch of the sea, or any tidal water, or the shore or bed thereof respectively, except with the consent of all persons having any right of property or other right, or any power, jurisdiction or authority in, over or relating to the same, which may be affected or be liable to be affected by the exercise of the powers of the company. R.S., c. 133, s. 3.

24. Before commencing the construction of any such telegraph or work as last aforesaid, or of any buoy or sea-mark connected therewith, the company shall deposit, at the Department of Marine, a plan thereof, for the approval of the Minister.

2. In cases of emergency, for repairs to any work previously constructed or laid, the plan thereof shall be so deposited as speedily as may be after the commencement of the work. R.S., c. 133, s. 4.

25. The work shall not be constructed otherwise than in accordance with the plan as approved by the Minister; and, if any work is constructed otherwise or without compliance with the provisions of the last preceding section, the Minister may, at the expense of the company, abate and remove it, or any part of it, and restore the site thereof to its former condition. R.S., c. 133, s. 4.

26. The company may, in or about the construction, maintenance or repairs of any such work, use on board ship or elsewhere any light or signal allowed by any regulation made in that behalf by the Minister. R.S., c. 133, s. 5.

27. If any such work, buoy or sea-mark is abandoned or allowed to fall into decay, the Minister may, if and as he thinks fit, at the expense of the company, abate and remove it, and restore the site thereof to its former condition; and the Minister may, at any time, at the expense of the company, cause to be made a survey and examination of any such work, buoy or sea-mark, or of the site thereof. R.S., c. 133, s. 6.

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28. Whenever the Minister, under the authority of this Act, does, in relation to any such work, any act or thing which he is, by this Part, authorized to do at the expense of the company, the amount of such expense shall be a debt due by the company to the Crown, and shall be recoverable as such with costs, or as a penalty on summary conviction. R.S., c. 133, s. 7.

29. No company other than a company to which this Part applies shall construct, maintain or use any telegraphic wire or cable connecting two or more provinces of Canada, or extending beyond the limits of any province, in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the jurisdiction of Canada, or the shore or bed thereof respectively: Provided that any existing telegraph company may continue to receive and transmit messages over its line of marine telegraph, until such time as another company, under the authority and within the provisions of this Part, constructs and is operating a line or lines of marine telegraph, which has been determined by the Governor in Council to afford reasonable facilities for the transmission of marine telegraphic messages, in lieu of the line or lines of such existing telegraph company, or to be a line or lines for doing business over a route of a competitive nature, and until the order in council declaring such determination has been published for three months in the Canada Gazette. R.S., c. 133, s. 12.

Transmission of Messages.

30. The company shall transmit all messages in the order in which they are received, and at equal and corresponding tariff rates; and every company violating any of the provisions of this section shall incur a penalty not exceeding two hundred dollars, and not less than fifty dollars, which penalty shall be recoverable on summary conviction with costs, by the person aggrieved. R.S., c. 133, s. 13.

31. The company may charge for the transmission of messages, and may demand and collect in advance such rates of payment therefor as are fixed by by-law of the company as its tariff rates. R.S., c. 133, s. 14.

32. Notwithstanding anything contained herein arrangements may be made by any such company with the proprietors or publishers of newspapers for the transmission, for the purpose of publication, of intelligence of general and public interest, out of its regular order and at less rates of charge than its regular tariff rates. R.S., c. 133, s. 15.

33. Every message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be

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be

R.S., 1906.
be transmitted in preference to any other message or despatch, if required by any person officially charged with the administration of justice, or any person thereunto authorized by the Secretary of State of Canada, or by the Secretary of State for the Colonies on behalf of the Government of the United Kingdom. R.S., c. 133, s. 16.

**Incorporation of British Companies.**

34. If any company is now or hereafter authorized by any special Act of the Parliament of the United Kingdom, or is incorporated under the Statutes of the Parliament of the United Kingdom relating to joint stock companies, or any other general Act of the Parliament of the United Kingdom or by Royal charter, for establishing or maintaining telegraphic communication, in, upon, under or across any gulf, bay or branch of any sea or tidal water within the jurisdiction of Canada, the Governor in Council may, by letters patent under the Great Seal of Canada, and upon the terms and conditions contained therein, grant a charter to the persons forming such company, upon the company petitioning therefor.

2. Such persons and others who become shareholders in the company shall be constituted a body corporate and politic, by the same name, and with the same power and constitution in Canada, for the said purpose and object of establishing and maintaining their said telegraph and works within the jurisdiction of Canada.

3. Any such grant shall be expressly subject to this Part, and conditional upon the company observing and performing the several provisions hereof. R.S., c. 133, s. 17.

35. Such letters patent, when published in the Canada Gazette with any orders in council relating thereto, shall have the like force and effect, as if the company had been incorporated by special Act of Parliament. R.S., c. 133, s. 17.

36. No such letters patent or grant of corporate powers to be exercised within the jurisdiction of Canada shall be made to or conferred upon any company which possesses any exclusive privilege of landing wire or cable and establishing a marine telegraph in or upon the coast of any state, province or country in America, Europe or elsewhere, unless an equal or reciprocal right or privilege of landing wire or cable, and establishing a marine telegraph upon the same coast is conceded to any and each of the companies to which this Part applies. R.S., c. 133, s. 17.

37. Every such letters patent or grant of corporate powers made to or conferred upon any such company may be declared forfeited and revoked by any Act of the Parliament of Canada,—
(a) for non-user for three consecutive years; or,
(b) in case the company does not go into actual operation within three years after the issue of the letters patent granting such powers; or,
(c) if the company at any time possesses or acquires any exclusive right or privilege of landing wire or cable and establishing a marine telegraph in or upon the coast of any state, province or country in America, Europe or elsewhere, and an equal or reciprocal right or privilege of landing wire or cable and establishing a marine telegraph on the same coast is not conceded to every company to which this Part applies. R.S., c. 133, s. 17.

Reciprocal Agreement.

38. No company to which this Part applies shall enter into any agreement for the transmission or interchange of messages, or for participation in profits, or for the union or consolidation of capital stock, with any company which at any time possesses or acquires any such exclusive privilege of landing wire or cable and establishing a marine telegraph, in Newfoundland or the Danish possessions, unless such equal or reciprocal right is conceded; and every agreement contrary to the provisions of this section shall be illegal and void. R.S., c. 133, s. 18.

PART IV.

WIRELESS TELEGRAPHY.

39. In this Part 'Minister' means the Minister of Marine and Fisheries. 4-5 E. VII., c. 49, s. 2.

40. No person shall establish any wireless telegraph station, or instal or work any apparatus for wireless telegraphy, in any place or on board any ship registered in Canada except under and in accordance with a license granted in that behalf by the Minister with the consent of the Governor in Council. 4-5 E. VII., c. 49, s. 3.

41. Every such license shall be in such form and for such period as the Minister determines, and shall contain the terms, conditions and restrictions on and subject to which the license is granted.

2. Any such license may include two or more stations, places or ships. 4-5 E. VII., c. 49, s. 3.

42. Where the applicant for a license proves to the satisfaction of the Minister that the sole object of obtaining the license is experimental purposes, R.S., 1906.
license is to enable him to conduct experiments in wireless telegraphy, a license for that purpose shall be granted, subject to such special terms, conditions and restrictions as the Minister thinks proper. 4-5 E. VII., c. 49, s. 6.

43. The Minister may make regulations for prescribing the form and manner in which applications for licenses under this Part are to be made, and, with the consent of the Governor in Council, may prescribe the fees payable on the grant of any such license. 4-5 E. VII., c. 49, s. 3.

44. If a justice of the peace is satisfied by information on oath that there is reasonable ground for supposing that a wireless telegraph station has been established without license in that behalf, or that any apparatus for wireless telegraphy has been installed or worked in any place or on board any ship within his jurisdiction without a license in that behalf, he may grant a search warrant to any police officer or any officer appointed in that behalf by the Minister and named in the warrant.

2. A warrant so granted shall authorize the officer named therein to enter and inspect the station, place or ship and to seize any apparatus which appears to him to be used or intended to be used for wireless telegraphy therein. 4-5 E. VII., c. 49, s. 5.

45. No proceedings shall be taken against any person under this Part, except by order of the Minister. 4-5 E. VII., c. 49, s. 4.

46. Every one who establishes a wireless telegraph station, or installs or works any apparatus for wireless telegraphy, without a license in that behalf, shall be guilty of an offence punishable on summary conviction or on indictment and be liable, on summary conviction, to a penalty not exceeding fifty dollars, and on conviction on indictment to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months, and in either case shall be liable to forfeit any apparatus for wireless telegraphy installed or worked without a license. 4-5 E. VII., c. 49, s. 4.

SCHEDULE.

'I, A. B., solemnly and sincerely promise and declare that I will faithfully and honestly fulfil the duties which devolve upon me as operator (or in other capacity, as the case may be) upon (state the line of telegraph), and that I will not, either directly
directly or indirectly, divulge to any person, except when law-
fully authorized or directed so to do, any information which
I acquire by virtue of my employment as such operator (or in
other capacity, as the case may be).

(Signature)

A. B.

Declared before me,

etc., etc.'

R.S., c. 134, sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's
most Excellent Majesty.
CHAPTER 127.

An Act to protect Canada against the introduction of the insect pest known as San José Scale.

1. This Act may be cited as the San José Scale Act. 61 V., Short title. c. 23, s. 1.

2. The importation of any trees, shrubs, plants, vines, Importation of nursery stock from certain places prohibited.
grafts, cuttings or buds, commonly called nursery stock, from any country or place to which this Act applies is prohibited. 61 V., c. 23, s. 2.

3. Any nursery stock so imported shall be forfeited to the Crown and may be destroyed, and any person importing nursery stock from any such country or place, or causing or permitting it to be so imported shall be guilty of an offence for which he shall incur a penalty of two hundred dollars. 61 V., c. 23, s. 3.

4. The Governor in Council may from time to time declare Application of Act to be regulated by Governor in Council. that this Act applies to any country or place in which it has been made to appear that San José Scale exists; and, when thereafter satisfied that the importation of nursery stock from any such country or place may safely be permitted, he may in like manner declare that this Act no longer applies to such country or place. 61 V., c. 23, s. 4.

5. The Governor in Council, upon its being made to appear to his satisfaction that any class of plants is not liable to the attack of the San José Scale, may exempt plants of such class, and grafts, cuttings or buds thereof from the operation of this Exemption of plants which are not liable to San José scale. Act. 61 V., c. 23, s. 5.

6. All orders in council made under the foregoing sections shall be published in the Canada Gazette. 61 V., c. 23, s. 7.

7. The Governor in Council may, notwithstanding anything in this Act contained,—

(a) from time to time permit the importation from any country or place to which this Act applies of such nursery stock as is required for scientific purposes; 2233

(b) R.S., 1906.
(b) name certain ports of entry at which the importation may be permitted of nursery stock from any such country or place if such stock has been properly fumigated with hydrocyanic gas; and,

(c) make regulations under which such importation may take place. 61 V., c. 23, s. 6; 63-64 V., c. 31, ss. 1 and 2.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 128.

An Act respecting the Inspection and Sale of Seeds.

SHORT TITLE.

1. This Act may be cited as the Seed Control Act. 4-5 E. Short title. VII., c. 41, s. 1.

REGULATIONS.

2. The Governor in Council may make,—
   (a) regulations determining the maximum proportion of seeds of the weeds named in this Act that may be tolerated in any other seeds without affecting their character as being free from the seeds of the said weeds within the meaning of this Act; and,
   (b) such regulations as he considers necessary in order to secure the efficient enforcement and operation of this Act.

2. The Governor in Council may, by such regulations, impose penalties not exceeding fifty dollars on any person offending against them, to be recoverable on summary conviction.

3. The regulations so made shall be in force from the date of their publication in the Canada Gazette, or from such other date as is specified in the proclamation in that behalf. 4-5 E. VII., c. 41, ss. 5 and 17.

EXAMINATION.

3. Any person charged with the enforcement of this Act may enter upon any premises to make any examination of any seeds, receptacles, packages, sacks or bags of seeds, with respect to which he has reason to suspect or believe that any provision of this Act is being violated, whether such seeds, receptacles, packages, sacks or bags of seeds are on the premises of the owner, or on other premises, or in the possession of a railway or steamship company, and may take any samples of the said seeds from any receptacle, package, sack or bag, for which samples the owner of the seed shall be paid in accordance with the amount of seed thus taken and its current value. 4-5 E. VII., c. 41, s. 10.

LIMITATION.

R.S., 1906.
4. The provisions contained in this Act shall not apply to,—
   (a) any person growing or selling seeds for the purpose of
       food in respect of seed sold, or exposed or had in posses-
       sion for sale, for such purpose;
   (b) any person selling seeds direct to merchants to be
       cleaned or graded before being offered for sale for the
       purpose of seeding in respect of seeds sold, or exposed or
       had in possession for sale, for such purpose;
   (c) seed that is held in storage for the purpose of being
       recleaned, and which has not been offered, exposed or
       held in possession for sale for the purpose of seeding;
   (d) seed marked 'not absolutely clean' and held or sold
       for export only. 4-5 E. VII., c. 41, s. 7.

5. The provisions contained in the next following section
   shall not apply to the sale of seed that is grown, sold and
   delivered by any farmer on his own premises, for seeding by
   the purchaser himself, unless the purchaser of the said seed
   obtains from the seller at the time of the sale thereof a
   certificate that the said seed is supplied to him subject to the
   provisions of this Act. 4-5 E. VII., c. 41, s. 3.

PROHIBITORY CLAUSES.

6. No person shall sell, or offer, expose or have in his
   possession for sale, for the purpose of seeding, any seeds of
   cereals, grasses, clovers or forage plants, unless they are free
   from any seeds of the following weeds:—Wild Mustard or
   Charlock (Brassica Sinapisrrum, Boiss.); Tumbling Mustard
   (Sisymbrium sinapistrum, Crantz.); Hare’s Ear Mustard
   [Coringia orientalis, (L.) Dumort]; Ball Mustard (Neslia
   paniculata, Desv.); Field Penny-cress or Stinkweed (Thlaspi
   arvense, L.); Wild Oats (Avena fatua, L. and Avena strigosa,
   Schreb.); Bindweed (Convolvulus arvensis, L.); Perennial
   Sow-Thistle (Sonchus arvensis, L.); Ragweed (Ambrosia arte-
   misiaefolia, L.); Great Ragweed (Ambrosia trifida, L.); Purple
   Cockle (Lychnis Githago, Lam.); Cow Cockle [Vaccaria
   Vaccaria (L.) Britton]; Orange Hawkweed or Paint Brush
   (Hieracium aurantiacum, L. and Hieracium praealtum,
   Vill.); and from the Sclerotia known as Ergot of Rye
   (Claviceps purpurea, Tul.); unless each and every receptacle,
   package, sack or bag containing such seeds, or a label securely
   attached thereto, is marked in a plain and indelible manner,—
   (a) with the full name and address of the seller;
   (b) with the name of the kind or kinds of seed;
   (c) with the common name or names of the weeds herein-
       before named, the seeds of which are present in the seed
       sold or offered, exposed or had in possession for sale.
   4-5 E. VII., c. 41, s. 3.

R.S., 1906.
7. No person shall sell, or offer, expose or have in his possession for sale, any seeds of timothy, red clover, alsike, or any mixture containing the said seeds, in or from any receptacle, package, sack or bag upon which is marked 'No. 1' or any other designation which represents such seeds as of first quality, unless they are free from the seeds of weeds named in the last preceding section, and are also free from the seeds of White Cockle (Lychnis vespertina, Sibth.); Night-Flowering Catchfly (Silene noctiflora, L.); False Flax (Camelina sativa, Crantz.); Canada Thistle (Cnicus arvensis, Hoffm.); Ox-eye Daisy (Chrysanthemum Leucanthemum, L.); Curled Dock (Rumex crispus, L.); Blue Weed, (Echium vulgare, L.); Ribgrass (Plantago lanceolata, L.); Chicory (Cichorium Intybus, L.), and contain out of every one hundred seeds not less than ninety-nine seeds of the kind or kinds represented, or seeds of other useful and harmless grasses and clovers, of which ninety-nine seeds, ninety seeds must be germinable. 4-5 E. VII., c. 41, s. 4.

8. No person shall sell, or offer, expose or have in his possession for sale, for the purpose of seeding in Canada, any seeds of timothy, alsike or red clover, or any mixture containing the said seeds, if the seeds of the weeds named in this Act are present in a greater proportion than five to one thousand of the seed sold, or offered, exposed or held in possession for sale. 4-5 E. VII., c. 41, s. 6.

OFFENCES AND PENALTIES.

9. Except as in this section otherwise provided, every person who, by himself or through the agency of another person sells, offers, exposes or has in possession for sale, seeds, in violation of any of the provisions of this Act shall be guilty of an offence and upon summary conviction therefor, be liable for a first offence to a fine not exceeding one dollar, and for each subsequent offence to a fine not exceeding five dollars, for each receptacle, package, sack or bag in or from which seeds are sold, offered, exposed or had in possession for sale contrary to such provision together with the costs of prosecution, and, in default of immediate payment of such fine and costs, shall be liable to imprisonment, for a term not exceeding one month, unless such fine and costs and the costs of enforcing the same are sooner paid: Provided that the total amount of the fine shall not exceed, in the case of a first offence, five dollars, and in the case of a subsequent offence, twenty-five dollars.

2. If the accused proves to the magistrate before whom he is tried that the package, sack, bag or receptacle containing the seed respecting which the complaint or information is laid, was purchased by him directly from a seed merchant domiciled in Canada, and was not opened, or the state of the seed was not altered, while it was in his possession, and he had no reason to R.S., 1906.
to believe that the seed did not comply with the provisions of this Act, he shall, upon disclosing the name of the person from whom he purchased the seed, and the place and date of the sale thereof to him, not be liable beyond the costs of prosecution.

3. Every magistrate who has disposed of any case under the foregoing subsection shall, within one month from the date of his judgment therein, send to the Minister of Agriculture a report of the case, giving the name of the accused, the name of the person who sold the seed to him, and the date and place of such sale.

4. Any prosecution against any person, pursuant to a report made to the Minister of Agriculture respecting that person, under the last foregoing subsection may be commenced within twelve months from the time when the matter of complaint or information arose, and not later. 4-5 E. VII., c. 41, ss. 8 and 18.

10. Every person who obstructs any person charged with the enforcement of this Act in entering any premises to make examination of seeds, receptacles, packages, sacks or bags of seeds, as provided by this Act, or who refuses to permit the making of any such examination, or the taking of samples of seeds as provided by this Act, shall, upon summary conviction, be liable to a penalty not exceeding five hundred dollars and not less than twenty-five dollars, together with the costs of prosecution; and in default of payment of the said penalty and costs, shall be liable to imprisonment for a term not exceeding six months, unless the said penalty and costs and the costs of enforcing the same are sooner paid. 4-5 E. VII., c. 41, s. 10.

11. The person on whose behalf any seed is sold, offered, exposed, or had in possession for sale, contrary to the provisions of this Act, shall be prima facie liable for the violation of this Act. 4-5 E. VII., c. 41, s. 9.

12. Any purchaser of seeds, with respect to which he has reason to suspect or believe that any provision of this Act has been violated, or any person charged with the enforcement of this Act, at his request, may take a sample from the said seeds and forward it to such person as the Governor in Council appoints as an official seed analyst to examine and report upon any seed submitted for analysis under the provisions of this Act. 4-5 E. VII., c. 41, s. 11.
(a) the person who sold or offered, exposed or had in his possession for sale the said seeds; or,
(b) two impartial or non-interested witnesses; and,
in accordance with the rules for seed testing prescribed by the Minister of Agriculture, and shall be inclosed in a scaled package, together with a certified statement of the person taking the sample, which statement shall include the name and address of the person who sold, or offered, exposed or had in his possession for sale, the seeds from which the said sample was taken, the manner in which the receptacle, package, sack or bag was marked, and the section or sections of this Act in violation of which the said seeds were found or suspected to be sold or offered, exposed or had in possession for sale. 4-5 E. VII., c. 41, s. 12.

14. Any sample of seeds taken from any seed which are found or suspected to be sold in violation of the provisions of this Act shall be taken and forwarded to an official seed analyst,—
(a) from seeds that are sold in scaled packages, sacks, bags or receptacles, at the time of the breaking of the seal thereon; and,
(b) from seeds that are not sold in scaled packages, sacks, bags or receptacles, within seven days from the date on which the seeds entered into the personal possession and became the property of the purchaser. 4-5 E. VII., c. 41, s. 13.

15. It shall be the duty of any official seed analyst to examine any seeds sent to him in accordance with the provisions of this Act, by following the methods for testing seeds prescribed by the Minister of Agriculture, and to send one certificate of analysis of the said seeds to the inspector, informant or complainant from whom they were received, and one certificate to the seller of the said seeds, and to place one certificate on file in the Department of Agriculture. 4-5 E. VII., c. 41, s. 14.

EVIDENCE AND PROCEDURE.

16. The certificate of analysis of any official seed analyst on any sample of seeds forwarded to him under this Act shall be accepted as evidence in any prosecution of any person charged with having sold or offered, exposed or had in his possession for sale, in violation of the provisions of this Act, seeds from which the sample purports to have been taken, or of any person from whom such person purchased the seeds. 4-5 E. VII., c. 41, s. 15.

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17. In any complaint, information or conviction under this Act, the matter complained of may be declared, and shall be held to have arisen, within the meaning of Part XV. of the Criminal Code, at the place where the seed was sold or offered, exposed or had in possession for sale. 45 E. VII., c. 41, s. 16.
CHAPTER 129.

An Act respecting Securities for Seed Grain Indebtedness.

1. This Act may be cited as the Seed Grain Sureties Act. Short title.

2. The Governor in Council may discharge from liability persons liable to the Crown as sureties upon bonds given to secure repayment for seed grain furnished by the Crown to persons in the province of Saskatchewan or Alberta, or in the Northwest Territories. 63-64 V., c. 16, s. 1.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 130.

An Act respecting the Shipping of Live Stock.

SHORT TITLE.

1. This Act may be cited as the Live Stock Shipping Act. Short title. 54-55 V., c. 36, s. 1.

INTERPRETATION.

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

(a) 'Minister' means the Minister of Marine and Fisheries;
(b) 'inspector' means an inspector for the purposes of this Act only;
(c) 'certificate' means a certificate issued under and for the purposes of this Act only;
(d) 'ship' means any vessel used in navigation;
(e) 'ship carrying live stock' means any ship employed in carrying live stock from any port or place in Canada to any port or place out of Canada, not being a port or place in the United States of America, or in Newfoundland, or in St. Pierre or Miquelon, or in Bermuda, or in any of the West Indian Islands, or in Mexico, or in South America. 54-55 V., c. 36, s. 2.

GENERAL.

3. The Governor in Council may make rules and regulations for the health, security and safe carriage of live stock on ships. Such rules and regulations shall be published in the Canada Gazette, and shall have the force of law from the date of their publication or from such later date as is therein appointed for their coming into force. 54-55 V., c. 36, s. 3.

4. The Governor in Council may appoint inspectors and determine the remuneration to be paid them out of the fees collected under the provisions of this Act; and any fees collected by an inspector in excess of the amount of the remuneration so determined shall be paid over by him to the Minister of Finance, to form part of the Consolidated Revenue Fund of Canada.

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2. At any port for which no inspector has been appointed under this Act, the port warden duly appointed by the Governor in Council shall be ex officio the inspector.

3. At any port at which there is no port warden so appointed, and for which no inspector has been appointed under the provisions of this Act, the chief officer of Customs at such port shall be ex officio the inspector.

4. Every inspector shall, as soon as may be after the thirty-first day of December in each year, furnish to the Minister a written statement of the fees collected by him under the provisions of this Act during such year and of the manner in which he has disposed of them. 54-55 V., c. 36, s. 4.

5. The Governor in Council may establish a fee to be paid on each head of live stock shipped on any ship carrying live stock; and no officer of Customs shall grant a clearance to any such ship with live stock on board until such fee has been paid. 54-55 V., c. 36, s. 5.

6. No officer of Customs shall grant a clearance to any ship carrying live stock until he receives the certificate of an inspector certifying,—

(a) the number of live stock such ship is adapted to carry;
(b) the number actually on board for the intended voyage;
(c) that the arrangements for carrying such live stock are approved of by him;
(d) that the shelters or fittings, if such live stock is carried on the upper or spar deck, are sufficiently strong and substantial to ensure the safety of such live stock for the voyage;
(e) that such ship is seaworthy; and,
(f) that all the requirements of the rules and regulations at the time in force respecting the health, security and safe carriage of live stock on ships provided for by or under this Act have been complied with. 54-55 V., c. 36, s. 7.

7. When any ship carrying live stock has complied with the foregoing requirements, and obtained a clearance at any port or place in Canada, and, not having on board as great a number of live stock as her certificate allows her for the intended voyage, proceeds to another port or place in Canada to complete her cargo of live stock, the master of such ship shall notify the inspector, before clearing, of his intention so to do; and it shall then be the duty of the inspector at the first port of clearance to notify the inspector at the port at which the ship is to complete her cargo of live stock, of the master's intention, the number of live stock on board, and the number allowed to be carried by the certificate for the intended voyage.

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2. In such case the ship, upon her arrival at the port at
which her cargo of live stock is to be completed, shall not take
on any live stock until the accommodation for such additional
stock has been inspected and approved of by the inspector of
the port, who shall certify that the additional live stock
shipped on board such ship does not cause the number on board
to exceed the number allowed by the certificate for the intended
voyage, and that the arrangements for carrying such additional
live stock are approved of by him.

3. No officer of Customs shall grant a clearance to any such
ship for the additional live stock until he has received the
inspector's certificate referred to in this section. 54-55 V., c.
36, s. 8.

8. Every certificate issued by an inspector shall be in tripli-
cate, one of which shall be delivered to the master or agent of
the ship, one to the chief officer of Customs of the port from
which such ship clears, and one shall be retained by the
inspector. 54-55 V., c. 36, s. 6.

OFFENCES AND PENALTIES.

9. Every person who sends or attempts to send or is a party
to sending or attempting to send and every master who takes
or attempts to take such ship to sea without having first
obtained the certificate of an inspector certifying,—
(a) the number of live stock such ship is adapted to carry;
(b) the number actually on board for the intended voyage;
(c) that the arrangements for carrying such live stock are
approved of by him;
(d) that the shelters or fittings if such live stock is carried
on the upper or spar deck are sufficiently strong and sub-
stantial to ensure the safety of such live stock for the
voyage;
(e) that such ship is seaworthy; and,
(f) that all the requirements of the rules and regulations at
the time in force respecting the health, security and safe
carriage of live stock on ships provided for by or under
this Act have been complied with,
shall be guilty of an indictable offence and the ship shall be
liable to a penalty of one thousand dollars and may be seized
and detained by any chief officer of Customs whenever and
wherever found in Canada until such penalty and the costs of
seizure are paid.

2. No prosecution under this section shall be instituted
except by or with the consent of the Minister. 54-55 V., c. 36,
s. 7.

10. Any master of a ship who fails to notify the inspector
at any port from which he intends to proceed to another port
or place in Canada to complete the vessel's cargo of live stock
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before
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before clearing therefrom of such intention or who sails or attempts to go to sea without having given such notice or takes on board any additional live stock at any such port or place to which he so proceeds until the accommodation of such additional live stock has been inspected and approved of by the inspector of such port or place, shall incur a penalty of one thousand dollars and such ship shall be liable for such penalty and may be seized and detained by any chief officer of Customs wherever and whenever found in Canada until such penalty and the costs of the seizure are paid. 54-55 V., c. 36, s. 8.

11. The master of any ship which proceeds to sea, or attempts to proceed to sea, with a greater number of live stock on board than is allowed by her certificate for the intended voyage, shall incur a penalty of one thousand dollars, and such ship shall be liable for such penalty, and may be seized and detained by any chief officer of Customs wherever and whenever found in Canada, until such penalty and the costs of the seizure are paid. 54-55 V., c. 36, s. 9.

12. All penalties recovered under the provisions of this Act shall be paid over to the Minister of Finance to form part of the Consolidated Revenue Fund of Canada. 54-55 V., c. 36, s. 10.

SAVING.

13. Nothing in this Act contained shall be deemed to modify or affect in any way the provisions of Part XIII. of the Canada Shipping Act, respecting Port Wardens, or any of the following Acts, or amendments thereto, namely:

(a) Thirty-fourth Victoria, chapter thirty-three, intituled An Act to provide for the appointment of a Port Warden for the harbour of Quebec;

(b) Thirty-sixth Victoria, chapter eleven, intituled An Act to amend the Acts relating to Port Wardens at Montreal and Quebec; and,

(c) Forty-fifth Victoria, chapter forty-five, intituled An Act to amend and consolidate the Acts relating to the office of Port Warden for the harbour of Montreal;

but the provisions hereinbefore contained shall, as respects the ports to which the said Acts respectively apply, be construed as enacted in addition to and not in derogation of the said Acts. 54-55 V., c. 36, s. 11.
An Act respecting the incorporation of Live Stock Record Associations.

1. This Act may be cited as the Live Stock Pedigree Act. Short title.

2. Any five or more persons who desire to associate themselves together for the purpose of keeping a record of pure-bred live stock of any distinct breed or several records each of a distinct breed of the same class of animals, may make application, in the form A in the schedule to this Act, to the Minister of Agriculture for incorporation.

2. Such application shall be in duplicate, and shall include a copy of the proposed constitution, by-laws and rules of the association.

3. The signatures to the application shall be verified by the affidavit of a subscribing witness thereto, before a notary public, commissioner for taking affidavits or justice of the peace. 63-64 V., c. 33, s. 1.

3. If the Minister approves of the application, he shall cause one of the duplicates thereof to be registered in the Department of Agriculture, and the other to be returned to the applicants with a certificate endorsed thereon and signed by him, in the form B in the schedule to this Act. 63-64 V., c. 33, s. 2.

4. Thereupon, from the date of such certificate, the applicants and such other persons as become members of the association shall be a body corporate and politic by the name specified in the application, with the constitution, by-laws and rules included therein, and with power to hold such property as is required for the carrying on of the business of the association. 63-64 V., c. 33, s. 3.

5. Not more than one association for each distinct breed of horses, cattle, sheep or swine shall be incorporated under this Act. 63-64 V., c. 33, s. 4.

6. The constitution, by-laws and rules of the association shall provide for,—

(a) the registration of pedigrees of pure-bred live stock; 2247

(b) R.S., 1906.
May provide for common officer.

2. The constitution, by-laws and rules, may also provide for the exercise, in conjunction with any other association or associations incorporated under this Act, of any of its powers or functions through a common officer or officers to be appointed by such associations. 63-64 V., c. 33, s. 5; 4-5 E. VII., c. 21, s. 1.

Amendments there to.

7. The constitution may be altered and any by-law or rule may be altered or repealed at a meeting of the association called for that purpose, but no such alteration or repeal shall have force or effect until it has been approved by the Minister and registered in the Department of Agriculture. 63-64 V., c. 33, s. 6.

Books.

8. The association shall cause a book to be kept by the secretary at the head office, and by an assistant secretary at each branch office, wherein shall be written a copy of the constitution, by-laws and rules.

2. Persons becoming members of the association may examine the said books. 63-64 V., c. 33, s. 7.

Members.

9. The association may consist of annual subscribers and life members, and the annual and life membership fees shall be fixed by the members at the annual meeting or at a meeting of the association called for that purpose.

2. Any person who has not been expelled from the association may become a member thereof by giving or sending his name and address to the secretary, together with the annual or life membership fee; and such person shall thereupon be entitled to the rights and privileges, and subject to the liabilities of a member as fully as if he had signed the application for the incorporation of the association. 63-64 V., c. 33, s. 8.

Constitution, etc., binding upon members.

10. The constitution, by-laws and rules of the association shall bind the association and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto. 63-64 V., c. 33, s. 9.

Liability of members.

11. The liability of each member shall be limited to the amount of his membership fees due. 63-64 V., c. 33, s. 10.

12. At the annual meeting the retiring officers shall present a full report of their proceedings and of the proceedings of the association, and a detailed statement, duly audited, of the receipts and expenditures for the previous year, and of the assets and liabilities.

2. A copy of the said report, with a list of the members and their addresses and a list of the officers elected, shall be sent by the secretary to the Minister within twenty days after the annual meeting. 63-64 V., c. 33, s. 11.

13. If the association ceases for twelve consecutive months to do business as required by its constitution, by-laws and rules, or if the Minister is satisfied, after an inquiry at which the association was given due notice to appear, that the business of the association is not being properly conducted, the Minister may declare the corporate powers of the association forfeited. 63-64 V., c. 33, s. 12.

14. Any person who signs a false pedigree intended for registration, or who presents or causes another person to present a false pedigree for registration by the association, shall, upon summary conviction, upon information laid within two years from the commission of the offence, be liable to a penalty not less than one hundred dollars and not exceeding five hundred dollars for each false pedigree so signed or presented, together with the costs of prosecution. 63-64 V., c. 33, s. 13.

15. At the request of any association incorporated under this Act, authorized at the annual meeting or at a meeting called for that purpose, the Minister of Agriculture may, through an officer of his Department, thereunto authorized by him, approve, under the hand of that officer and the seal of his department, or such other seal as is adopted for that purpose, the certificates of registration issued by such association. 4-5 E. VII., c. 21, s. 2.

SCHEDULE.

FORM A.

Application for Incorporation.

We, the undersigned, hereby apply for incorporation as an association under the provisions of the Live Stock Pedigree Act.

The name of the association is to be (name of association), and the object for which it is to be formed is to keep a record of R.S., 1906.
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of the pedigrees of pure-bred *(name of breed)*, and to collect, publish and preserve reliable and valuable data concerning that breed.

The names and addresses of the officers of the association are *(names and addresses in full).*

The constitution, by-laws and rules of the association are as follows: *(Insert constitution, etc., at length).*

Dated at , the day of

*Signatures of Applicants.*

I, the undersigned, solemnly swear that I know *(mentioning the names of the signers known to him)* and that they severally signed the foregoing application in my presence.

Sworn before me, at ,

this day of ,

19 .

(Signature.)

A.B.

63-64 V., c. 33, sch. A.

**Form B.**

*The Minister's Certificate.*

I certify that the within application is approved this day of 19 , in pursuance of the Live Stock Pedigree Act.

C.D.

Minister of Agriculture.

63-64 V., c. 33, sch. B.

*OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.*
CHAPTER 132.

An Act respecting Agricultural Fertilizers.

SHORT TITLE.

1. This Act may be cited as the Fertilizers Act. 53 V., c. 24, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
   (a) 'Minister' means the Minister of Inland Revenue;
   (b) 'fertilizer' includes every natural or artificial manure which is sold at more than ten dollars per ton, and which contains phosphoric acid, nitrogen, ammonia or nitric acid. 53 V., c. 24, s. 2.

ANALYSIS.

3. Every manufacturer or importer of fertilizers for sale shall, before the end of the month of January in each year, and before offering any fertilizer for sale, transmit to the Minister, carriage paid, a sealed glass jar, containing at least two pounds of such fertilizer so manufactured or imported by him, with a statement setting forth the nature of the materials which enter into its composition and the certificate of analysis of such fertilizer, together with an affidavit setting forth that such jar contains a fair average sample of such fertilizer so manufactured or imported by him; and such sample shall be submitted to the chief analyst for analysis and shall also be preserved by the Minister for the purpose of comparison with any sample of fertilizer which is obtained in the course of the twelve months then next ensuing from such manufacturer or importer, or from any vendor of his goods.

   2. The affidavit, if sworn in a foreign country, may be taken before a British consul. 53 V., c. 24, s. 3.

4. Every sample obtained by an inspector under this Act shall be transmitted to the Minister for submission to the chief analyst for analysis; and the result of such analyses, as well as the analyses of samples furnished by manufacturers, importers and vendors, shall be published annually by the said Minister 2251 in R.S., 1906.
in such manner as he sees fit, together with a statement showing the relative value of each fertilizer, calculated from its contents in fertilizing ingredients at their current market value. 53 V., c. 24, s. 5.

**Inspectors and Their Duties.**

5. The officers of Inland Revenue, the officers of Customs, the inspectors and assistant inspectors of weights and measures, the inspectors of food, drugs and agricultural fertilizers acting under the Adulteration Act, and the inspectors and deputy inspectors acting under the Inspection and Sale Act, or any of them, shall, when required so to do, by any regulation made in that behalf by the Governor in Council, or by the Minister, act as inspectors of fertilizers, and shall procure and submit samples of fertilizers suspected to be adulterated, to be analysed. 53 V., c. 24, s. 4.

6. Every inspector of fertilizers shall, at least once in each year, obtain for analysis from every manufacturer, importer or vendor of fertilizers for sale in the district for which the inspector is appointed, a sample of the fertilizer manufactured, imported or sold by such manufacturer, importer or vendor: but the provisions of this section shall not be construed to limit the right of the inspector to procure samples for analysis in accordance with any other provision of this Act. 53 V., c. 24, s. 5.

7. The inspector, after taking a sample for analysis and forwarding the same to the Minister, and after having been advised that it corresponds in contents with the sample sent in at the beginning of the year, shall, if requested so to do by the manufacturer, the importer or the person selling the fertilizer, cause to be applied, under his personal supervision, inspectors' tags, one to each package, bag or barrel of fertilizer, before the same is offered for sale or distribution.

2. Inspectors' tags shall be numbered consecutively and shall have printed upon each of them the words and figures, *Inspected, 19 Canada*, together with a fac-simile of the signature of the Minister. 52 V., c. 24, s. 8.

8. If the fertilizer is imported in bulk, or if it is proposed that it shall be removed from the manufactory, or out of the possession of the manufacturer's agent, in bulk, the manufacturer's certificate of analysis and ingredients shall be produced to the inspector; and the inspector, after taking samples for analysis, shall deliver to the manufacturer, the importer or his agent, if requested by any of them so to do, a bill of inspection specifying the quantity and the quality as set forth in the manufacturer's certificate, together with the name of the store or vendor.
9. The inspector shall not furnish any tag to be attached to any package of fertilizer unless the manufacturer's certificate of analysis and ingredients is plainly placed upon each parcel or package, or, if the fertilizer is in bulk, shall not deliver any bill of inspection unless such certificate is produced to him, setting forth that the fertilizer contains at least eight per centum of available phosphoric acid or four per centum of ammonia, or its equivalent in nitrogen or nitric acid. and in the case of an ammoniated superphosphate, that it contains at least five per centum of available phosphoric acid and two per centum of ammonia, or its equivalent in nitrogen or nitric acid; nor shall any such tag be furnished or applied to any package of fertilizer, or bill of inspection delivered in respect of any fertilizer, which is in a damaged or unmerchantable condition. 53 V., c. 24, s. 12.

SALE PROVISIONS.

10. If the fertilizer is put up in packages, every such package intended for sale or distribution within Canada shall have the manufacturer's certificate of analysis placed upon or securely attached to it by the manufacturer; if the fertilizer is in bags, such certificate shall be distinctly stamped or printed upon each bag; if it is in barrels, such certificate shall be either branded, stamped or printed upon the head of each barrel, or distinctly printed upon good paper and securely pasted upon the head of each barrel; if it is in bulk, such certificate shall be produced and a copy given to each purchaser; and every such certificate shall contain, besides the analysis, a statement of the nature of the materials entering into the composition of the fertilizer. 53 V., c. 24, s. 6.

11. No fertilizer shall be sold or offered or exposed for sale unless a certificate of analysis and a sample of the same have been transmitted to the Minister, and the provisions of the last preceding section have been complied with. 53 V., c. 24, s. 7.

12. No fertilizer shall be sold or offered or exposed for sale unless it contains at least eight per centum of available phosphoric acid, or four per centum of ammonia or its equivalent in nitrogen or nitric acid; or, when both phosphoric acid and ammonia are present, at least five per centum of available phosphoric acid and two per centum of ammonia or its equivalent in nitrogen or nitric acid. 53 V., c. 24, s. 7.

Fertilizers.

13. If any fertilizer is imported for use by the importer thereof, and not for sale, it may be inspected in conformity with the foregoing provisions of this Act at the Customs port of entry at which it is imported. 53 V., c. 24, s. 10.

FEES.

14. With every sample transmitted by a manufacturer or importer to the Minister as herein provided, such manufacturer or importer shall, at the same time, transmit to the Minister a fee of three dollars. 53 V., c. 24, s. 3.

15. The inspector shall be entitled, for each package to which a tag is attached under his supervision, and for each bill of inspection delivered by him, if the fertilizer is in bulk, to such fee in either case as the Governor in Council directs, which fee shall be paid and the inspector’s tag attached or certificate delivered, as the case requires, before the fertilizer may be removed from the mill, factory or storehouse, or out of the possession of the manufacturer’s agent or of the person importing the same. 53 V., c. 24, s. 11.

16. Every manufacturer or importer who sells or offers fertilizers for sale shall, before so doing, register his name and address once in each year with the nearest Inland Revenue officer, and shall, at the same time, pay a registration fee of one dollar. 53 V., c. 24, s. 13.

OFFENCES AND PENALTIES.

17. Every person who permits a certificate of analysis stating that a fertilizer contains a larger percentage of the constituents required under this Act to be certified, to justify an inspector in delivering a bill of inspection in respect to a fertilizer in bulk, than is contained in the fertilizer referred to in such certificate,—

(a) to be attached to any package, bag or barrel of such fertilizer; or,

(b) to be produced to the inspector to accompany the inspector’s bill of inspection of such fertilizer;

and every person who sells or offers or exposes for sale any fertilizer,—

(a) purporting to have been inspected which does not contain the percentage of constituents mentioned in the manufacturer’s certificate accompanying the same; or,

(b) at a higher price than ten dollars per ton which does not contain the percentages of fertilizing ingredients required by this Act for fertilizer offered for sale; or,

(c) purporting to have been inspected which does not contain the percentage of constituents required under this Act.
Act to be certified to justify an inspector in delivering a bill of inspection in respect to fertilizer in bulk; or,

(d) without registering his name in cases where previous registration is required by this Act; or,

(e) in respect to which the provisions of this Act have not been complied with;

shall be liable to a penalty not exceeding fifty dollars for the first offence and for each subsequent offence to a penalty not exceeding one hundred dollars, and in either case to the forfeiture of the fertilizer in respect to which the conviction was had; Provided that any percentage claimed to be contained in the fertilizer shall not be deemed wanting by reason only of a deficiency of one per centum of the ammonia, or its equivalent in nitrogen or nitric acid, or of the phosphoric acid. 53 V., c. 24, s. 14.

18. Every person who forges, or utters or uses, knowing it to be forged, any manufacturer's certificate, bill of inspection, certificate of analysis, or inspector's tag, required under this Act, is guilty of an indictable offence, and liable to imprisonment for a term not exceeding two years, with or without hard labour. 53 V., c. 24, s. 15.

19. Every person who wilfully applies to any fertilizer a certificate or tag, or produces to any person a bill of inspection, given in relation to any other package or lot of fertilizer, shall be liable to a penalty not exceeding five hundred dollars, and in default of payment to imprisonment for a term not exceeding twelve months. 53 V., c. 24, s. 16.

20. Every person who gives a false certificate in writing to any person in respect to a fertilizer sold by him as a principal or agent shall be liable to a penalty not exceeding five hundred dollars, and in default of payment to imprisonment for a term not exceeding twelve months. 53 V., c. 24, s. 17.

APPLICATION OF FEES AND PENALTIES.

21. All fees paid and penalties recovered under this Act shall form part of the Consolidated Revenue Fund of Canada. 53 V., c. 24, s. 18.

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CHAPTER 133.

An Act respecting the Adulteration of Food and other Articles.

SHORT TITLE.

1. This Act may be cited as the Adulteration Act. R.S., Short title. c. 107, s. 1.

INTERpretATION.

2. In this Act, unless the context otherwise requires,—
   (a) 'Minister' means the Minister of Inland Revenue;
   (b) 'food' includes every article used for food or drink by man or cattle, and every ingredient intended for mixing with the food or drink of man or cattle for any purpose whatsoever;
   (c) 'drug' includes all medicines for internal or external use for man or for cattle;
   (d) 'agricultural fertilizer' means and includes every substance imported, manufactured, prepared or disposed of for fertilizing or manuring purposes, which is sold at more than ten dollars per ton and which contains phosphoric acid, nitrogen, ammonia or nitric acid;
   (e) 'officer' means any officer of Inland Revenue or any person authorized under this Act or the Fertilizers Act to procure samples of food, drugs, agricultural fertilizers or other articles and to submit them for analysis;
   (f) 'analyst' includes any member of the examining board appointed under the authority of this Act and any assistant analyst to the chief analyst at Ottawa. 53 V., c. 26, s. 1.

3. Food shall be deemed to be adulterated within the meaning of this Act,—
   (a) if any substance has been mixed with it so as to reduce or lower or injuriously affect its quality or strength;
   (b) if any inferior or cheaper substance has been substituted wholly or in part for the article;
   (c) if any valuable constituent of the article has been wholly or in part abstracted;
   (d) if it is an imitation of or is sold under the name of another article;

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4. The following articles sold, offered or exposed for sale shall be deemed to have been adulterated in a manner injurious to health:

Milk. 
(a) Milk, after any valuable constituent of the article has been abstracted therefrom, or water added thereto, or when it is the product of a diseased animal, or of an animal fed upon unwholesome food;

Vinegar. 
(b) Vinegar, if any mineral acid or any soluble salt having copper or lead as its base has been added thereto, either during the process of manufacture or subsequently;

Liquors. 
(c) Alcoholic, fermented or other potable liquors containing any of the articles mentioned in the first schedule to this Act, or any article hereafter added thereto by the Governor in Council. R.S., c. 107, ss. 15, 16 and 17; 53 V., c. 26, s. 6.

Honey. 
5. Feeding bees with sugar, except for the purpose of being consumed by them as food, or with glucose or any sweet substance other than such bees gather from natural sources, with the intent that the same shall be used by the bees in the making of honey, or, excepting as aforesaid, the exposing of any such substance with such intent, shall be deemed a wilful adulteration of honey within the meaning of this Act. 59 V., c. 12, s. 1.

Agricultural fertilizer. 
6. Every agricultural fertilizer sold, offered or exposed for sale shall be deemed to be adulterated within the meaning of this Act—
(a) if the chemical analysis thereof shows a deficiency of more than one per centum of any of the chemical substances the percentages whereof are to be specified in the certificate required by the Fertilizers Act to be produced to the inspector if the agricultural fertilizer is in bulk, or, if not in

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in bulk, required to be affixed to each barrel, box, sack or package containing any such fertilizer; or,

(b) if it contains less than the minimum percentage of such substances required by the said Act to be contained in such fertilizer. 53 V., c. 26, s. 2.

7. Every drug shall be deemed to be adulterated within the meaning of this Act if its strength, quality or purity falls below the professed standard under which it is sold, or if, when offered or exposed for sale under or by a name,—

(a) recognized in the edition of 1898 of the British Pharmacopæia; or,

(b) recognized in any foreign pharmacopœia, such as Le Codex Medicamentarius in France, or the Pharmacopœia of the United States, with the name of such pharmacopœia plainly labelled upon it; or,

(c) which is not recognized in any pharmacopœia, but is found in some generally recognized standard work on materia medica or chemistry;

it differs from the standard of strength, quality or purity laid down therein. 62-63 V., c. 26, s. 1.

ANALYSIS.

8. The Governor in Council may appoint one or more persons possessing competent medical, chemical and microscopical knowledge as analysts of food, drugs, agricultural fertilizers and other articles purchased, sold or exposed or offered for sale within such territorial limits as are assigned to each of them respectively, and may also select from the analysts so appointed, or may appoint in addition thereto, a chief analyst, who shall be attached to the staff of the Department of Inland Revenue at Ottawa. R.S., c. 107, s. 3.

9. No analyst shall be appointed until he has undergone an examination before a special examining board appointed by the Governor in Council, nor until he has obtained from such board a certificate setting forth that he is duly qualified to perform the duties attached to the office of analyst. R.S., c. 107, s. 3.

10. The Governor in Council may, on the nomination of the council of any city, town, county or township, or other municipality, appoint food examiners for such municipality, to examine such articles of food as are determined by the Governor in Council; but such appointment shall not be made unless and until the person so nominated has undergone an examination before the examining board herein above mentioned, and has obtained from such board a certificate setting forth that he is competent and duly qualified to examine and certify as to the nature and purity of the articles of food for...
the examination of which he is to be appointed, in which case his certificate of analysis with regard to such articles shall have like force and effect as those of the official analyst appointed under this Act. 53 V., c. 26, s. 2.

11. The Governor in Council may cause such remuneration to be paid to the Chief Analyst and to such analysts as he deems proper, and such remuneration, whether by fees or salary, or partly in one way and partly in the other, may be paid to them out of any sums voted by Parliament for the purposes of this Act. R.S., c. 107, s. 4.

12. The officers of Inland Revenue, the inspectors and assistant inspectors of weights and measures, and the inspectors and deputy inspectors acting under the Inspection and Sale Act, or any of them, shall, when required so to do by any regulation made in that behalf by the Minister, procure and submit samples of food, drugs or agricultural fertilizers suspected to be adulterated, or of the articles mentioned in the fourth and fifth schedules to this Act, suspected to be falsely marked, to be analysed by the analysts appointed under this Act, and nothing contained in the Civil Service Act shall be deemed to prevent officers rendering service under this section from receiving extra salary or additional remuneration for such services. R.S., c. 107, s. 5; 51 V., c. 24, s. 2; 57-58 V., c. 37, s. 5.

13. The council of any city, town, county or village may appoint one or more inspectors of food, drugs and agricultural fertilizers and of the articles mentioned in the fourth and fifth schedules to this Act; and such inspectors shall, for the purposes of this Act, have all the powers by this Act vested in officers of Inland Revenue; and any such inspector may require any public analyst to analyse any samples of food, drugs, agricultural fertilizers or other articles collected by him, if such samples have been collected in accordance with the requirements of this Act.

2. Such analyst shall, upon tender of the fees fixed for the analysis of such class of articles by the Governor in Council, forthwith analyse the same and give the inspector a certificate of such analysis.

3. Such inspector may prosecute any person manufacturing, selling or offering or exposing for sale within the city, county, town or village for which he is appointed inspector, any article of food, drug, agricultural fertilizer or other article which has been certified by any public analyst to have been adulterated or falsely marked within the meaning of this Act.

4. Notwithstanding any other provision of this Act in respect of the disposition of penalties, all penalties imposed and recovered

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recovered at the suit of any such inspector shall be paid into the revenue of the city, county, town or village by the council of which such inspector was appointed, and may be distributed in such manner as the council of such city, county, town or village by by-law directs. R.S., c. 107, s. 6; 57-58 V., c. 37, s. 5.

14. Any officer may procure samples of food, drugs or agricultural fertilizers which have not been declared exempt from the provisions of this Act, or samples of the articles mentioned in the fourth and fifth schedules to this Act, from any person who has such articles in his possession for the purpose of sale, or who sells or exposes the same for sale; and he may procure such samples either by purchasing the same or by requiring the person in whose possession they are to show him and allow him to inspect all such articles in his possession and the place or places in which such articles are stored and to give him samples of such articles on payment or tender of the value of such samples. R.S., c. 107, s. 7; 57-58 V., c. 37, s. 5.

15. The officer purchasing any article with the intention of submitting the same to be analysed shall, after the purchase has been completed, forthwith notify the seller or his agent selling the article of his intention to have the same analysed by the public analyst and shall, except in specific cases respecting which provision is made by the Governor in Council, divide the article into three parts, to be then and there separated and each part to be marked and sealed up or fastened up, as its nature permits.

2. Such officer shall deliver one of such parts to the seller or his agent if required by him so to do; he shall transmit another of such parts to the Minister for submission to the Chief Analyst in case of appeal and shall submit the remaining part to the analyst for the district within which the samples were taken, unless otherwise directed by the Minister.

3. The Minister or the Deputy Minister or any person duly authorized in that behalf may, however, cause the part intended to be analysed as in this section mentioned, to be submitted to the Chief Analyst or to any other of the analysts appointed under this Act, who is deemed by him to have special skill and experience in the examination of particular substances. and such analyst shall report to the Minister, and in every such case the certificate of the analyst employed under this section shall have the like force and effect as the certificate of the analyst hereinafter mentioned. R.S., c. 107, s. 9; 51 V., c. 24, s. 3.

16. The person from whom any sample is obtained under this Act may require the officer obtaining it, to annex to the vessel or package containing the part of the sample which he is hereby protected of samples.
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hereby required to transmit to the Minister, the name and address of such person, and to secure, with a seal or seals belonging to him, the vessel or package containing such part of the sample, and the address annexed thereto, in such manner that the vessel or package cannot be opened, or the name and address taken off, without breaking such seals; and the certificate of the Chief Analyst or of his assistant analyst, shall state the name and address of the person from whom the said sample was obtained, that the vessel or package was not open, and that the seals, securing to the vessel or package the name and address of such person, were not broken until such time as he opened the vessel or package for the purpose of making his analysis; and in such case no certificate shall be receivable in evidence, unless there is contained therein such statement as above, or a statement to the like effect. R.S., c. 107, s. 10; 51 V., c. 24, s. 4.

**Analysis and certificate of analyst.**

17. When the officer has, by either of the means aforesaid, procured samples of the articles to be analysed, he shall cause the same to be analysed by one of the analysts appointed under this Act, and if it appears to the analyst that the sample is adulterated or falsely marked within the meaning of this Act, he shall certify such fact, stating in such certificate, in the case of an article of food or a drug, whether such adulteration is of a nature injurious to the health of the person consuming the same; and the certificate so given shall be received as evidence in any proceedings taken against any person in pursuance of this Act, subject to the right of such person to require the attendance of the analyst, for the purpose of cross-examination.

**Expenses of analysis.**

2. Should any sample on examination be found by the analyst to be adulterated or falsely marked within the meaning of this Act, and be so reported to the Minister, the said Minister may, at his discretion, cause the result of the analysis to be communicated to the vendor, and require him to pay, at the rate specified in the second schedule to this Act, the cost of procuring and analysing the said sample; and should the said vendor refuse or neglect so to do, the Minister may then cause legal proceedings to be taken against him, as hereinafter provided. R.S., c. 107, s. 11; 53 V., c. 26, s. 3; 57-58 V., c. 37, s. 5.

**Recovery.**

18. If the vendor of the article respecting which the certificate referred to in the last preceding section is given, deems himself aggrieved thereby, he may, within forty-eight hours of the receipt of the first notification of the intention of the officer or other purchaser to take proceedings against him (whether such notification is given by the purchaser or by the ordinary process of law), notify the said officer or purchaser in writing that he intends to appeal from the decision of the analyst to the
the judgment of the Chief Analyst; and in such case the officer or purchaser shall transmit such notification to the Chief Analyst, and the Chief Analyst shall, with all convenient speed, analyse the part of the sample transmitted to the Minister for that purpose, and shall report thereon to the said Minister; and the decision of the Chief Analyst shall be final, and his certificate thereof shall have the same effect as the certificate of the analyst mentioned in the last preceding section. 53 V., c. 26, s. 4.

19. Every analyst appointed under this Act shall report quarterly to the Minister the number of articles of food, drugs and agricultural fertilizers and other articles analysed by him under this Act during the preceding quarter, and shall specify the nature and kind of adulterations detected in such articles; and all such reports, or a synopsis of them, and the names of the vendors or persons from whom obtained, and of the manufacturers when known, shall be printed and published for the information of the public at such times and in such manner as the said Minister directs, and shall also be laid before Parliament as an appendix to the annual report of the said Minister. 53 V., c. 26, s. 5; 57-58 V., c. 37, s. 5.

ADULTERATION.

20. Except as hereinafter provided, no person shall manufacture, sell, expose or offer for sale any food, drug or agricultural fertilizer which is adulterated within the meaning of this Act. R.S., c. 107, s. 14.

21. No person shall mark, brand or label any article or any package containing any article mentioned in the first column of the fourth schedule to this Act, with the word Pure, Genuine, or any word equivalent thereto, or sell, or offer or expose for sale, any such article or package so marked, branded, stamped or labelled, unless such article or the contents of such package are pure within the meaning of the second column of the said schedule. 57-58 V., c. 37, s. 1.

22. No person shall sell, or offer or expose for sale, any article or any substance for domestic use under the name or designation contained in the first column of the fifth schedule to this Act, unless such article or substance is free from adulteration or admixture of foreign matter and unless it possesses the composition and distinguishing characteristics stated in the second column of the said schedule. 57-58 V., c. 37, s. 2.

23. Milk from which the cream has been removed by skimming, or by a separator or creamer, may be sold as skim milk, if contained in cans bearing upon their exterior the word Skimmed in letters of not less than two inches in length R.S., 1906.
Proviso. length and served in measures also similarly marked: Provided that any person supplying such skim milk, unless such quality of milk has been asked for by the purchaser, shall not be protected by this section from any prosecution on account of any violation of this Act. R.S., c. 107, s. 15.

Exceptions. 24. Notwithstanding anything in this Act contained, no food or drug shall be deemed to be adulterated in the following cases:

(a) Where any matter or ingredient not injurious to health has been added to the food or drug, in case such matter or ingredient is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, if the same has not been fraudulently added to such food or drug for the purpose of increasing the bulk, weight or measure thereof, or to conceal its inferior quality, and each package, roll, parcel or vessel containing every such article of food or drug manufactured, sold or exposed for sale is distinctly labelled as a mixture in conspicuous characters forming an inseparable part of a general label thereon bearing the name and address of the manufacturer;

(b) Where the food or drug is a proprietary medicine or is the subject of a patent in force, and is supplied in the state required by the specification of the patent;

(c) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation;

(d) Where any articles of food not injurious to the health are mixed together as a compound, and sold or offered for sale as such, with each package, roll, parcel or vessel containing such articles distinctly labelled as a mixture in conspicuous characters forming an inseparable part of a general label bearing the name and address of the manufacturer. 53 V., c. 26, s. 1; 61 V., c. 24, ss. 2 and 3.

Exemptions. 25. The Governor in Council may, from time to time, declare certain articles or preparations exempt in whole or in part from the provisions of this Act, and may add to the first schedule to this Act any article or ingredient, the addition of which is by him deemed necessary in the public interest; and every order in council in that behalf shall be published in the Canada Gazette, and shall take effect at the expiration of thirty days from the date of such publication. R.S., c. 107, s. 18; 53 V., c. 26 s. 7.

Standards of quality. 26. The Governor in Council shall, from time to time, cause to be prepared and published, lists of the articles, mixtures or compounds declared exempt from the provisions of this Act, in accordance with the last preceding section, and shall
shall also, from time to time, establish a standard of quality for, and fix the limits of variability permissible in any article of food or drug or compound, the standard of which is not established by any such pharmacopoeia or standard work as is hereinbefore mentioned; and the orders in council fixing the same shall be published in the Canada Gazette, and shall take effect at the expiration of thirty days after the publication thereof. 53 V., c. 26, s. 8.

27. The Governor in Council may add any articles to the fourth and fifth schedules to this Act, and determine the standard of purity therefor, and may remove any articles from the said schedules; and the order in council in that behalf shall be published in four successive issues of the Canada Gazette, after which it shall have like effect as if such articles had been included in the said original schedules.

2. Any order in council made under the provisions of this section shall have effect only until the end of the next succeeding session of Parliament. 57-58 V., c. 37, s. 4.

28. Whenever any article of food, any drug, or any agricultural fertilizer is reported by any analyst as being adulterated within the meaning of this Act, the Minister may, if he thinks fit, order such article, and all other articles of the same kind and quality which were in the same place at the time the article analysed was obtained, to be seized by any officer of Customs or Inland Revenue, and detained by him until an analysis of samples of the whole is made by the Chief Analyst. R.S., c. 107, s. 20.

29. If the Chief Analyst reports to the Minister that the whole or any part of such articles are adulterated, the Minister may declare such articles, or so much thereof as the Chief Analyst reports as being adulterated, to be forfeited to the Crown; and such articles shall thereupon be disposed of as the Minister directs. R.S., c. 107, s. 21.

30. Except for the exclusive purpose of consumption as food, no person shall feed with or expose with intent that bees shall feed on the same, any sugar, glucose or any other sweet substance other than such as bees gather from natural sources; and no honey made by bees in whole or in part from any of such substances, and no imitation of honey or sugar honey so called, or other substitute for honey shall be manufactured or produced for sale or sold or offered for sale in Canada. 59 V., c. 12, s. 1.

OFFENCES AND PENALTIES.

31. Every person who wilfully adulterates any article of food or any drug, or orders any other person so to do, shall,—

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(a)

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Injurious. (a) if such adulteration is, within the meaning of this Act, deemed to be injurious to health, for the first offence incur a penalty not exceeding five hundred dollars and costs, or six months' imprisonment, or both, and not less than fifty dollars and costs, and for each subsequent offence a penalty not exceeding one thousand dollars and costs, or one year's imprisonment, or both, and not less than one hundred dollars and costs;

Penalty.

Not injurious. (b) if such adulteration is, within the meaning of this Act, deemed not to be injurious to health, incur a penalty not exceeding two hundred dollars and costs, or three months' imprisonment, and for each subsequent offence a penalty not exceeding five hundred dollars and costs, or six months' imprisonment, or both, and not less than one hundred dollars and costs. 61 V., c. 24, s. 4.

Sale. 32. Every person who, by himself or his agent, sells, offers for sale, or exposes for sale, any article of food or any drug, which is adulterated within the meaning of this Act, shall,—

Injurious. (a) if such adulteration is, within the meaning of this Act, deemed to be injurious to health, for a first offence incur a penalty not exceeding two hundred dollars and costs, or three months' imprisonment, or both, and for each subsequent offence a penalty not exceeding five hundred dollars and costs or six months' imprisonment, or both, and not less than fifty dollars and costs;

Penalty.

Not injurious. (b) if such adulteration is, within the meaning of this Act, deemed not to be injurious to health, incur for each such offence a penalty not exceeding one hundred dollars and costs, and not less than five dollars and costs. 61 V., c. 24, s. 5.

Want of knowledge. 33. If the person accused proves to the court before which any prosecution is brought for selling, offering or exposing for sale any article of food or drug that has been adulterated, that he purchased the article in question for and as an article of the same nature, substance and quality as that demanded of him by the purchaser or inspector, with a warranty to that effect according to the form in the third schedule to this Act, and produces the said warranty at the trial had on such prosecution, and also proves that he sold it in the same state as when he purchased it, and that he could not, with reasonable diligence, have obtained knowledge of its adulteration, he shall be discharged from such prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defense and has called the party from whom he purchased the said article into the case as provided for in this Act, in which case the Minister may, as hereinbefore authorized, declare such article, or so much

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much thereof as the Chief Analyst reports as being adulterated to be forfeited to the Crown. 61 V., c. 24, s. 5.

34. If the person presenting such defence shall, upon his sworn declaration that he purchased the article in good faith and as provided for in the last preceding section, obtain a summons to call such third party into the case, the court shall at the same time hear all the parties and decide upon the entire merits of the case, not only as regards the person originally accused, but also as regards the third party so brought into the case. 61 V., c. 24, s. 5.

35. If the person who has in his possession any food, drugs or agricultural fertilizers which have not been declared exempt from the provisions of this Act, or any of the articles mentioned in the fourth and fifth schedules to this Act, shall, when required so to do by any officer in pursuance of the provisions of this Act, refuse or omit to show the officer the place in which any such articles are stored, or shall refuse or fail to admit the officer into every such place, or shall refuse or omit to show such officer all or any of such articles in his possession, or to permit the officer to inspect the same, or to give any sample thereof, or to furnish such officer with any light or assistance he requires for any of such purposes, he shall be liable to the same penalty as if he knowingly sold or exposed for sale adulterated articles. R.S., c. 107, s. 8; 57-58 V., c. 37, s. 5.

36. Every compounder or dealer in, and every manufac-
turer of intoxicating liquors, who has in his possession or in any part of the premises occupied by him as such, any adul-
ated liquor, knowing it to be adulterated, or any deleterious ingredient specified in the first schedule to this Act, or added to such schedule by the Governor in Council, for the possession of which he is unable to account to the satisfaction of the court before which the case is tried, shall be deemed knowingly to have exposed for sale adulterated food, and shall incur for the first offence a penalty not exceeding one hundred dollars, and for each subsequent offence a penalty not exceeding four hundred dollars. R.S., c. 107, s. 24; 53 V., c. 26, s. 10.

37. Every person who knowingly attaches to any article of food, or any drug, any label which falsely describes the article sold, or offered or exposed for sale, shall incur a penalty not exceeding one hundred dollars and not less than twenty dollars and costs. R.S., c. 107, s. 25.

38. Every person who marks, brands or labels any article or any package containing any article mentioned in the first column of the fourth schedule to this Act with the word Pure, R.S., 1906.
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Pure, or Genuine, or any word equivalent thereto, or sells or offers or exposes for sale any such article or package so marked, branded, stamped or labelled, unless such article or the contents of such package are pure within the meaning of the second column of the said schedule, shall, for every violation, be liable to a penalty not exceeding one hundred dollars.

2. A moiety of such penalty shall belong to the prosecutor and the other moiety to the Crown. 57-58 V., c. 37, ss. 1 and 3.

39. Every person who sells, offers or exposes for sale any article or any substance for domestic use under the name or designation contained in the first column of the fifth schedule to this Act, unless such article or substance is free from adulteration or admixture of foreign matter and unless it possesses the composition and distinguishing characteristics stated in the second column of the said schedule, shall, for every violation, be liable to a penalty not exceeding one hundred dollars.

2. A moiety of such penalty shall belong to the prosecutor and the other moiety to the Crown. 57-58 V., c. 37, ss. 2 and 3.

40. Every penalty imposed and recovered under this Act shall, except as herein otherwise provided and except in the case of any suit, action or prosecution brought or instituted under the provisions of the next following section, be paid over to the Minister of Finance and shall form part of the Consolidated Revenue Fund. R.S., c. 107, s. 26.

GENERAL.

41. It shall be the duty of any officer entrusted with the enforcement of this Act, when he is required thereto by any person, to purchase from the vendor of any article sold or exposed for sale a sample thereof and submit it for analysis in accordance with the provisions of this Act, provided the person so requiring such purchase and analysis deposits with such officer at the time such a demand is made, a sum of money sufficient to pay for such sample and analysis.

2. If, upon analysis, such article is found to be adulterated within the meaning of this Act, the person at whose instance the analysis is made, may prosecute the vendor of the article, or may require such officer to prosecute the vendor upon making a deposit of twenty-five dollars with the collector of Inland Revenue, as security for the costs of such prosecution, and every person so prosecuting shall be entitled to a moiety of the penalty imposed, upon conviction of the person accused.

3. Nothing herein contained shall be held to preclude such officer, or the Department of Inland Revenue, from prosecuting the vendor of such article so adulterated: Provided that a second
second prosecution shall not be instituted for the same offence. 61 V., c. 24, s. 6.

42. Nothing herein contained shall be held to preclude any person from submitting any sample of food, drug, or agricultural fertilizer for analysis to any public analyst, or from prosecuting the vendor thereof, if it is found to be adulterated within the meaning of this Act. 61 V., c. 24, s. 7.

43. Any public analyst shall analyse such sample on payment of the fee prescribed with respect to such article or class of articles by the Governor in Council. 61 V., c. 24, s. 7.

44. The person purchasing any article with the intention of submitting it to analysis, shall after the purchase is completed forthwith notify to the seller or his agent selling the article his intention to have it analysed by the public analyst, and shall offer to divide the article into three parts to be then and there separated, each part to be marked and sealed or fastened up in such manner as its nature will permit of, and shall, if required to do so, proceed accordingly, and he shall deliver one of the parts to the seller or his agent, retain one of the parts for future comparison, and submit the third part to the analyst, if he deems it right to have the article analysed. 61 V., c. 24, s. 7.

45. If the seller or his agent does not accept the offer of the purchaser to divide in his presence the article purchased, the analyst receiving the article for analysis shall divide it into two parts, and shall seal or fasten one of those parts, and shall cause it to be delivered, either upon receipt of the sample or when he supplies his certificate, to the purchaser, who shall retain such part for production in case proceedings are afterwards taken in the matter. 61 V., c. 24, s. 7.

46. Any expenses incurred in procuring and analysing any food, drug or agricultural fertilizer, in pursuance of this Act, shall, if the person from whom the sample is taken is convicted of having in his possession, selling, offering or exposing for sale, adulterated food, drugs or agricultural fertilizers, in violation of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him accordingly; and in all other cases such expenses shall be paid as part of the expenses of the officer, or by the person who procured the sample, as the case may be. 53 V., c. 26, s. 11.

47. Such expenses of prosecution shall also include a reasonable counsel fee, in the discretion of the judge; and in the case of a private prosecutor, if the prosecution is dismissed as being instituted without reasonable and probable cause, the costs R.S., 1906.
costs of defence shall be taxed against such prosecutor. 61 V., c. 24, s. 8.

Regulations.

48. The Governor in Council may, from time to time, make such regulations as to him seem necessary, for carrying the provisions of this Act into effect. R.S., c. 107, s. 29.

49. The provisions of the Inland Revenue Act, whether enacted with special reference to any particular business or trade, or with general reference to the collection of the revenue, or the prevention, detection or punishment of fraud or neglect in relation thereto, shall extend, apply and be construed and shall have effect with reference to this Act, as if they had been enacted with special reference to the matters and things herein provided for. R.S., c. 107, s. 30.

50. Every penalty imposed under this Act may be enforced and dealt with as if imposed under the Inland Revenue Act, and every compounder, and the apparatus used by him, and the place in which his business is carried on, and the articles made or compounded by him, or used in compounding any such article, shall be subject to excise under the said Act. R.S., c. 107, s. 30; 57-58 V., c. 37, s. 3.

51. Nothing in this Act contained shall affect the power of proceeding by indictment or take away any other remedy against any offender under this Act. 61 V., c. 24, s. 9.

SCHEDULES.

FIRST SCHEDULE.

Cocculus indicus, chloride of sodium (otherwise common salt), copperas, opium, cayenne pepper, picric acid, salicylic acid, indian hemp, strychnine, tobacco, darnel seed, extract of logwood, salts of zinc, copper or lead, alum, methyl alconol and its derivatives, amyl alcohol, and any extract or compound of any of the above ingredients.

SECOND SCHEDULE.

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milk</td>
<td>$8.00</td>
</tr>
<tr>
<td>Bread, sweets and any other articles not mentioned in this schedule, each</td>
<td>9.00</td>
</tr>
<tr>
<td>Butter</td>
<td></td>
</tr>
</tbody>
</table>

R.S., 1906.
Butter, cheese, malt liquors, cider, wines, alcoholic liquors, tinctures, liqueurs, condiments, spices, drugs, oils, fats, proprietary medicines, infants' and invalids' foods, condensed milk and fertilizers, each... ...§12 00
Tea, coffee, tobacco, cocoa, chocolate, opium, pharmaceutical liquors, fluid extracts, dispensed medicines and waters, each... ...14 00
53 V., c. 26, s. 12; 61 V., c. 24, s. 10.

THIRD SCHEDULE.

Form of Warranty.

I hereby warrant that the undermentioned articles manufactured by myself or by persons known to me and sold by me to on the dates opposite thereto, are pure and unadulterated within the meaning of the Adulteration Act.

<table>
<thead>
<tr>
<th>Date</th>
<th>Article</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Signature of manufacturer or vendor.)

61 V., c. 24, s. 10.

FOURTH SCHEDULE.

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dry white lead</td>
<td>Basic carbonate of lead prepared by corrosion of metallic lead.</td>
</tr>
<tr>
<td>White lead in oil</td>
<td>Dry white lead ground in pure linseed oil in the proportion of 90 to 92 per centum of the former to 8 to 10 per centum of the latter.</td>
</tr>
</tbody>
</table>

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FIFTH
R.S., 1906.
<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paris green</td>
<td>An insecticide containing at least fifty per centum of arsenious acid and at least thirty per centum of cupric oxide and being completely soluble in aqueous ammonia.</td>
</tr>
<tr>
<td>Vinegar</td>
<td>A more or less coloured liquid, consisting essentially of impure dilute acetic acid obtained by the oxidation of wine, beer, cider or hotter alcoholic liquid.</td>
</tr>
</tbody>
</table>

57-58 V., c. 37, sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 134.

An Act respecting Canned Goods.

SHORT TITLE.

1. This Act may be cited as the Canned Goods Act.

2. In this Act, unless the context otherwise requires, 'package' means every can, tin or package in which articles or goods are put up for sale and which are closed by being hermetically sealed. R.S., c. 105, s. 1.

3. Every package of canned goods sold or offered for sale in Canada, for consumption therein, shall have attached thereto or imprinted thereon a label or stamp, setting forth in legible characters the name and address of the person, firm or company by whom the same was packed, or of the dealer who sells the same or offers it for sale. R.S., c. 105, s. 2.

4. Every such package containing goods prepared from products which have been dried previously to being so prepared, shall, in addition, be labelled or stamped with the word 'Soaked,' which word shall be plainly printed diagonally across the face of the label in large, legible type at least half an inch in height and three-eighths of an inch in width. 50-51 V., c. 38, s. 1.

5. Every person who sells or offers for sale any goods in violation of any provision of the preceding sections shall for each package in respect of which any such provision has been violated, on summary conviction before a justice of the peace, for a first offence, incur a penalty of two dollars, and for a subsequent offence a penalty not exceeding twenty dollars and not less than four dollars. R.S., c. 105, s. 2.

6. Every person who places on any package any label, brand or mark which falsely represents the quantity or weight of the contents of such package shall, on summary conviction before a justice of the peace, incur a penalty of two dollars for each package on which the quantity or weight is so falsely represented: Provided that a variation in the contents of any package R.S., 1906.
package from that indicated by the brand or mark thereon of less than three per centum shall not be deemed a violation of the provisions of this section. R.S., c. 105, s. 3.

7. Every person who places on any package any label, brand or mark which falsely represents the date when the article or goods contained therein were packed, shall, on summary conviction before a justice of the peace, incur a penalty of two dollars for each package on which such date is falsely represented. R.S., c. 105, s. 4.
CHAPTER 135.

An Act for the Preservation of Health on Public Works.

1. This Act may be cited as the Public Works Health Act. Short title.

2. In this Act, unless the context otherwise requires, 'public work' or 'work' means and includes in addition to every public work of Canada, every railway, canal, bridge, telegraph and other work within the legislative authority of the Parliament of Canada. 62-63 V., c. 30, s. 1.

3. For the preservation of health and the mitigation of disease amongst persons employed in the construction of public works the Governor General in Council may from time to time make regulations,—

(a) as to the extent and character of the accommodation to be afforded by the houses, tents, or other quarters occupied by the employees on the works;

(b) for the inspection of such houses, tents, or other quarters, and the cleansing, purifying and disinfecting thereof when necessary;

(c) as to the number of qualified medical men to be employed on the works;

(d) for the provision of hospitals on the works, and as to the number, location and character of such hospitals;

(e) for the isolation and care of persons suffering from contagious or infectious diseases;

(f) as to such other matters or things as he may deem best adapted to attain the objects of this Act.

2. Such regulations may be either general or special and may apply generally to all public works or specially to one or more public works or class of public works named therein. 62-63 V., c. 30, ss. 2 and 3.

4. The Governor in Council may until Parliament otherwise provides prescribe punishments, penalties and forfeitures for breach or non-observance of such regulations, and may also prescribe the procedure for enforcing the same: Provided that no punishment by way of imprisonment to be prescribed by 143 1 2 2275 the R.S., 1906.
the Governor in Council shall exceed three months, and that such punishments, penalties or forfeitures shall be prescribed in addition to any others to which under the criminal law the offender may be liable. 62-63 V., c. 30, s. 4.

5. Any orders in council or regulations made under the authority of this Act shall be laid on the tables of both Houses of Parliament within fifteen days after the opening of the next following session of Parliament. 62-63 V., c. 30, s. 5.
CHAPTER 136.

An Act respecting Leprosy.

SHORT TITLE.

1. This Act may be cited as the Leprosy Act.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, 'Minister.' 
'Minister' means the Minister of Agriculture. 6 E. VII., c. 24, s. 3.

LAZARETTOS.

3. The Governor in Council may by proclamation establish

a lazaretto for lepers any existing institution devoted to the

care and treatment of persons afflicted with leprosy, or any

institution hereafter constructed or acquired for that purpose.

6 E. VII., c. 24, s. 1.

4. The Governor in Council may appoint a medical super-

intendent of any lazaretto so established, and such other officers

and servants as he deems necessary for the proper management

and care of the lazaretto and its inmates. 6 E. VII., c. 24, s. 2.

5. Subject to any regulations of the Governor in Council

in that behalf, the officers and servants of any such lazaretto

shall be subject to the direction and control of the Minister of

Agriculture. 6 E. VII., c. 24, s. 3.

6. The Governor in Council may make rules and regulations

for the management, discipline and policy of any lazaretto for

lepers and prescribing the duties and conduct of the medical

superintendent and other officers and servants employed therein,

and for the diet, bedding, maintenance, employment, classification,

instruction and discipline of the inmates thereof, and may

annul, alter and amend such rules and regulations from time
to time, and all officers, inmates and other prisoners shall be

bound to obey such rules and regulations. 6 E. VII., c. 24.
s. 15.

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7.

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7. There shall be a thorough examination of every lazaretto at least annually, or more frequently as the Minister may direct, by the Director General of Public Health; and the result of such examination shall be given fully in the annual report of that officer. 6 E. VII., c. 24, s. 16.

8. Every person in Canada found to be afflicted with leprosy may be confined in a lazaretto for lepers. 6 E. VII., c. 24, s. 4.

9. The Minister may cause any person as to whom it is suspected that he is afflicted with leprosy to be examined by a duly qualified medical officer or officers to be designated by him, and upon a report of such medical officer or officers that there is reason to believe that such person is afflicted with leprosy, he may authorize the admission of such person into a lazaretto; and, in case of such person refusing to become an inmate of such lazaretto, may cause proceedings to be taken for his apprehension and confinement therein as hereinafter provided. 6 E. VII., c. 24, s. 5.

10. In the event of such medical officer or officers reporting with respect to the person examined that the disease is not at a stage at which it is communicable, or that there are sufficient means of securing for such person proper isolation, attendance and medical treatment at his home, and that the sanitary conditions surrounding the patient and the appreciation by him and his attendants of the necessary precautionary measures sufficiently prevent the patient from being or becoming a menace to the public health, the Minister shall have discretionary power to omit or suspend proceedings for his apprehension and confinement as aforesaid. 6 E. VII., c. 24, s. 6.

11. If upon the report of such medical officer or officers the Minister is of opinion that the person examined should be confined in a lazaretto, he may cause information that such person is suspected or believed to be afflicted with leprosy to be laid,—

(a) in the province of Ontario, Nova Scotia, New Brunswick, Prince Edward Island, Manitoba or British Columbia, before a judge of a county court;

(b) in the province of Quebec, before a judge of the sessions or a district magistrate, and in any district where there is neither a judge of the sessions nor a district magistrate, the sheriff of the district;

(c) in the province of Saskatchewan or Alberta, before a judge of a superior court;

(d) in the Yukon Territory, before a judge of the Territorial Court or a police magistrate;

(e) in the Northwest Territories, before a stipendiary magistrate. 6 E. VII., c. 24, s. 7.

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12. Such judge or magistrate, upon the person for whose apprehension the warrant is issued being brought before him, shall proceed to hear such evidence under oath as may be adduced with reference to the alleged affliction of such person, and if satisfied upon the evidence that such person is afflicted with leprosy shall commit him, by warrant in form B in the schedule to this Act, to a lazaretto for lepers, there to remain until duly discharged by law: Provided that no such warrant of committal shall issue unless the affliction of such person is certified under oath by at least two duly qualified and practising physicians, or by the medical superintendent or other medical officer of a lazaretto for lepers. 6 E. VII., c. 24, s. 8.

13. The medical superintendent or officer in charge of any lazaretto for lepers shall receive therein as an inmate any person afflicted with leprosy who is so committed to such lazaretto as aforesaid, or whose admission thereto has been authorized by the Minister, under the authority of this Act. 6 E. VII., c. 24, s. 12.

14. Every inmate received into any lazaretto for lepers shall be detained therein until the medical superintendent or officer in charge of the lazaretto certifies that it is safe for him to be discharged and to be at large.

2. The discharge of an inmate may be subject to any conditions certified by the medical superintendent or officer in charge to be necessary or expedient. 6 E. VII., c. 24, s. 13.

ESCAPES.

15. In case an inmate of a lazaretto for lepers escapes therefrom, it shall be lawful for any officer or servant of the lazaretto, or for any constable or peace officer, or for any other person at the request of any such officer or servant, or constable or peace officer, within forty-eight hours after such escape, where no warrant has been issued, and within one month after such escape, where a warrant in form C in the schedule to this Act has been issued by the medical superintendent or officer in charge of the lazaretto in that behalf, to retake such escaped inmate, and to return him to the lazaretto from which he escaped, and he shall remain in custody therein under the authority by virtue of which he was detained prior to his escape. 6 E. VII., c. 24, s. 14.

OFFENCES AND PENALTIES.

16. Every person who harbours or conceals any one afflicted with leprosy, knowing or having reason to suspect or believe that he is so afflicted, with intent to prevent the person so harboured or concealed from being examined under direction of the Minister, or to prevent his being apprehended under this R.S., 1906.
Chap. 136. Leprosy.

Penalty. this Act, is guilty of an offence and is liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment for a period not exceeding six months and not less than one month, with or without hard labour, or to both. 6 E. VII., c. 24, s. 9.

PROCEDURE.

17. Upon information laid before him that any person afflicted with leprosy is, or is reasonably suspected or believed to be harboured or concealed in any house, room or place with such intent as aforesaid, any justice of the peace may by warrant authorize any constable or other person to enter at any time such house, room or place, and to apprehend and bring before him or any other justice of the peace any person found therein who is or appears to be so afflicted, and such justice may thereupon commit such person for examination as aforesaid or make such other order as the exigencies of the case require. 6 E. VII., c. 24, s. 10.

18. The provisions of Part XV. of the Criminal Code shall apply to all proceedings under the three last preceding sections. 6 E. VII., c. 24, s. 11.

SCHEDULE.

Form A.

Canada, [ ]
Province of [ ]
County of [ ]
(or as the case may be).

To all or any of the constables and other peace officers in the county of [ ] (or as the case may be).

Whereas information upon oath has this day been laid before the undersigned , judge of the county court of [ ] (or as the case may be) that (or, a certain male, or, female, person whose name is unknown) is afflicted with leprosy;

These are, therefore, to command you to apprehend the said and bring him before me in order that inquiry may be made respecting the alleged affliction of the said , and that he may be further dealt with according to law.

Given under my hand and seal this day of , 190 , at , in the said county (or as the case may be).

[L.S.]

Judge.

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Leprosy.

Form B.

Canada, Province of County of
(or as the case may be).

To all or any of the constables or other peace officers in the county of (or as the case may be), and to the medical superintendent or officer in charge of the lazaretto for lepers at

Whereas information was laid before me, the undersigned judge of the county court of the county of , in the said province (or as the case may be), on the oath of , that (or as in the information) was afflicted with leprosy;

And whereas inquiry has been made by me respecting the alleged affliction of the said;

And whereas such affliction of the said has been certified upon oath by and , qualified and practising physicians (or as the case may be);

And whereas I have found and adjudged the said to be afflicted with leprosy;

These are, therefore, to command you, the said constables and other peace officers, or any of you, to take the said , and him safely convey to the lazaretto for lepers at , in the province of , and deliver him to the medical superintendent or officer in charge of the said lazaretto; and I do hereby command you the said medical superintendent or officer in charge of the said lazaretto to receive the said into custody as an inmate of the said lazaretto and safely keep until the said shall be discharged by law.

Given under my hand and seal this day of , 190 , at , in the said county (or as the case may be).


Form C.

Lazaretto for Lepers at

To all or any of the officers and servants of the said lazaretto and to all or any of the constables and peace officers in the county of

Whereas on the day of , 190 , being within one month from this date,

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R.S., 1906.
a person afflicted with leprosy, confined in the above lazaretto, of which I am medical superintendent (or as the case may be), did escape from the said lazaretto;

These are, therefore, to command you, or any of you, the said officers and servants, constables and peace officers, in His Majesty's name, to retake the said and safely convey him to this lazaretto and deliver him into my charge.

Given under my hand and seal this day of , 190 , at , in the county aforesaid.

[L.S.]

Medical Superintendent (or as the case may be).

6 E. VII., c. 24, sch.
CHAPTER 137.

An Act to provide for the establishment of a Medical Council in Canada.

SHORT TITLE.

1. This Act may be cited as the Canada Medical Act.  
2 E. VII., c. 20, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—  
   (a) 'medicine' shall be held to include surgery and obstetrics, and to exclude veterinary surgery; and 'medical' shall be held to include 'surgical' and 'obstetrical';  
   (b) 'provincial medical council' includes 'provincial medical board' and 'college of physicians and surgeons';  
   (c) 'medical school' includes any institution wherein medicine is taught;  
   (d) 'students' means only persons admitted to the study of medicine in virtue of provincial laws;  
   (e) 'the Council' means the Medical Council of Canada constituted under the provisions of this Act;  
   (f) no retroactive effect shall be given to any provision.  
2 E. VII., c. 20, ss. 2, 3 and 10.

3. This Act shall not be construed as authorizing the creation of medical schools or the giving of medical tuition.  
2 E. VII., c. 20, s. 21.

CONSTITUTION OF THE COUNCIL.

4. The persons from time to time appointed or elected, or otherwise being, under the provisions of this Act, members of the Medical Council of Canada, are hereby constituted a corporation under the name of the Medical Council of Canada.  
2 E. VII., c. 20, s. 3.

5. The purposes of the Council shall be to promote and  
   (a) the establishment of a qualification in medicine, such that the holders thereof shall be acceptable and empowered to practise in all the provinces of Canada:  
   (b) R.S., 1906.
Register. (b) the establishment of a register for Canada of medical practitioners, and the publication and revision from time to time of such register;

Requisites for registration. (c) the determination and fixing of the qualifications and conditions necessary for registration, including the courses of study to be pursued by students, the examinations to be undergone, and generally the requisites for registration;

Board of examiners. (d) the establishment and maintenance of a board of examiners for examination and granting of certificates of qualification;

Medical status. (e) the establishment of such a status of the medical profession in Canada as shall ensure recognition thereof in the United Kingdom, and enable Canadian practitioners to acquire the right to registration under the Acts of the Imperial Parliament known as the Medical Acts;

Provincial legislation. (f) the enactment, with the consent and at the instance of the medical councils of the various provinces of Canada, of such provincial legislation as is necessary to supplement the provisions of this Act and to effect the foregoing purposes. 2 E. VII., c. 20, s. 4.

Power as to real estate. 6. The Council may acquire and hold such real estate and personal property as is necessary or expedient for the purposes of the Council or of providing a revenue therefor, and may sell, lease or otherwise dispose thereof; but the annual value of the real estate owned by the Council and held for the purposes of revenue only shall not at any time exceed the sum of twenty-five thousand dollars. 2 E. VII., c. 20, s. 5.

Composition of Council. 7. The Council shall be composed of,—

(a) one member from each province, who shall be appointed by the Governor in Council;

(b) a number of members representing each province, being fixed in each case according to the number of practitioners registered under the laws of the province, in the following proportions:—

For the first 100, or fraction thereof.... One,
For the second 100, or fraction thereof over one-half......... One,
After the first 200, for each succeeding 600, or fraction thereof over one-half... One;

and such members representing each province shall be elected, under regulations to be made in that behalf by the provincial medical council, one by the provincial medical council, and the others by the duly registered medical practitioners having received a license or certificate of registration within the province: Provided that it shall not be competent to any provincial medical council, or the regular practitioners of any province, to elect any person as a member of the Council who is in any wise connected

R.S., 1906.
with the teaching staff or governing board of any university or incorporated medical school which is under the provisions of this Act entitled to elect a member of the Council, nor shall it be competent to any such provincial medical council to so elect any person belonging to any such particular and distinct school of practice of medicine as is hereinafter mentioned and intended;

(c) one member from each university, or incorporated medical college or school in Canada having an arrangement with a university for the conferring of degrees on its graduates, engaged in the active teaching of medicine, who shall be elected by the university or by such college or school under such regulations as may govern in that behalf;

(d) three members, who shall be elected by such practitioners in Canada as, by the laws of the province wherein they practise, are now recognized as forming a particular and distinct school of practice of medicine, and, as such, are by the said laws entitled to practise in the province.

2. No one shall be a member of the Council unless he—

(a) resides in the province for which he is an appointed or elected member;

(b) is a duly registered member of the medical profession according to the laws of the province which he represents;

(c) is duly registered as a medical practitioner in the register established under the provisions of this Act; but this latter qualification shall not be required of any of the members originally composing the Council.

3. No province shall be represented upon the Council either by appointed or elected members until the legislature of the province has enacted in effect that registration by the Council shall be accepted as equivalent to registration for the like purpose under the laws of the province; and when all the provinces shall have legislated in effect as aforesaid, it shall be lawful to appoint and elect in the manner aforesaid the members of the Council. 2 E. VII., c. 20, s. 6.

8. The term of office for appointed members shall be four years. Elected members.

2. Members elected by provincial medical councils shall remain in office during the term of office of the members of the medical council of the province for which they are elected. Others.

3. All other members shall be elected for four years. Resignations.

4. Any member may at any time tender his resignation by written notice thereof to the president or to the secretary of the Council; and, upon the acceptance of such resignation by the Council, the Council shall forthwith give notice in writing thereof, in case of an appointed member, to the Secretary of State of Canada, and, in case of an elected member, to the secretary of the medical council for the province, or to the university, incorporated medical school or college, or 2285 R.S., 1906.
to the president or the secretary of the recognized distinct school of practice of medicine, which such member represents.

5. Any person who is or has been a member may, if properly qualified, be re-appointed or re-elected; but no person shall at one time serve as a member in more than one capacity.

6. In the case of members of the Council whose term of office is about to expire, successors may be appointed or elected at any time within three months before the expiration of such term; and where any vacancy exists in the membership of the Council by reason of any term of office having expired, or otherwise, such vacancy may be filled at any time.

7. If there has been a failure to elect a member of the Council, or to elect a properly qualified member, or to cause the name of the member elected to be certified to the secretary of the Council within a reasonable time after such election might have been made, then, after notice from the Council, requiring the provincial medical council, or the university, or incorporated medical school or college, or the recognized distinct school of practice of medicine, to cause such election to be made and to certify the result thereof to the Council within one month from the date of service of such notice, the Council may, in case the default continues, itself elect such member.

8. A member appointed or elected to fill a vacancy caused by death or resignation shall hold office in all respects as the person in whose place he is appointed or elected would have held office, and for the remainder of the term for which that person was appointed or elected.

9. All members appointed or elected shall continue in office until their successors are appointed or elected, or until the expiration of their term of office if their successors are appointed or elected before the expiration of such term of office. 2 E. VII., c. 20, s. 7.

OFFICERS OF THE COUNCIL.

9. The Council may from time to time,—

(a) elect from among its members a president, a vice-president and an executive committee;

(b) appoint a registrar, who may also, if deemed expedient, act as secretary and treasurer;

(c) appoint or engage such other officers and employees as the Council deems necessary to carry out the objects and provisions of this Act;

(d) require and take from the Registrar, or from any other officer or employee, such security for the due performance of his duty as the Council deems necessary;

(e) fix the allowances or remuneration to be paid to the president, vice-president, members, officers and employees of the Council. 2 E. VII., c. 20, s. 8.

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MEETINGS.

10. The Council shall hold its first meeting at the city of Ottawa, at such time and place as is appointed by the Minister of Agriculture; and, thereafter, an annual meeting of the Council shall be held at such time and place as is from time to time appointed by the Council.

2. Until otherwise provided by regulation of the Council, twenty-one members of the Council shall form a quorum, and all acts of the Council shall be decided by a majority of the members present. 2 E. VII., c. 20, s. 9.

REGULATIONS.

11. The Council may make regulations not contrary to law or to the provisions of this Act, for or with reference to all or any of the purposes or objects for the promoting or effecting of which the Council is created or established, including, but without limiting the generality of these powers,—

(a) the direction, conduct and management of the Council. Executive.

(b) the summoning and holding of the meetings of the Council, the times and places where such meetings are to be held, the conduct of business thereat, and the number of members necessary to constitute a quorum; Meetings.

(c) the powers and duties of the president and vice-president, and the selection of substitutes for them if unable to act from any cause at any time; President and vice-president.

(d) the tenure of office, and the powers and duties of the Registrar and other officers and employees; Officers.

(e) the election and appointment of an executive committee and of other committees for general and special purposes, the definition of their powers and duties, the summoning and holding of their meetings, and the conduct of business by such committees; Committees.

(f) generally, all fees to be required, paid or taken under this Act; Fees.

(g) the establishment, maintenance and effective conduct of examinations for ascertaining whether candidates possess the qualifications required; the number, nature, times and modes of such examinations; the appointment of examiners; the terms upon which matriculation and other certificates from universities, schools and other medical institutions, shall be received as evidence of qualification; the exemption of candidates from undergoing examinations, either wholly or partially; and generally all matters incident to such examinations or necessary or expedient to effect the objects thereof; Examinations.

(h) the recognition of licenses granted by any British, Canadian, colonial or foreign licensing body or authority; the arranging and bringing into effect of any schemes of Reciprocity.

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reciprocity as to registration with any British, colonial or foreign medical licensing body or authority; the terms, conditions and the circumstances under which medical practitioners shall be entitled to registration under this Act in cases where such medical practitioners are duly registered or licensed under the Medical Acts of the United Kingdom, or under the laws of any British possession other than Canada, or under the laws of any foreign country, if such British possession or foreign country extends reciprocal advantages to Canada;

(i) the enrolment and registration of all persons entitled under this Act to appear on the register herein provided for;

(j) generally, all matters which it is necessary or expedient to provide for or regulate in pursuance of the purposes of this Act and in furtherance of its general intention.

2. No regulation made under the authority of this section shall have effect until approved by the Governor in Council. 2 E. VII., c. 20, s. 10.

12. Notwithstanding anything in the last preceding section contained or any power thereby conferred,—

(a) the requirements of any curriculum established by the Council shall not, at any time, be lower than the requirements of the most comprehensive curriculum then established for the like purpose in any province;

(b) the standard of examination shall not, at any time, be lower than the highest standard for the like purpose then established for ascertaining the qualification for registration in any province;

(c) the possession of a Canadian university degree alone, or of a certificate of provincial registration founded on such possession, obtained subsequent to the date when the Council shall be first duly constituted under this Act, shall not entitle the possessor thereof to be registered under this Act. 2 E. VII., c. 20, s. 10.

13. A copy of any such regulation certified by the Registrar under his hand and the seal of the Council, may be received in evidence without proof other than the production of a copy purporting to be so certified. 2 E. VII., c. 20, s. 11.

14. The Council shall make such regulations as shall secure to practitioners who, under the laws of any province, now form a recognized distinct school in the practice of medicine, and to all applicants for registration who desire to be practitioners of such school, rights and privileges in respect of registration by the Council not less than those now possessed by them under the laws of such province, and under the regulations of the provincial medical council thereof. 2 E. VII., c. 20, s. 12.

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R.S., 1906.
BOARD OF EXAMINERS.

15. At each annual meeting of the Council, the Council shall appoint a board of examiners to be known as the Medical Council of Canada Examination Board, whose duty it shall be to hold the examinations prescribed by the Council, subject to the provisions hereinbefore contained.

2. The members of such board of examiners shall be eligible for reappointment. 2 E. VII., c. 20, s. 13.

EXAMINATIONS.

16. The subjects of examination shall be decided by the Council, and candidates for examination may elect to be examined in the English or French language.

2. Examinations shall be held only at those centres at which there is a university or college actively engaged in the teaching of medicine, and having hospital facilities of not less than one hundred beds. 2 E. VII., c. 20, s. 14.

REGISTRATION.

17. The Council shall cause to be kept by the Registrar under the direction of the Council, a book or register to be known as the Canadian Medical Register, in which shall be entered, in such manner and with such particulars as the Council directs, the names of all persons who have complied with the requirements of this Act and with the regulations made by the Council respecting registration under this Act, and who apply to the Registrar to have their names so entered. 2 E. VII., c. 20, s. 15.

18. Every one who passes the examination prescribed by the Council, and otherwise complies with all the conditions and regulations requisite for registration as prescribed by this Act and by the Council, shall, upon payment of the fees prescribed in that behalf, be entitled to be registered as a medical practitioner.

2. Any person who has received a license or certificate of registration in any province previous to the date when the Council shall have been first duly constituted under this Act and who has been engaged in the active practice of medicine in any one or more provinces of Canada, shall, after six years from the date of such license or certificate, be entitled to be registered under this Act as a medical practitioner, without examination, upon payment of the fees and upon compliance with the other conditions and regulations for such cases prescribed by the Council.

3. Medical practitioners duly registered or licensed under the Medical Acts of the United Kingdom, or practitioners, duly registered or licensed, of any British, Canadian, colonial or foreign R.S., 1906.
foreign licensing body or authority, for whose registration provision is made under any scheme of reciprocity arranged or brought into effect by the Council, under the authority of this Act, shall be entitled to be registered upon complying with the orders and regulations established by the Council in that behalf. 2 E. VII., c. 20, s. 16.

19. Any entry in the Register may be cancelled or corrected upon the ground of fraud, accident or mistake. 2 E. VII., c. 20, s. 17.

20. In any case of an application for registration or for correcting or amending any entry upon the Register, the applicant, if aggrieved by the decision of the Registrar, may appeal to the Council, and the Council shall hear and determine the matter; but all applications to cancel or strike off entries from the Register, made adversely to the person whose registration it is desired to affect, shall be by the Registrar referred to the Council, and the Council shall, after three months' notice served personally or sent by post, prepaid and registered, to the last known address of such person, hear and determine all such applications. 2 E. VII., c. 20, s. 18.

21. If it is made to appear to the Council that there is reasonable ground to believe that any person registered under this Act has been convicted, either in any part of His Majesty's possessions or elsewhere, of an offence which, if committed in Canada, would be an indictable offence under the Criminal Code, or that he has been guilty of infamous or disgraceful conduct in a professional respect, then, whether such offence has been committed, or such conviction has taken place, or such infamous or disgraceful conduct has occurred, either before or after the passing of this Act, or either before or after the registration of such person, the Council shall, after three months' notice served personally or sent by post, prepaid and registered, to the last known address of such person, hear and consider the matter, and, if satisfied that such person has been so convicted or is guilty of such offence or of such infamous or disgraceful conduct, direct the Registrar to erase the name of such person from the Register: Provided, however, that if a person registered under this Act has likewise been registered under the laws of any province, and such provincial registration has been cancelled for any of the causes aforesaid by the authority of the provincial medical council for that province, the Council shall then, without further inquiry, direct the registration of such person under this Act to be cancelled.

2. The name of a person shall not be erased under this section,—

(a) because of his adopting or refraining to adopt the practice of any particular theory of medicine or surgery; or,

(b)
(b) because of his conviction, out of His Majesty’s possessions, of a political offence against the laws of any foreign country; or,

(c) because of his conviction for any offence which, though coming within the provisions of this section, is, in the opinion of the Council, either from the trivial nature of the offence or from the circumstances in which it was committed, insufficient to disqualify a person from being registered under this Act. 2 E. VII., c. 20, s. 19.

22. Upon any appeal to the Council, or upon any application to erase the name of any person from the Register under either of the last two preceding sections, the person applying, or the person charged shall have the right to appear and be heard, either in person or by counsel. 2 E. VII., c. 20, ss. 18 and 19.

COMMISSION OF INQUIRY.

23. Whenever it is made to appear to the Governor in Council that the Council is not complying with any of the provisions of this Act, the Governor in Council may refer the particulars of the complaint to a commission of inquiry consisting of three members, one of whom shall be appointed by the Governor in Council, one by the Council, and the third by the complainant, and such commission shall proceed to inquire in a summary manner and report to the Governor in Council as to the truth of the matters charged in such particulars of complaint, and, in case of such particulars, or any of them, being found by the commission to have been established, the commission shall recommend the remedies, if any, which are in its opinion necessary.

2. The Governor in Council may require the Council to adopt the remedies so recommended within such time as the Governor in Council, having regard to the report of the commission, thinks fit, and in default of the Council complying with any such requirement, the Governor in Council may amend the regulations of the Council, or make such provision or order as may seem necessary to give effect to the recommendation of the commission.

3. The commission shall have power to administer oaths, enforce the attendance of witnesses and the production of books and papers, and shall have such other necessary powers for the purposes of any inquiry as are conferred upon it by the Governor in Council. 2 E. VII., c. 20, s. 20.
CHAPTER 138.

An Act respecting the Judges of Dominion and Provincial Courts.

SHORT TITLE.

1. This Act may be cited as the Judges Act.

INTERPRETATION.

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

(a) 'judge,' as applied to a superior court, includes the chief justice, and as applied to county courts, includes a junior judge;

(b) 'county' includes district. R.S., c. 138, s. 1.

THE SUPREME COURT OF CANADA.

3. The salaries of the judges of the Supreme Court of Canada shall be as follows:

<table>
<thead>
<tr>
<th>Per annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Chief Justice of Canada</td>
</tr>
<tr>
<td>Five puisne judges, each</td>
</tr>
</tbody>
</table>

4-5 E. VII., c. 47, s. 1.

THE EXCHEQUER COURT OF CANADA.

4. The salary of the judge of the Exchequer Court of Canada shall be

4-5 E. VII., c. 47, s. 2.

Local Judges in Admiralty of the Exchequer Court.

5. The salaries of the local judges in Admiralty of the Exchequer Court, as such judges, shall be as follows:

The Local Judge of the District of Quebec, $1,000 per annum;

The Local Judge of the District of Nova Scotia, $1,000 per annum;

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R.S., 1906.
The Local Judge of the District of New Brunswick, $1,000 per annum;
The Local Judge of the District of Prince Edward Island, $800 per annum;
The Local Judge of the District of British Columbia, $1,000 per annum;
The Local Judge of the Toronto District, $600 per annum.

**Provincial Superior Courts.**

**Ontario.**

6. The salaries of the judges of the Supreme Court of Judicature of Ontario shall be as follows:

<table>
<thead>
<tr>
<th>Judge</th>
<th>Salary per annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Chief Justice of Ontario</td>
<td>$8,000</td>
</tr>
<tr>
<td>Four justices of Appeal, each</td>
<td>$7,000</td>
</tr>
<tr>
<td>The Chief Justice of the King's Bench</td>
<td>$8,000</td>
</tr>
<tr>
<td>Two judges of the High Court of Justice,</td>
<td></td>
</tr>
<tr>
<td>King's Bench Division, each</td>
<td>$7,000</td>
</tr>
<tr>
<td>The Chancellor of Ontario</td>
<td>$8,000</td>
</tr>
<tr>
<td>Two judges of the High Court of Justice,</td>
<td></td>
</tr>
<tr>
<td>Chancery Division, each</td>
<td>$7,000</td>
</tr>
<tr>
<td>The Chief Justice of the Common Pleas</td>
<td>$8,000</td>
</tr>
<tr>
<td>Two judges of the High Court of Justice,</td>
<td></td>
</tr>
<tr>
<td>Common Pleas Division, each</td>
<td>$7,000</td>
</tr>
<tr>
<td>The Chief Justice of the Exchequer Division</td>
<td>$8,000</td>
</tr>
<tr>
<td>Two judges of the High Court of Justice,</td>
<td></td>
</tr>
<tr>
<td>Exchequer Division, each</td>
<td>$7,000</td>
</tr>
</tbody>
</table>

2. If the Chief Justice of the King's Bench, the Chancellor of Ontario, or the Chief Justice of the Common Pleas, or the Chief Justice of the Exchequer Division is appointed to the Court of Appeal, the Governor in Council may direct that he be paid a salary not less than that previously enjoyed by him as Chief Justice or Chancellor. 4-5 E. VII., c. 31, s. 1.

7. The judges of the Supreme Court of Judicature for Ontario shall reside at the city of Toronto or within five miles thereof, but leave to reside elsewhere in the province for any specified time may be granted from time to time by order of the Governor in Council. 60-61 V., c. 34, s. 2.

**Quebec.**

8. The salaries of the judges of the Court of King's Bench and of the Superior Court of the province of Quebec shall be as follows:

<table>
<thead>
<tr>
<th>Judge</th>
<th>Salary per annum</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

R.S., 1906.
The Chief Justice of the King's Bench... $8,000
Five puisne judges of the said Court, each... 7,000
The Chief Justice of the Superior Court... 8,000
Seventeen puisne judges of the said Court, whose residences are fixed at Montreal or Quebec (including the judge to whom the district of Terrebonne is assigned), each... 7,000
Sixteen puisne judges of the said Court, whose residences are fixed within districts other than Bonaventure and Gaspé or Saguenay, each... 5,000
Two puisne judges of the said Court, whose residences are fixed within the districts of Bonaventure and Gaspé or Saguenay, each... 4,500
If the Chief Justice of the Superior Court resides at Quebec, the Judge residing at Montreal who is appointed by the Governor in Council to perform the duties of chief justice in the district of Montreal, as it is comprised and defined for the Court of Review,—or, if the chief justice resides at Montreal, the Judge residing at Quebec who is appointed by the Governor in Council to perform the duties of chief justice in the district of Quebec as it is comprised and defined for the Court of Review,—in addition to his other salary... 1,000

4-5 E. VII., c. 31, s. 2.

Nova Scotia.

9. The salaries of the judges of the Supreme Court of the province of Nova Scotia shall be as follows:—

The Chief Justice of the Court... $7,000
The Judge in Equity... 6,000
Five puisne judges of the Court, each... 6,000
The Judge of the Court of Divorce and Matrimonial Causes... 500

4-5 E. VII., c. 31, s. 3.

New Brunswick.

10. The salaries of the judges of the Supreme Court of the province of New Brunswick shall be as follows:—

The Chief Justice of the Court... $7,000
The Judge in Equity... 6,000
Four puisne judges of the Court... 6,000

R.S., 1906.
The Judge of the Court of Divorce and Matrimonial Causes... 500
4-5 E. VII., c. 31, s. 3.

Judges, Manitoba.

11. The salaries of the judges of the Court of Appeal and of the Court of King's Bench of the province of Manitoba shall be as follows:

Per annum.

The Chief Justice of the Court of Appeal... $8,000
Three puisne judges of the said Court, each... 7,000
The Chief Justice of the Court of King's Bench... 7,000
Two puisne judges of the said Court, each... 6,000

6 E. VII., c. 4, s. 5.

Judges, British Columbia.

12. The salaries of the judges of the Supreme Court of the province of British Columbia shall be as follows:

Per annum.

The Chief Justice of the Court... $7,000
Four puisne judges of the Court, each... 6,000

4-5 E. VII., c. 31, s. 3.

Judges, Prince Edward Island.

13. The salaries of the judges of the Supreme Court of the province of Prince Edward Island shall be as follows:

Per annum.

The Chief Justice of the Court... $6,000
One assistant judge, being also Master of the Rolls in Chancery... 5,200
One assistant judge, being also Vice-Chancellor... 5,200

4-5 E. VII., c. 31, s. 3.

Judges of Supreme Court of Northwest Territories.

14. The salaries of the judges of the Supreme Court of the Northwest Territories shall be as follows:

Per annum.

The Chief Justice of the Court... $7,000
Seven puisne judges of the Court, each... 6,000

4-5 E. VII., c. 31, s. 4.

Judges, Yukon Territory.

15. The salaries of the three judges of the Territorial Court of the Yukon Territory shall be $5,000 each per annum.

2 E. VII., c. 16, s. 1.

R.S., 1906.
16. The salaries of the judges of the county courts shall be as follows:

**Ontario.**

The Judge of the County Court of the county of York, $3,500 per annum;

Sixty-seven other judges and junior judges of county courts and district courts, each, $2,500 per annum during the first three years of service, and after three years of service, each, $3,000 per annum.

**Nova Scotia.**

The Judge of the County Court of the county of Halifax, $3,500 per annum;

The Judge of the County Court of District No. 7, $3,000 per annum;

Five other county court judges, each, $2,500 per annum during the first three years of service, and after three years of service, each, $3,000 per annum.

**New Brunswick.**

The Judge of the County Court of the city and county of St. John, $3,500 per annum;

Five other county court judges, each, $2,500 per annum during the first three years of service, and after three years of service, each, $3,000 per annum.

**Manitoba.**

Six county court judges, each $2,500 per annum, during the first three years of service, and after three years of service, each, $3,000 per annum.

**British Columbia.**

The judges of the County Court of Cariboo, Westminster, Nanaimo, Vancouver, Victoria, Atlin, East Kootenay and West Kootenay and two judges of the County Court of Yale, each, $3,000 per annum.

**Prince Edward Island.**

The Judge of the County Court of Queen’s County, $3,500 per annum;

Two other county court judges, each, $2,500 per annum during the first three years of service, and after three years of service, each, $3,000 per annum. 4-5 E. VII., c. 31, s. 5.

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CIRCUIT COURT, MONTREAL.

17. The salaries of the judges of the Circuit Court of the
district of Montreal shall be as follows:—

The senior judge of the said court, $3,600 per annum; and
two other judges of the said court, each, $3,000 per annum.
1 E. VII., c. 39, s. 3.

TRAVELLING ALLOWANCES.

18. There shall be paid for travelling allowances to each
judge, whether of a superior or county court, and to each local
judge in Admiralty of the Exchequer Court, except as in this
section otherwise provided, in addition to his moving or trans-
portation expenses, the sum of six dollars for each day, includ-
ing necessary days of travel going and returning, during which
he is attending as such judge in court or chambers at any place
other than that at which he is by law obliged to reside: Pro-
vided that,—

(a) no judge shall receive any travelling allowance for
attending in court or chambers at the place where he
resides; and,

(b) in the province of Nova Scotia, no judge of the Supreme
Court shall receive any travelling allowance for courts or
chambers held in the city of Halifax; and,

(c) no judge of a county court shall receive any travelling
allowance for courts or chambers held at the county town
of the county, or union of counties, within which he
resides.

2. There shall be paid to the judge of the Exchequer Court
of Canada, for travelling allowances, his moving expenses, and
the sum of six dollars for each day during which he is attend-
ing court as such judge at any place other than the city of
Ottawa.

3. In the Yukon Territory, the judges of the Territorial Court
shall be paid such travelling allowances as the Governor in
Council determines.

4. Each judge of a district court in Ontario shall receive
a travelling allowance of five hundred dollars per annum.

5. Every application for payment of any such allowances
shall be accompanied by a certificate of the judge applying for
it of the number of days for which he is entitled to claim such
allowance.

6. In the province of Quebec no travelling allowances shall
be granted to any judge requested to sit in Review, or attending
any court, except within the limits of the district to which he is
assigned, held at any other place than that at which he resides,
unless it is certified by the Chief Justice, or the judge perform-
ing the duties of chief justice in the district where the court is
held, that the attendance was in his opinion necessary. 4-5 E.
VII., c. 47, s. 2: 6 E. VII., c. 22, s. 1.

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SUPERANNUATION.
SUPERANNUATION.

Superior Courts.

19. If any judge of the Supreme Court of Canada or of the Exchequer Court of Canada or of any superior court in Canada, who has continued in the office of judge of a superior court in Canada, or in any of the provinces, for fifteen years or upwards, or who becomes afflicted with some permanent infirmity, disabling him from the due execution of his office, resigns his office, His Majesty may, by letters patent, under the Great Seal of Canada, reciting such period of office or such permanent infirmity, grant unto such judge an annuity equal to two-thirds of the salary annexed to the office he held at the time of his resignation, to commence immediately after his resignation and to continue thenceforth during his natural life.

2. Courts of Vice-Admiralty shall be deemed to have been superior courts, and local judges in Admiralty of the Exchequer Court to be judges of a superior court, within the meaning of this section. R.S., c. 135, s. 8; 50-51 V., c. 16, s. 6; 58-59 V., c. 39, s. 1.

20. If any judge of the Supreme Court of Canada, or of the Exchequer Court of Canada, or of any superior court in Canada, resigns his office, His Majesty may, by letters patent under the Great Seal of Canada, reciting such judge's age and period of service, grant to him an annuity equal to the salary of the office held by him at the time of his resignation, to commence immediately after his resignation, and to continue thenceforth during his natural life if such judge has,—

(a) attained the age of seventy-five years, and continued in office as judge of one or more of the said courts, for twenty years and upwards; or,

(b) attained the age of seventy years, and continued in office as judge of one or more of the said courts for twenty-five years or upwards; or,

(c) continued in office as judge of one or more of the said courts for thirty years or upwards. 3 E. VII., c. 29, s. 1.

21. If any chief commissioner of the Board of Railway Commissioners for Canada, having been at the time of his appointment as such chief commissioner a judge of the Supreme Court of Canada, or of the Exchequer Court of Canada, or of any superior court in Canada, or having resigned his office as such judge for the purpose of accepting appointment as such chief commissioner, has continued in office as judge of one or more of such courts and in the said office of chief commissioner for periods amounting together to fifteen years or upwards, or has become afflicted with a permanent infirmity disabling him from the due execution of his office, his remuneration shall be equal to two-thirds of the salary. R.S., 1906.
his office, and if such chief commissioner resigns his office, or if his term of office, or any renewed term of office, has expired, His Majesty may, by letters patent under the Great Seal, reciting such periods of office or such permanent infirmity, grant to such chief commissioner an annuity equal to two-thirds of the salary of the judicial office which he held at the time of his appointment as such chief commissioner or which he resigned for the purpose of accepting such appointment, to commence immediately after his so ceasing to hold office as such chief commissioner, and to continue thenceforth during his natural life. 4-5 E. VII., c. 35, s. 2.

22. If any such chief commissioner of the Board of Railway Commissioners resigns his office or completes his terms of service, original or renewed, wherein, having, in either such case,—

(a) attained the age of seventy-five years, and continued in office as such judge and in the said office of chief commissioner for periods amounting together to twenty years or upwards; or,

(b) attained the age of seventy years, and continued in office as such judge and in the said office of chief commissioner for periods amounting together to twenty-five years or upwards; or,

(c) continued in office as such judge and in the said office of chief commissioner for periods amounting together to thirty years or upwards;

His Majesty may, by letters patent under the Great Seal, reciting such periods of service, and, in cases (a) and (b), such chief commissioner’s age, grant to him an annuity, payable as aforesaid, equal to the salary of the judicial office which he held at the time of his appointment as such chief commissioner, or which he resigned for the purpose of accepting such appointment, to commence immediately after his resignation as chief commissioner, and to continue thenceforth during his natural life. 4-5 E. VII., c. 35, s. 3.

23. If, between the date of the appointment of any such chief commissioner or of his resignation of his office as such judge and the date of his resignation of, or retirement from, the office of chief commissioner, the salary attached to the judicial office which he held at the time of his appointment, or which he resigned for the purpose of accepting appointment as such chief commissioner, has been increased, the annuity to be granted to him under this Act may be increased in the same proportion. 4-5 E. VII., c. 35, s. 4.

County Courts.

24. If any judge of a county court becomes afflicted with some permanent infirmity disabling him from the due execution R.S., 1906.
tion of his office, and resigns his office, or if a judge of a county court, not having attained the age of seventy-five years, resigns his office after having continued therein for a period of at least twenty-five years, His Majesty may, by letters patent under the Great Seal of Canada, grant to him a pension equal to two-thirds of the annual salary of which he was in receipt at the time of his resignation, to commence immediately after his resignation and to continue thenceforth during his natural life: Provided that if such judge has only continued in office as such judge for a period of less than five years, the pension which may be so granted to him shall not, unless the judge has attained the age of seventy-five years, exceed one-third of the annual salary of which he was in receipt at the time of his resignation.

2. If any person, receiving a pension under this section, becomes entitled to any salary in respect of any public office under the Government of Canada, such salary shall be reduced by the amount of such pension. R.S., c. 138, s. 15; 2 E. VII., c. 16, s. 2; 3 E. VII., c. 29, s. 2.

25. Every judge of a county court who has attained the age of eighty years shall be compulsorily retired; and to any judge who is so retired, or who, having attained the age of seventy-five years, resigns his office, and in the latter case has continued in office for a period of twenty-five years or upwards, His Majesty may grant an annuity equal to the salary of the office held by him at the time of his retirement, or resignation.

2. The annuity in either of the cases mentioned in this section shall commence immediately after the judge's retirement or resignation and continue thenceforth during his natural life. 3 E. VII., c. 29, s. 2.

26. If any judge of a county court, after having continued in office for a period of thirty-five years, and become afflicted with some permanent infirmity, disabling him from the due execution of his office, resigns his office, His Majesty may, by letters patent under the Great Seal of Canada, grant to him a pension equal to the salary of his office at the time of his resignation, the said annuity to commence immediately after his retirement, and to continue thenceforth during his natural life. 3 E. VII., c. 29, s. 3.

SALARIES AND ANNUITIES—HOW PAID.

27. The salaries and retiring allowances or annuities of the judges shall be payable out of any moneys forming part of the Consolidated Revenue Fund of Canada.

2. For any period less than a year, the salaries and retiring allowances or annuities shall be paid pro rata.

3. The salaries and retiring allowances or annuities shall be payable by monthly instalments and shall be free and clear of all

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all taxes and deductions whatsoever imposed under any Act of the Parliament of Canada.

4. The first payment of salary of any judge shall be made pro rata on the first day of the month which occurs next after his appointment.

5. If any judge resigns his office or dies he or his executor or administrator shall be entitled to receive such proportionate part of the salary aforesaid as has accrued during the time that he has executed such office since the last payment. R.S., c. 138, s. 10; 4-5 E. VII., c. 47, ss. 1 and 2.

REMOVAL OF COUNTY COURT JUDGES.

28. Every judge of a county court in any of the provinces of Canada shall, subject to the provisions of this Act, hold office during good behaviour and his residence within the county or union of counties for which the court is established.

2. A judge of a county court may be removed from office by the Governor in Council for misbehaviour, or for incapacity or inability to perform his duties properly, on account of old age, ill-health or any other cause; if,—

(a) the circumstances respecting the misbehaviour, incapacity or inability are first inquired into; and,

(b) such judge is given reasonable notice of the time and place appointed for the inquiry, and is afforded an opportunity, by himself or his counsel, of being heard thereat, and of cross-examining the witnesses and adducing evidence on his own behalf.

3. If any such judge is removed from office for any of such reasons, the order in council providing for such removal, and all reports, evidence and correspondence relating thereto, shall be laid before Parliament within the first fifteen days of the next ensuing session.

4. The Governor General in Council may, for the purpose of making inquiry into the circumstances respecting the misbehaviour, inability or incapacity of such judge, issue a commission to one or more judges of the Supreme Court of Canada or any one or more judges of any superior court in any province of Canada, empowering him or them to make such inquiry and to report, and may, by such commission, confer upon the person or persons appointed, full power to summon before him or them any person or witnesses, and to require them to give evidence on oath, orally or in writing or on solemn affirmation, if they are persons entitled to affirm in civil matters, and to produce such documents and things as the commissioner or commissioners deem requisite to the full investigation of the matters into which they are appointed to inquire.

5. The commissioner or commissioners shall have the same power to enforce the attendance of such person or witness, and to compel him to give evidence, as is vested in any superior court.
court of the province in which the inquiry is being conducted. R.S., c. 138, s. 2.

JURISDICTION.

Commissions of Assize, etc.

29. General or special commissions, according to the laws at any time heretofore in force in any province, for the holding of Courts of Assize and Nisi Prius, Oyer and Terminer or General Gaol Delivery issued by the Lieutenant Governor of such province, which contain the names of judges or other officers who have been duly appointed to their respective offices either by the Governor in Council, or, prior to the passing of The British North America Act, 1867, by other competent authority, shall, with reference to all proceedings thereon, confer the same powers, jurisdiction, and authority on such persons as if such commissions had been issued by the Governor General. 54-55 V., c. 28, s. 4.

30. The jurisdiction of every county court judge shall extend and shall be deemed to have always extended to any additional territory annexed by the provincial legislature to the county or district for which he was or is appointed, to the same extent as if he were originally appointed for a county or district including such additional territory. 54-55 V., c. 28, s. 1.

31. It shall be competent to any county court judge to hold any of the courts in any county or district in the province in which he is appointed, or to perform any other duty as a county court judge in any such county or district, upon being required so to do by an order of the Governor in Council made at the request of the Lieutenant Governor of such province.

2. The judge of any county court may, without any such order, perform any judicial duties in any county or district in the province on being requested so to do by the county court judge to whom the duty for any reason belongs.

3. The judge so required or requested as aforesaid shall, while acting in pursuance of such requisition or request, be deemed to be a judge of the county court of the county or district in which he is so required or requested to act, and shall have all the powers of such judge. 54-55 V., c. 28, s. 2.

32. Any retired county court judge of a province may hold any court or perform any other duty of a county court judge in any county or district of the province on being authorized so to do by an order of the Governor in Council, made at the request of the Lieutenant Governor of such province; and such judge requested by Governor in

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Council may hold court.

retired judge while acting in pursuance of such order shall be deemed to be a judge of the county or district in which he acts in pursuance of the order, and shall have all the powers of such judge. 54-55 V., c. 28, s. 3.

JUDGES NOT TO ENGAGE IN BUSINESS.

33. No judge of the Supreme Court of Canada or of the Exchequer Court of Canada or of any superior or county court in Canada shall, either directly, or indirectly as director or manager of any corporation, company or firm, or in any other manner whatever, for himself or others, engage in any occupation or business other than his judicial duties; but every such judge shall devote himself exclusively to such judicial duties. 4-5 E. VII., c. 31, s. 7; c. 47, s. 3.

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R.S., 1906.
CHAPTER 139.

An Act respecting the Supreme Court of Canada.

SHORT TITLE.

1. This Act may be cited as the Supreme Court Act. R.S., Short title. c. 135, s. 1.

INTERPRETATION.

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

(a) 'the Supreme Court' or 'the Court' means the Supreme Court of Canada;
(b) 'judge' means a judge of the Supreme Court of Canada; 'Judge.'
(c) 'Registrar' means the Registrar of the Supreme Court; 'Registrar.'
(d) 'judgment,' when used with reference to the court appealed from, includes any judgment, rule, order, decision, decree, decretal order or sentence thereof; and when used with reference to the Supreme Court, includes any judgment or order of that court;
(e) 'final judgment' means any judgment, rule, order or decision, whereby the action, suit, cause, matter or other judicial proceeding, is finally determined and concluded;
(f) 'appeal' includes any proceeding to set aside or vary any judgment of the court appealed from;
(g) 'the court appealed from' means the court from which the appeal is brought directly to the Supreme Court appealed from; whether such court is one of original jurisdiction or a court of appeal;
(h) 'witness' means any person, whether a party or not, to be examined under the provisions of this Act. R.S., c. 135, ss. 2 and 96.

THE COURT.

3. The court of common law and equity in and for Canada Court now existing under the name of the Supreme Court of Canada continued, is hereby continued under that name, as a general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada, and shall continue to be a court of record. 6 E. VII., c. 50, s. 1.

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Constitution of Court.

4. The Supreme Court shall consist of a chief justice to be called the Chief Justice of Canada, and five puisne judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal. 59 V., c. 14, s. 1.

Who may be appointed judges.

5. Any person may be appointed a judge who is or has been a judge of a superior court of any of the provinces of Canada, or a barrister or advocate of at least ten years' standing at the bar of any of the said provinces. R.S., c. 135, s. 4.

Two judges from province of Quebec.

6. Two at least of the judges shall be appointed from among the judges of the Court of King's Bench, or of the Superior Court, or the barristers or advocates of the province of Quebec. R.S., c. 135, s. 4.

No other office to be held.

7. No judge shall hold any other office of emolument either under the Government of Canada or under the government of any province of Canada. R.S., c. 135, s. 4.

Residence.

8. The judges shall reside at the city of Ottawa, or within five miles thereof. R.S., c. 135, s. 4.

Tenure of office.

9. The judges shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons. R.S., c. 135, s. 5.

Oath of office.

10. Every judge shall, previously to entering upon the duties of his office as such judge, take an oath in the form following:—

'I, , do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as chief justice (or as one of the judges) of the Supreme Court of Canada. So help me God.' R.S., c. 135, s. 9; 50-51 V., c. 16, s. 57.

How administered.

11. Such oath shall be administered to the Chief Justice' before the Governor General, or person administering the Government of Canada, in Council, and to the puisne judges by the Chief Justice, or, in his absence or illness, by any other judge present at Ottawa. R.S., c.135, s. 10.

The Registrar and other Officers.

12. The Governor in Council may, by an instrument under the Great Seal, appoint a fit and proper person, being a barrister of at least five years' standing, to be Registrar of the Supreme Court. R.S., c. 135, s. 11.

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13. The Registrar shall hold office during pleasure and shall reside and keep an office at the city of Ottawa. R.S., c. 135, s. 11.

14. The Registrar shall have the rank of a deputy head of a department, and shall be paid a salary beginning on his appointment at three thousand five hundred dollars per annum, with an annual increase of one hundred dollars, until a maximum salary is reached of four thousand dollars. 3 E. VII., c. 69, s. 1.

15. The Registrar shall, subject to the direction of the Minister of Justice, oversee and direct the officers, clerks and employees appointed to the Court. 3 E. VII., c. 69, s. 3.

16. The Registrar shall give his full time to the public service, and shall not receive any pay, fee or allowance in any form in excess of the amount hereinbefore provided. 3 E. VII., c. 69, s. 3.

17. The Registrar shall, under the supervision of the Minister of Justice, have the management and control of the Library of the Court and the purchase of all books therefor. 51 V., c. 37, s. 4.

18. The Registrar shall, until otherwise provided, publish the reports of the decisions of the Court. 50-51 V., c. 16, s. 57.

19. The Registrar shall have such authority to exercise the jurisdiction of a judge sitting in chambers as may be conferred upon him by general rules or orders made under this Act. 50-51 V., c. 16, s. 57.

20. The Governor in Council may appoint a reporter and assistant reporter, who shall report the decisions of the Court, and who shall be paid such salaries respectively as the Governor in Council determines. 50-51 V., c. 16, s. 57.

21. The Governor in Council may, from time to time, appoint such other clerks and servants of the Court as are necessary, all of whom shall hold office during pleasure. R.S., c. 135, s. 11; 50-51 V., c. 16, s. 57.

22. The provisions of the Civil Service Act and of the Civil Service Superannuation and Retirement Act shall, so far as applicable, extend and apply to such officers, clerks and servants at the seat of Government. R.S., c. 135, s. 14.

23. The Sheriff of the county of Carleton, in the province of Ontario, shall be ex officio an officer of the Court and shall perform the duties of a Sheriff. R.S., 1906.
perform the duties and functions of a sheriff in connection therewith. R.S., c. 135, s. 15.

BARRISTERS AND SOLICITORS.

24. All persons who are barristers or advocates in any of the provinces of Canada may practise as barristers, advocates and counsel in the Supreme Court. R.S., c. 135, s. 16; 50-51 V., s. 16, s. 57.

25. All persons who are attorneys or solicitors of the superior courts in any of the provinces of Canada may practise as attorneys, solicitors and proctors in the Supreme Court. R.S., c. 135, s. 17; 50-51 V., c. 16, s. 57.

26. All persons who may practise as barristers, advocates, counsel, attorneys, solicitors or proctors in the Supreme Court shall be officers of the Court. R.S., c. 135, s. 18; 50-51 V., c. 16, s. 57.

SESSIONS AND QUORUM.

27. Any five of the judges of the Supreme Court shall constitute a quorum and may lawfully hold the Court. 51 V., c. 37, s. 1.

28. It shall not be necessary for all the judges who have heard the argument in any case to be present in order to constitute the Court for delivery of judgment in such case, but in the absence of any judge, from illness or any other cause, judgment may be delivered by a majority of the judges who were present at the hearing. 51 V., c. 37, s. 1.

29. Any judge who has heard the case and is absent at the delivery of judgment, may hand his opinion in writing to any judge present at the delivery of judgment, to be read or announced in open court, and then to be left with the Registrar or reporter of the Court. 51 V., c. 37, s. 1.

30. No judge against whose judgment an appeal is brought, or who took part in the trial of the cause or matter, or in the hearing in a court below, shall sit or take part in the hearing of or adjudication upon the proceedings in the Supreme Court.

2. In any cause or matter in which a judge is unable to sit or take part in consequence of the provisions of this section, any four of the other judges of the Supreme Court shall constitute a quorum and may lawfully hold the court. 52 V., c. 37, s. 1.

31. Any four judges shall constitute a quorum and may lawfully hold the court in cases where the parties consent to be heard before a court so composed. 59 V., c. 14, s. 2.

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32. The Supreme Court, for the purpose of hearing and determining appeals, shall hold in each year, at the city of Ottawa, three sessions.

2. The first session shall begin on the third Tuesday of February, the second on the first Tuesday in May, and the third on the first Tuesday in October, in each year.

3. Each of the said sessions shall be continued until the business before the court is disposed of. R.S., c. 135, s. 20; 54-55 V., c. 25, s. 1.

33. The Supreme Court may adjourn any session from time to time and meet again at the time appointed for the transaction of business.

2. Notice of such adjournment and of the day fixed for the Notice. continuance of such session shall be given by the Registrar in the Canada Gazette. R.S., c. 135, s. 21.

34. The Court may be convened at any time by the Chief Court may Justice, or, in the event of his absence or illness, by the senior puisne judge, in such manner as is prescribed by the rules of Court. R.S., c. 135, s. 22.

APPENDIX JURISDICTION.

35. The Supreme Court shall have, hold and exercise an appellate, civil and criminal jurisdiction within and throughout Canada. R.S., c. 135, s. 23.

36. Except as hereinafter otherwise provided, an appeal shall lie to the Supreme Court from any final judgment of the highest court of final resort now or hereafter established in any province of Canada, whether such court is a court of appeal or of original jurisdiction, in cases in which the court of original jurisdiction is a superior court: Provided that,—

(a) there shall be no appeal from a judgment in any case of proceedings for or upon a writ of habeas corpus, certiorari or prohibition arising out of a criminal charge or in any case of proceedings for or upon a writ of habeas corpus, arising out of any claim for extradition made under any treaty; and,

(b) there shall be no appeal in a criminal case except as provided in the Criminal Code. R.S., c. 135, ss. 24 and 31; 54-55 V., c. 25, s. 2; 55-56 V., c. 29, ss. 742 and 750.

37. Except as hereinafter otherwise provided, an appeal shall lie to the Supreme Court from any final judgment of the highest court of final resort now or hereafter established in any province of Canada, whether such court is a court of appeal or of original jurisdiction, where the action, suit, cause, matter or other judicial proceeding has not originated in a superior court, in the following cases:—

(a) R.S., 1906.
In the province of Quebec.

(a) In the province of Quebec if the matter in controversy involves the question of or relates to any fce of office, duty, rent, revenue, sum of money payable to His Majesty, or to any title to lands or tenements, annual rents and other matters or things where rights in future might be bound: or amounts to or exceeds the sum or value of two thousand dollars;

(b) In the provinces of Nova Scotia, New Brunswick, British Columbia and Prince Edward Island, if the sum or value of the matter in dispute amounts to two hundred and fifty dollars or upwards, and in which the court of first instance possesses concurrent jurisdiction with a superior court;

(c) In the provinces of Saskatchewan and Alberta by leave of the Supreme Court of Canada or a judge thereof;

(d) From any judgment on appeal in a case or proceeding instituted in any court of probate in any province of Canada other than the province of Quebec, unless the matter in controversy does not exceed five hundred dollars;

(e) In the Yukon Territory in the case of any judgment upon appeal from the Gold Commissioner. 50-51 V., c. 16, s. 57; 51 V., c. 37, ss. 2 and 3; 52 V., c. 37, s. 2; 54-55 V., c. 25, s. 3; 56 V., c. 29, s. 2; 2 E. VII., c. 35, s. 4.

38. Except as hereinafter otherwise provided, an appeal shall lie to the Supreme Court from the judgment, whether final or not, of the highest court of final resort now or hereafter established in any province of Canada, whether such court is a court of appeal or of original jurisdiction, where the court of original jurisdiction is a superior court, in the following cases:

(a) Upon any motion to enter a verdict or non-suit upon a point reserved at the trial;

(b) Upon any motion for a new trial;

(c) In any action, suit, cause, matter or other judicial proceeding originally instituted in any superior court of equity in any province of Canada other than the province of Quebec, and from any judgment in any action, suit, cause, matter or judicial proceeding, in the nature of a suit or proceeding in equity, originally instituted in any superior court in any province of Canada other than the province of Quebec. R.S., c. 135, s. 24; 54-55 V., c. 25, s. 2.

39. Except as hereinafter otherwise provided, an appeal shall lie to the Supreme Court,—

(a) from the judgment upon a special case, unless the parties agree to the contrary, and the Supreme Court shall draw 2310 any
any inference of fact from the facts stated in the special case which the court appealed from should have drawn;

(b) from the judgment upon any motion to set aside an award or upon any motion by way of appeal from an award made in any superior court in any of the provinces of Canada other than the province of Quebec;

c) from the judgment in any case of proceedings for or upon a writ of habeas corpus, certiorari or prohibition not arising out of a criminal charge;

d) in any case or proceeding for or upon a writ of mandamus; and,

e) in any case in which a by-law of a municipal corporation has been quashed by a rule or order of court or the rule or order to quash has been refused after argument.

R.S., c. 135, s. 24; 54-55 V., c. 25, s. 2.

40. In the province of Quebec an appeal shall lie to the Supreme Court from any judgment of the Superior Court in Review where that Court confirms the judgment of the court of first instance, and its judgment is not appealable to the Court of King's Bench, but is appealable to His Majesty in Council. 54-55 V., c. 25, s. 2.

41. An appeal shall lie to the Supreme Court from the judgment of any court of last resort created under provincial legislation to adjudicate concerning the assessment of property for provincial or municipal purposes, in cases where the person or persons presiding over such court is or are by provincial or municipal authority authorized to adjudicate, and the judgment appealed from involves the assessment of property at a value of not less than ten thousand dollars. 52 V., c. 37, s. 2.

42. Except as otherwise provided in this Act or in the Act providing for the appeal, no appeal shall lie to the Supreme Court but from the highest court of last resort having jurisdiction in the province in which the action, suit, cause, matter or other judicial proceeding was originally instituted, whether the judgment or decision in such action, suit, cause, matter or other judicial proceeding was or was not a proper subject of appeal to such highest court of last resort: Provided that, an appeal shall lie directly to the Supreme Court without any intermediate appeal being had to any intermediate court of appeal in the province,—

(a) from the judgment of the court of original jurisdiction by consent of parties;

(b) by leave of the Supreme Court or a judge thereof from any judgment pronounced by a superior court of equity or by any judge in equity, or by any superior court in any

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any action, cause, matter or other judicial proceeding in
the nature of a suit or proceeding in equity; and,
(c) by leave of the Supreme Court or a judge thereof from
the final judgment of any superior court of any province
other than the province of Quebec in any action, suit,
cause, matter or other judicial proceeding originally com-
menced in such superior court. R.S., c. 135, s. 26.

43. Notwithstanding anything in this Act contained the
court shall also have jurisdiction as provided in any other Act
conferring jurisdiction. R.S., c. 135, s. 25.

44. Except as provided in this Act or in the Act providing
for the appeal, an appeal shall lie only from final judgments
in actions, suits, causes, matters and other judicial proceedings
originally instituted in the Superior Court of the province of
Quebec, or originally instituted in a superior court in any of the
provinces of Canada other than the province of Quebec. R.S.,
c. 135, s. 28.

45. No appeal shall lie from any order made in any action,
suit, cause, matter or other judicial proceeding made in the
exercise of the judicial discretion of the court or judge making
the same; but this exception shall not include decrees and
decretal orders in actions, suits, causes, matters or other judicial
proceedings in equity, or in actions or suits, causes, matters or
other judicial proceedings in the nature of suits or proceedings
in equity instituted in any superior court. R.S., c. 135, s. 27.

46. No appeal shall lie to the Supreme Court from any
judgment rendered in the province of Quebec in any action,
suit, cause, matter or other judicial proceeding unless the
matter in controversy,—

(a) involves the question of the validity of an Act of the
Parliament of Canada, or of the legislature of any of the
provinces of Canada, or of an ordinance or act of any of
the councils or legislative bodies of any of the territories
or districts of Canada; or,

(b) relates to any fee of office, duty, rent, revenue, or any
sum of money payable to His Majesty, or to any title to
lands or tenements, annual rents and other matters or
things where rights in future might be bound; or,

(c) amounts to the sum or value of two thousand dollars.

2. In the province of Quebec whenever the right to appeal
is dependent upon the amount in dispute, such amount shall be
understood to be that demanded and not that recovered, if they
are different. R.S., c. 135, s. 29; 54-55 V., c. 25, s. 3; 56 V.,
c. 29, s. 1.

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47. Nothing in the three sections last preceding shall in any way affect appeals in Exchequer cases, cases of rules for new trials, and cases of mandamus, habeas corpus, and municipal by-laws. R.S., c. 135, s. 30.

48. No appeal shall lie to the Supreme Court from any judgment of the Court of Appeal for Ontario, unless,—

(a) the title to real estate or some interest therein is in question;

(b) the validity of a patent is affected;

(c) the matter in controversy in the appeal exceeds the sum or value of one thousand dollars exclusive of costs;

(d) the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights; or,

(e) special leave of the Court of Appeal for Ontario or of the Supreme Court of Canada to appeal to such last-mentioned Court is granted.

2. Whenever the right to appeal is dependent upon the amount in dispute such amount shall be understood to be that demanded and not that recovered, if they are different. 60-61 V., c. 34, s. 1.

49. No appeal shall lie to the Supreme Court from any final judgment of the Territorial Court of the Yukon Territory, other than upon an appeal from the Gold Commissioner, unless,—

(a) the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a public or general nature affecting future rights;

(b) the title to real estate or some interest therein is in question;

(c) the validity of a patent is affected;

(d) it is a proceeding for or upon a mandamus, prohibition or injunction; or,

(e) the matter in controversy amounts to the sum or value of two thousand dollars or upwards. 2 E. VII., c. 35, s. 4.

JUDGMENTS.

50. The Court may quash proceedings in cases brought before it in which an appeal does not lie, or whenever such proceedings are taken against good faith. R.S., c. 135, s. 59.

51. The Court may dismiss an appeal or give the judgment and award the process or other proceedings which the court whose decision is appealed against, should have given or awarded. R.S., c. 135, s. 60.
52. On any appeal, the Court may, in its discretion, order a new trial, if the ends of justice seem to require it, although such new trial is deemed necessary upon the ground that the verdict is against the weight of evidence. R.S., c. 135, s. 61.

53. The Court may, in its discretion, order the payment of the costs of the court appealed from, and also of the appeal, or any part thereof, as well when the judgment appealed from is varied or reversed as when it is affirmed. R.S., c. 135, s. 62.

54. At any time during the pendency of an appeal before the Court, the Court may, upon the application of any of the parties, or without any such application, make all such amendments as are necessary for the purpose of determining the appeal, or the real question or controversy between the parties, as disclosed by the pleadings, evidence or proceedings. R.S., c. 135, s. 63.

55. Any such amendment may be made, whether the necessity for the same is or is not occasioned by the defect, error, act, default or neglect of the party applying to amend. R.S., c. 135, s. 64.

56. Every amendment shall be made upon such terms as to payment of costs, postponing the hearing or otherwise as to the Court seems just. R.S., c. 135, s. 65.

57. If on appeal against any judgment, the Court affirms such judgment, interest shall be allowed by the Court for such time as execution has been delayed by the appeal. R.S., c. 135, s. 66.

58. The judgment of the Court in appeal shall be certified by the Registrar to the proper officer of the court of original jurisdiction, who shall thereupon make all proper and necessary entries thereof; and all subsequent proceedings may be taken thereupon as if the judgment had been given or pronounced in the said last mentioned court. R.S., c. 135, s. 67.

59. The judgment of the Court shall, in all cases, be final and conclusive, and no appeal shall be brought from any judgment or order of the Court to any court of appeal established by the Parliament of Great Britain and Ireland, by which R.S., 1906.
which appeals or petitions to His Majesty in Council may be ordered to be heard, saving any right which His Majesty may be graciously pleased to exercise by virtue of his royal preroga-

tive. R.S., c. 135, s. 71.

SPECIAL JURISDICTION.

References by Governor in Council.

60. Important questions of law or fact touching,—

(a) the interpretation of The British North America Acts, 1867 to 1886; or,

(b) the constitutionality or interpretation of any Dominion or provincial legislation; or,

(c) the appellate jurisdiction as to educational matters, by The British North America Act, 1867, or by any other Act or law vested in the Governor in Council; or,

(d) the powers of the Parliament of Canada, or of the legislatures of the provinces, or of the respective governments thereof, whether or not the particular power in question has been or is proposed to be executed; or,

(e) any other matter, whether or not in the opinion of the court ejusdem generis with the foregoing enumerations, with reference to which the Governor in Council sees fit to submit any such question;

may be referred by the Governor in Council to the Supreme Court for hearing and consideration; and any question touching any of the matters aforesaid, so referred by the Governor in Council, shall be conclusively deemed to be an important question.

2. When any such reference is made to the Court it shall be the duty of the Court to hear and consider it, and to answer each question so referred; and the Court shall certify to the Governor in Council, for his information, 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.

3. In case any such question relates to the constitutional validity of any Act which has heretofore been or shall hereafter be passed by the legislature of any province, or of any provision in any such Act, or in case, for any reason, the government of any province has any special interest in any such question, the attorney general of such province, shall be notified of the hearing, in order that he may be heard if he thinks fit.

4. The Court shall have 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 reference under this section, and such persons shall be entitled to be heard thereon.
5. The Court may, in its discretion, request any counsel to argue the case as to any interest which is affected and as to which counsel does not appear, and the reasonable expenses thereby occasioned may be paid by the Minister of Finance out of any moneys appropriated by Parliament for expenses of litigation.

6. The opinion of the Court upon any such reference, although advisory only, shall, for all purposes of appeal to His Majesty in Council, be treated as a final judgment of the said Court between parties. 54-55 V., c. 25, s. 4; 6 E. VII., c. 50, s. 2.

References by Senate or House of Commons.

61. The Court, or any two of the judges thereof, shall examine and report upon any private bill or petition for a private bill presented to the Senate or House of Commons, and referred to the Court under any rules or orders made by the Senate or House of Commons. R.S., c. 135, s. 38.

Habeas Corpus.

62. Every judge of the Court shall, except in matters arising out of any claim for extradition under any treaty, have concurrent jurisdiction with the courts or judges of the several provinces, to issue the writ of habeas corpus ad subjiciendum, for the purpose of an inquiry into the cause of commitment in any criminal case under any Act of the Parliament of Canada.

2. If the judge refuses the writ or remands the prisoner, an appeal shall lie to the Court. R.S., c. 135, s. 32.

63. In any habeas corpus matter before a judge of the Supreme Court, or on any appeal to the Supreme Court in any habeas corpus matter, the Court or judge shall have the same power to bail, discharge or commit the prisoner or person, or to direct him to be detained in custody or otherwise to deal with him as any court, judge or justice of the peace having jurisdiction in any such matters in any province of Canada. R.S., c. 135, s. 33.

64. On any appeal to the Court in any habeas corpus matter the Court may by writ or order direct that any prisoner or person on whose behalf such appeal is made shall be brought before the Court.

2. Unless the Court so direct it shall not be necessary for such prisoner or person to be present in court but he shall remain in the charge or custody to which he was committed or had been remanded, or in which he was at the time of giving the notice of appeal, unless at liberty on bail, by order of a judge of the court which refused the application or of a judge of the Supreme Court. R.S., c. 135, s. 34.
65. An appeal to the Supreme Court in any *habeas corpus* matter shall be heard at an early day, whether in or out of the prescribed sessions of the Court. R.S., c. 135, s. 35.

Certiorari.

66. A writ of *certiorari* may, by order of the Court or a judge thereof, issue out of the Supreme Court to bring up any papers or other proceedings had or taken before any court, judge or justice of the peace, and which are considered necessary with a view to any inquiry, appeal or other proceeding had or to be had before the Court. R.S., c. 135, s. 36.

Cases removed by Provincial Courts.

67. When the legislature of any province of Canada has passed an Act agreeing and providing that the Supreme Court of Canada shall have jurisdiction in any of the following cases, that is to say:

(a) Of suits, actions or proceedings in which the parties thereto by their pleading have raised the question of the validity of an Act of the Parliament of Canada, when in the opinion of a judge of the court in which the same are pending such question is material;  
(b) Of suits, actions or proceedings in which the parties thereto by their pleadings have raised the question of the validity of an Act of the legislature of such province, when in the opinion of a judge of the court in which the same are pending such question is material;  

the judge who has decided that such question is material shall at the request of the parties, and may without such request, if he thinks fit, in any suit, action or proceeding within the class or classes of cases in respect of which such Act so agreeing and providing has been passed, order the case to be removed to the Supreme Court for the decision of such question, whatever may be the value of the matter in dispute, and the case shall be removed accordingly.

2. The Supreme Court shall thereupon hear and determine the question so raised and shall remit the case with a copy of its judgment thereon to the court or judge whence it came to be then and there dealt with as to justice appertains.

3. There shall be no further appeal to the Supreme Court on any point decided by it in any such case, nor, unless the value of the matter in dispute exceeds five hundred dollars, on any other point in such case.

4. This section shall apply only to cases of a civil nature. Applies only to civil cases. R.S., c. 135, ss. 72, 73 and 74.

PROCEDURE IN APPEALS.

68. Proceedings in appeals shall, when not otherwise provided for by this Act, or by the Act providing for the appeal, be heard.

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or by the general rules and orders of the Supreme Court, be as nearly as possible in conformity with the present practice of the Judicial Committee of His Majesty's Privy Council. R.S., c. 135, s. 39.

When appeal shall be brought.

69. Except as otherwise provided, every appeal shall be brought within sixty days from the signing or entry or pronouncing of the judgment appealed from. 50-51 V., c. 16, s. 57.

Notice of appeal in certain cases.

70. No appeal upon a special case, or from the judgment upon a motion to enter a verdict or non-suit upon a point reserved at the trial or from the judgment upon a motion for a new trial, shall be allowed, unless notice thereof is given in writing to the opposite party, or his attorney of record, within twenty days after the decision complained of, or within such further time as the court appealed from, or a judge thereof, allows. R.S., c. 135, s. 41.

Allowance of appeals in special cases.

71. Notwithstanding anything herein contained the court proposed to be appealed from, or any judge thereof, may, under special circumstances allow an appeal, although the same is not brought within the time hereinbefore prescribed in that behalf.

2. In such case, the court or judge shall impose such terms as to security or otherwise as seems proper under the circumstances.

3. The provisions of this section shall not apply to any appeal in the case of an election petition. R.S., c. 135, s. 42.

On terms.

72. No writ shall be required or issued for bringing any appeal in any case to or into the Court, but it shall be sufficient that the party desiring so to appeal shall, within the time herein limited in the case, have given the security required and obtained the allowance of the appeal.

2. Whenever error in law is alleged, the proceedings in the Supreme Court shall be in the form of an appeal. R.S., c. 135, s. 43.

No application to election cases.

Proceedings requisite to bring cases to the Supreme Court.

When error is alleged.

73. The appeal shall be upon a case to be stated by the parties, or, in the event of difference, to be settled by the court appealed from, or a judge thereof; and the case shall set forth the judgment objected to and so much of the pleadings, evidence, affidavits and documents as is necessary to raise the question for the decision of the Court. R.S., c. 135, s. 44.

Appeal to be on a stated case.

74. The clerk or other proper officer of the court appealed from shall, upon payment to him of the proper fees and the expenses of transmission, transmit the case forthwith after such allowance to the Registrar, and further proceedings shall thereupon be had according to the practice of the Supreme Court. R.S., c. 135, s. 45.

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2318 Security
Security and the Staying of Execution.

75. No appeal shall be allowed until the appellant has given proper security, to the extent of five hundred dollars, to the satisfaction of the court from whose judgment he is about to appeal, or a judge thereof, or to the satisfaction of the Supreme Court, or a judge thereof, that he will effectually prosecute his appeal and pay such costs and damages as may be awarded against him by the Supreme Court.

2. This section shall not apply to appeals by or on behalf of the Crown or in election cases, in cases in the Exchequer Court, in criminal cases, or in proceedings for or upon a writ of habeas corpus. R.S., c. 135, s. 46; 50-51 V., c. 16, s. 57.

76. Upon the perfecting of such security, execution shall be stayed in the original cause: Provided that,—

(a) if the judgment appealed from directs an assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed, until the things directed to be assigned or delivered have been brought into court, or placed in the custody of such officer or receiver as the court appoints, nor until security has been given to the satisfaction of the court appealed from, or of a judge thereof, in such sum as the court or judge directs, that the appellant will obey the order or judgment of the Supreme Court;

(b) if the judgment appealed from directs the execution of a conveyance or any other instrument, the execution on the judgment shall not be stayed, until the instrument has been executed and deposited with the proper officer of the court appealed from, to abide the order or judgment of the Supreme Court;

(c) if the judgment appealed from directs the sale or delivery of possession of real property, chattels real or immovables, the execution of the judgment shall not be stayed, until security has been entered into to the satisfaction of the court appealed from, or a judge thereof, and in such amount as the said last mentioned court or judge directs, that during the possession of the property by the appellant he will not commit, or suffer to be committed, any waste on the property, and that if the judgment is affirmed, he will pay the value of the use and occupation of the property from the time the appeal is brought until delivery of possession thereof, and also, if the judgment is for the sale of property and the payment of a deficiency arising upon the sale, that the appellant will pay the deficiency;

(d) if the judgment appealed from directs the payment of money, either as a debt or for damages or costs, execution thereof shall not be stayed, until the appellant has given security.

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security to the satisfaction of the court appealed from, or of a judge thereof, that if the judgment or any part thereof is affirmed, the appellant will pay the amount thereby directed to be paid, or the part thereof as to which the judgment is affirmed, if it is affirmed only as to part, and all damages awarded against the appellant on such appeal.

2. If the court appealed from is a court of appeal and the assignment or conveyance, document, instrument, property or thing, as aforesaid, has been deposited in the custody of the proper officer of the court in which the cause originated, the consent of the party desiring to appeal to the Supreme Court, that it shall so remain to abide the judgment of the Supreme Court, shall be binding on him and shall be deemed a compliance with the requirements in that behalf of this section;

3. In any case in which execution may be stayed on the giving of security under this section, such security may be given by the same instrument whereby the security prescribed in the next preceding section is given. R.S., c. 135, s. 47.

77. When the security has been perfected and allowed, any judge of the court appealed from may issue his fiat to the sheriff, to whom any execution on the judgment has issued, to stay the execution, and the execution shall be thereby stayed, whether a levy has been made under it or not.

2. If the court appealed from is a court of appeal, and execution has been already stayed in the case, such stay of execution shall continue without any new fiat, until the decision of the appeal by the Supreme Court.

3. Unless a judge of the court appealed from otherwise orders no poundage shall be allowed against the appellant, upon any judgment appealed from, on which any execution is issued before the judge’s fiat to stay the execution is obtained. R.S., c. 135, s. 48.

78. If, at the time of the receipt by the sheriff of the fiat, or of a copy thereof, the money has been made or received by him, but not paid over to the party who issued the execution, the party appealing may demand back from the sheriff the amount made or received under the execution, or so much thereof as is in his hands not paid over, and in default of payment by the sheriff, upon such demand, the party appealing may recover the same from him in an action for money had and received, or by means of an order or rule of the court appealed from. R.S., c. 135, s. 49.

79. If the judgment appealed from directs the delivery of perishable property, the court appealed from, or a judge thereof, may order the property to be sold and the proceeds to be paid into court, to abide the judgment of the Supreme Court. R.S., c. 135, s. 50.

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2320 Discontinuance
Discontinuance of Proceedings.

80. An appellant may discontinue his proceedings by giving to the respondent a notice entitled in the Supreme Court and in the cause, and signed by the appellant, his attorney or solicitor, stating that he discontinues such proceedings.

2. Upon such notice being given, the respondent shall be at once entitled to the costs of and occasioned by the proceedings in appeal; and may, in the court of original jurisdiction, either sign judgment for such costs or obtain an order from such court, or a judge thereof, for their payment, and may take all further proceedings in that court as if no appeal had been brought. R.S., c. 135, s. 51.

Consent to Reversal of Judgment.

81. A respondent may consent to the reversal of the judgment appealed against, by giving to the appellant a notice entitled in the Supreme Court and in the cause, and signed by the respondent, his attorney or solicitor, stating that he consents to the reversal of the judgment; and thereupon the Court, or any judge thereof, shall pronounce judgment of reversal as of course. R.S., c. 135, s. 52.

Dismissal for Delay.

82. If an appellant unduly delays to prosecute his appeal, or fails to bring the appeal on to be heard at the first session of the Supreme Court, after the appeal is ripe for hearing, the respondent may, on notice to the appellant, move the Supreme Court, or a judge thereof in chambers, for the dismissal of the appeal.

2. Such order shall thereupon be made as the said Court or judge deems just. R.S., c. 135, s. 53.

Death of Parties.

83. In the event of the death of one of several appellants, pending the appeal to the Supreme Court, a suggestion may be filed of his death, and the proceedings may thereupon be continued at the suit of and against the surviving appellant, as if he were the sole appellant. R.S., c. 135, s. 54.

84. In the event of the death of a sole appellant, or of all the appellants, the legal representative of the sole appellant, or of the last surviving appellant, may, by leave of the Court or a judge, file a suggestion of the death, and that he is such legal representative, and the proceedings may thereupon be continued at the suit of and against such legal representative as the appellant.

2. If no such suggestion is made, the respondent may proceed to an affirmance of the judgment, according to the practice of R.S., 1906.
of the Court, or take such other proceedings as he is entitled to. R.S., c. 135, s. 55.

85. In the event of the death of one of several respondents, a suggestion may be filed of such death, and the proceedings may be continued against the surviving respondent. R.S., c. 135, s. 56.

86. Any suggestion of the death of one of several appellants or of a sole appellant or of all the appellants or of one of several respondents, if untrue, may on motion be set aside by the Court or a judge. R.S., c. 135, ss. 54, 55 and 56.

87. In the event of the death of a sole respondent, or of all the respondents, the appellant may proceed, upon giving one month’s notice of the appeal and of his intention to continue the same, to the representative of the deceased party, or if no such notice can be given, then upon such notice to the parties interested as a judge of the Supreme Court directs. R.S., c. 135, s. 57.

88. In the event of the death of a sole plaintiff or defendant before the judgment of the court in which an action or an appeal is pending is delivered, and if such judgment is against the deceased party, his legal representatives, on entering a suggestion of the death, shall be entitled to proceed with and prosecute an appeal in the Supreme Court, in the same manner as if they were the original parties to the suit. 52 V., c. 37, s. 3.

89. In the event of the death of a sole plaintiff or sole defendant before the judgment of the court in which an action or an appeal is pending is delivered, and if such judgment is in favour of such deceased party, the other party, upon entering a suggestion of the death shall be entitled to prosecute an appeal to the Supreme Court against the legal representatives of such deceased party: Provided that the time limited for appealing shall not run until such legal representatives are appointed. 52 V., c. 37, s. 4.

ENTRY OF CAUSES.

90. The appeals set down for hearing shall be entered by the Registrar on a list divided into three parts, and numbered and headed as follows:—Number one, Maritime Province Cases; Number two, Quebec Cases; Number three, Ontario Cases; and the Registrar shall enter all appeals from the provinces of Nova Scotia, New Brunswick and Prince Edward Island on part numbered one, and all appeals from the province of Quebec on part numbered two, and all appeals from the provinces of Ontario, Manitoba, British Columbia, Saskatchewan-
wan, Alberta and the Yukon Territory, on part numbered three, in the order in which they are respectively received; and such appeals shall be heard and disposed of in the order in which they are so entered, unless otherwise ordered by the Court.

2. The Court may by order direct in what order the cases in part number one and part number three shall be entered: Provided that at the October sittings of the Court the appeals entered on part number two shall be first heard, then those entered on part number three, and finally those entered on part number one. R.S., c. 135, s. 58; 50-51 V., c. 16, s. 57: 52 V., c. 37, s. 5; 54-55 V., c. 25, s. 5.

EVIDENCE.

91. All persons authorized to administer affidavits to be Affidavits. used in any of the superior courts of any province, may administer oaths, affidavits and affirmations in such province to be used in the Supreme Court. R.S., c. 135, s. 91.

92. The Governor in Council may, by commission, from time to time, empower such persons as he thinks necessary, Affidavits. or of the like effect, to all intents, as if it had been administered, taken, sworn, made or affirmed before the Court or before any judge or competent officer thereof in Canada.

3. Every commissioner so empowered shall be styled 'a commissioner for administering oaths in the Supreme Court of Style of commis- 92.

93. Any oath, affidavit, affirmation or declaration concern- ing any proceeding had or to be had in the Supreme Court, How affida- administered, sworn, affirmed or made out of Canada shall be valid and of like effect to all intents as if it had been vits, etc., etc., made administrated, sworn, affirmed or made before a commissioner appointed under this Act, if it is so administrated, sworn, may be made out of affirmed or made out of Canada before,—

(a) any commissioner authorized to take affidavits to be sued in His Majesty's High Court of Justice in England; or,
(b) any notary public and certified under his hand and official seal; or,
(c) a mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or in any colony or possession of His Majesty out of Canada, or in any foreign country, and certified under the common seal of such city, borough, or town corporate: or,

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(d) a judge of any court of superior jurisdiction in any colony or possession of His Majesty, or dependency of the Crown out of Canada; or,
(e) any consul, vice-consul, acting consul, pro-consul or consular agent of His Majesty exercising his functions in any foreign place and certified under his official seal.

R.S., c. 135, s. 93.

94. Every document purporting to have affixed, imprinted or subscribed thereon or thereto the signature of any,—
(a) commissioner appointed under this Act; or,
(b) person authorized to take affidavits to be used in any of the superior courts of any province; or,
(c) commissioner authorized to receive affidavits to be used in His Majesty's High Court of Justice in England; or,
(d) notary public under his official seal; or,
(e) mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland, or in any colony or possession of His Majesty out of Canada, or in a foreign country, under the common seal of the corporation; or,
(f) judge of any court of superior jurisdiction in any colony or possession of His Majesty, or dependency of the Crown out of Canada under the seal of the court of which he is such judge; or,
(g) consul, vice-consul, acting consul, pro-consul or consular agent of His Majesty exercising his functions in any foreign place under his official seal;
in testimony of any oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, shall be admitted in evidence without proof of any such signature or seal or of the official character of such person.
R.S., c. 135, s. 94.

95. No informality in the heading or other formal requisites of any affidavit, declaration or affirmation, made or taken before any person under any provision of this or any other Act, shall be an objection to its reception in evidence in the Supreme Court. if the court or judge before whom it is tendered thinks proper to receive it; and if the same is actually sworn to, declared or affirmed by the person making the same before any person duly authorized thereto, and is received in evidence, no such informality shall be set up to defeat an indictment for perjury. R.S., c. 135, s. 95.

96. If any party to any proceeding had or to be had in the Supreme Court is desirous of having therein the evidence of any person, whether a party or not, or whether resident within or out of Canada, the Court or any judge thereof, if in its or his opinion it is, owing to the absence, age or infirmity, or the distance of the residence of such person from the place of trial, or the expense of taking his evidence otherwise, or for any
any other reason, convenient so to do, may, upon the application of such party, order the examination of any such person upon oath, by interrogatories or otherwise, before the Registrar of the Court, or any commissioner for taking affidavits in the Court, or any other person or persons to be named in such order, or may order the issue of a commission under the seal of the Court for such examination.

2. The Court or a judge may, by the same or any subsequent order, give all such directions touching the time, place and manner of such examination, the attendance of the witnesses and the production of papers thereat, and all matters connected therewith, as appears reasonable. R.S., c. 135, s. 96.

97. Every person authorized to take the examination of any witness in pursuance of any of the provisions of this Act, shall take such examination upon the oath of the witness, or upon affirmation, in any case in which affirmation instead of oath is allowed by law. R.S., c. 135, s. 97.

98. The Supreme Court, or a judge thereof, may, if it is considered for the ends of justice expedient so to do, order the further examination, before either the Court or a judge thereof, or other person, of any witness; and if the party on whose behalf the evidence is tendered neglects or refuses to obtain such further examination, the Court or judge, in its or his discretion, may decline to act on the evidence. R.S., c. 135, s. 98.

99. Such notice of the time and place of examination as is prescribed in the order, shall be given to the adverse party. R.S., c. 135, s. 99.

100. When any order is made for the examination of a witness, and a copy of the order, together with a notice of the time and place of attendance, signed by the person or one of the persons to take the examination, has been duly served on the witness within Canada, and he has been tendered his legal fees for attendance and travel, his refusal or neglect to attend for examination or to answer any proper question put to him on examination, or to produce any paper which he has been notified to produce, shall be deemed a contempt of court and may be punished by the same process as other contempts of court: Provided that he shall not be compelled to produce any paper which he would not be compelled to produce, or to answer any question which he would not be bound to answer in court. R.S., c. 135, s. 100.

101. If the parties in any case pending in the Court consent, in writing, that a witness may be examined within or out of Canada by interrogatories or otherwise, such consent and the proceedings had thereunder shall be as valid in all respects as R.S., 1906.
102. All examinations taken in Canada, in pursuance of any of the provisions of this Act, shall be returned to the Court; and the depositions, certified under the hands of the person or one of the persons taking the same, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 135, s. 102.

103. All examinations taken out of Canada, in pursuance of any of the provisions of this Act, shall be proved by affidavit of the due taking of such examinations, sworn before some commissioner or other person authorized under this or any other Act to take such affidavit, at the place where such examination has been taken, and shall be returned to the Court; and the depositions so returned, together with such affidavit, and the order of commission, closed under the hand and seal of the person or one of the persons authorized to take the examination, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 135, s. 103.

104. When any examination has been returned, any party may give notice of such return, and no objection to the examination being read shall have effect, unless taken within the time and in the manner prescribed by general order. R.S., c. 135, s. 104.

GENERAL.

105. The process of the Court shall run throughout Canada, and shall be tested in the name of the Chief Justice, or in case of a vacancy in the office of chief justice, in the name of the senior puisne judge of the Court, and shall be directed to the sheriff of any county or other judicial division into which any province is divided.

2. The sheriffs of the said respective counties or divisions shall be deemed and taken to be ex officio officers of the Supreme Court, and shall perform the duties and functions of sheriffs in connection with the Court.

3. In any case where the sheriff is disqualified, such process shall be directed to any of the coroners of the county or district. R.S., c. 135, s. 105; 50-51 V., c. 16, s. 57.

106. Every commissioner for administering oaths in the Supreme Court, who resides within Canada, may take and receive acknowledgments or recognizances of bail, and all other recognizances in the Supreme Court. R.S., c. 135, s. 106; 50-51 V., c. 16, s. 57.

107. An order in the Supreme Court for payment of money, whether for costs or otherwise, may be enforced by such

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writs of execution as the Court prescribes. 50-51 V., c. 16, s. 57.

108. No attachment as for contempt shall issue in the Supreme Court for the non-payment of money only. 50-51 V., c. 16, s. 57.

109. The judges of the Supreme Court, or any five of them, may, from time to time, make general rules and orders, —

(a) for regulating the procedure of and in the Supreme Court, and the bringing of cases before it from courts appealed from or otherwise, and for the effectual execution and working of this Act, and the attainment of the intention and objects thereof;

(b) for empowering the Registrar to do any such thing and transact any such business as is specified in such rules or orders, and to exercise any authority and jurisdiction in respect of the same as is now or may be hereafter done, transacted or exercised by a judge of the Court sitting in chambers in virtue of any statute or custom or by the practice of the Court;

(c) for fixing the fees and costs to be taxed and allowed to, and received and taken by, and the rights and duties of the officers of the Court;

(d) for awarding and regulating costs in such Court in favour of and against the Crown, as well as the subject;

(e) with respect to matters coming within the jurisdiction of the Court, in regard to references to the Court by the Governor in Council, and in particular with respect to investigations of questions of fact involved in any such reference.

2. Such rules and orders may extend to any matter of procedure or otherwise not provided for by this Act, but for which it is found necessary to provide, in order to ensure the proper working of this Act and the better attainment of the objects thereof.

3. All such rules which are not inconsistent with the express provisions of this Act shall have force and effect as if herein enacted.

4. Copies of all such rules and orders shall be laid before both Houses of Parliament at the session next after the making thereof. 50-51 V., c. 16, s. 57; 54-55 V., c. 25, s. 4.

110. Any moneys or costs awarded to the Crown shall be paid to the Minister of Finance, and he shall pay out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, any moneys or costs awarded to any person against the Crown. 50-51 V., c. 16, s. 57.

111. All fees payable to the Registrar under the provisions of this Act shall be paid by means of stamps, which shall be issued R.S., 1906.
issued for that purpose by the Minister of Inland Revenue, who shall regulate the sale thereof.

2. The proceeds of the sale of such stamps shall be paid into the Consolidated Revenue Fund of Canada. R.S., c. 135, s. 111.
An Act respecting the Exchequer Court of Canada.

SHORT TITLE.
1. This Act may be cited as the Exchequer Court Act.

INTERPRETATION.
2. In this Act, unless the context otherwise requires,—
   (a) 'the Exchequer Court' or 'the Court' means the Exchequer Court of Canada;
   (b) 'the Supreme Court' means the Supreme Court of Canada;
   (c) 'the Crown' means the Crown in the right or interest of the Dominion of Canada;
   (d) 'public lands' extends to and includes Dominion lands, Public Ordnance or Admiralty lands, Indian lands and all other lands which are the property of Canada or which the Government of Canada has power to dispose of;
   (e) 'letters patent' or 'patent,' when used with respect to public lands, includes any instrument by which such lands or any interest therein may be granted or conveyed;
   (f) 'original claimant' means the person from whom title must be traced in order to establish a right or claim to letters patent for the lands in question;
   (g) 'witness' means a person, whether a party or not, to be examined under this Act.

CONSTITUTION OF COURT.
3. The Court now existing under the name of the Exchequer Court of Canada is hereby continued under such name, and shall continue to be a court of record.

4. The Exchequer Court shall consist of one judge, who shall be appointed by the Governor in Council by letters patent under the Great Seal.

5. Any person may be appointed a judge of the Court who is or has been a judge of a superior or county court of any of the
the provinces of Canada, or a barrister or advocate of at least ten years’ standing at the bar of any of the said provinces. 50-51 V., c. 16, s. 3.

6. The Judge of the Court shall not hold any other office of emolument, either under the Government of Canada or under the Government of any province of Canada. 50-51 V., c. 16, s. 3.

7. The Judge of the Court shall reside at Ottawa or within five miles thereof. 50-51 V., c. 16, s. 3.

8. In case of sickness or absence from Canada of the Judge of the Court, the Governor in Council may specially appoint some other person having the qualifications hereinbefore mentioned, who shall be sworn to the faithful performance of the duties of the office, and shall have all the powers incident thereto during the sickness or absence from Canada of the Judge of the Court. 50-51 V., c. 16, s. 3.

9. The Judge of the Court shall not adjudicate upon any case in which he is interested, and the Governor in Council may, upon the application of the Judge of the Court, appoint some other person having the qualifications hereinbefore mentioned to act as judge pro hac vice in relation to any case at any time pending in the Exchequer Court.

2. Such person shall be sworn to the faithful performance of his duties, and shall, in relation to such case, have all the powers of the Judge of the Exchequer Court. 54-55 V., c. 26, s. 3.

10. The Judge of the Court shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons. 50-51 V., c. 16, s. 4.

OATH OF OFFICE.

11. The Judge of the Exchequer Court shall, previously to entering upon the duties of his office as such judge, take an oath in the form following:—

‘I, (name), do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as Judge of the Exchequer Court of Canada. So help me God.’ 50-51 V., c. 16, s. 7.

12. Such oath shall be administered before the Governor General or the person administering the Government of Canada, or such person or persons as he appoints. 50-51 V., c. 16, s. 8.

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13. The Governor in Council may, by an instrument under the Great Seal, appoint a fit and proper person, being a barrister of at least five years standing, to be the registrar of the Exchequer Court, who shall hold office during pleasure, reside and keep an office at the city of Ottawa, and be paid a salary of two thousand four hundred dollars per annum.

2. The Governor in Council may, from time to time, appoint such other clerks, stenographers and servants of the Exchequer Court as are necessary, all of whom shall hold office during pleasure and shall be paid such salaries as the Governor in Council determines. 2 E. VII., c. 8, s. 1.

14. The provisions of the Civil Service Act and of the Civil Service Superannuation and Retirement Act shall, so far as applicable, extend and apply to such registrar, clerks, stenographers and servants at the seat of Government. 50-51 V., c. 16, s. 10.

15. The Governor in Council may appoint official referees of the Exchequer Court, not exceeding three in number, who shall perform such duties as the Exchequer Court by general or special rules or orders directs, and who shall be paid such fees and travelling allowances as the Governor in Council prescribes. 50-51 V., c. 16, s. 11.

BARRISTERS AND ATTORNEYS.

16. All persons who are barristers or advocates in any of the provinces, may practise as barristers, advocates and counsel in the Exchequer Court. 50-51 V., c. 16, s. 12.

17. All persons who are attorneys or solicitors of the superior courts in any of the provinces, may practise as attorneys, solicitors and proctors in the Exchequer Court. 50-51 V., c. 16, s. 13.

18. All persons who may practise as barristers, advocates, To be officers attorneys, solicitors or proctors in the Exchequer Court, shall be officers of such Court. 50-51 V., c. 16, s. 14.

JURISDICTION.

19. The Exchequer Court shall have exclusive original jurisdiction in all cases in which demand is made or relief sought in respect of any matter which might, in England, be the subject of a suit or action against the Crown, and for greater certainty, but not so as to restrict the generality of the foregoing terms, it shall have exclusive original jurisdiction in all cases in which the land, goods or money of the subject are in the possession of the Crown, or in which the claim arises.
arises out of a contract entered into by or on behalf of the Crown. 50-51 V., c. 16, s. 15.

Idem.

20. The Exchequer Court shall also have exclusive original jurisdiction to hear and determine the following matters:

(a) Every claim against the Crown for property taken for any public purpose;

(b) Every claim against the Crown for damage to property injuriously affected by the construction of any public work;

(c) Every claim against the Crown arising out of any death or injury to the person or property on any public work, resulting from the negligence of any officer or servant of the Crown, while acting within the scope of his duties or employment;

(d) Every claim against the Crown arising under any law of Canada or any regulation made by the Governor in Council;

(e) Every set-off, counter claim, claim for damages whether liquidated or unliquidated, or other demand whatsoever, on the part of the Crown against any person making claim against the Crown. 50-51 V., c. 16, s. 16.

21. The Exchequer Court shall have exclusive original jurisdiction at the suit or upon the application of any person claiming to be entitled to public lands for which no patent has issued, as being the heir, devisee, representative or assignee of the original claimant, or as having derived a title or claim from or through any such heir, devisee, representative or assignee, or at the suit or upon the application of the Attorney General of Canada, in any case in which public lands are claimed by any such person, to ascertain, determine and declare who is the person to whom the patent for such lands ought to issue.

2. The Court shall decide all such cases as in its judgment the justice and equity of the case demand, and shall report its decision to the Governor in Council; and letters patent may issue granting the lands in question in accordance with such decision. 54-55 V., c. 26, s. 5.

22. The letters patent so issued shall have the same and no other effect and operation, in regard to any charge, encumbrance, lien, matter or thing upon or affecting the lands so granted, as or than letters patent therefor in favour of the original claimant would have had, save only as establishing the claim of the party in whose favour they are issued to the lands to which they relate as the heir, devisee, representative, or assignee of, or as otherwise representing the original claimant.

2. Neither the decision of the Court nor the issuing of the letters patent on such decision shall extend to or in any way affect

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affect any claim of the party in whose favour such decision is given or such letters patent are issued, or of any other party, to any lands other than those to which such decision expressly relates, and which are mentioned and described in the report and letters patent; but such claims to other lands shall continue and remain as if such decision and report had not been made and such letters patent had not been issued. 54-55 V., c. 26, s. 5.

23. The Exchequer Court shall have jurisdiction as well between subject and subject as otherwise,—

(a) in all cases of conflicting applications for any patent of invention, or for the registration of any copyright, trade mark or industrial design;
(b) in all cases in which it is sought to impeach or annul any patent of invention, or to have any entry in any register of copyrights, trade marks or industrial designs made, expunged, varied or rectified; and,
(c) in all other cases in which a remedy is sought respecting the infringement of any patent of invention, copyright, trade mark or industrial design. 54-55 V., c. 26, s. 4.

24. The Exchequer Court shall have jurisdiction, upon application of the Attorney General of Canada, to entertain suits for relief by way of interpleader in all cases where the Crown or any officer or servant of the Crown as such is under liability for any debt, money, goods or chattels for or in respect of which the Attorney General expects that the Crown or its officers or servant will be sued or proceeded against by two or more persons making adverse claims thereto, and where His Majesty's High Court of Justice in England could, on the thirtieth day of September, one thousand eight hundred and ninety-one, grant such relief to any person applying therefor in like circumstances. 54-55 V., c. 26, s. 6.

25. Whenever in any Act of the Parliament of Canada, or in any order of the Governor in Council, or in any document it is provided or declared that any matter may be referred to the official arbitrators acting under the Act respecting the Official Arbitrators, or that any powers shall be vested in, or duty performed by such arbitrators, such matters shall be referred to the Exchequer Court, and such powers shall be vested in and such duties performed by the Court; and whenever the expression 'official arbitrators' or 'official arbitrator' occurs in any such Act, order or document, it shall be construed as meaning the Exchequer Court. 50-51 V., c. 16, s. 58.

26. The Exchequer Court shall have jurisdiction as regards any railway, or section of a railway, not wholly within one province.
province, and as regards any railway otherwise subject to the legislative authority of the Parliament of Canada, to order and decree in such manner as it may prescribe,—

(a) the sale of such railway or section of railway, and of all the rolling stock, equipment and other accessories thereof,

(i) at the instance of the Minister of Railways and Canals, or, with the approval of the Board of Railway Commissioners for Canada, at the instance of any creditor of any person or company owning or operating such railway or section, whenever such company has become insolvent, or has for more than thirty days failed to efficiently continue the working or operating of such railway or section or any part thereof, or has become unable so to do,

(ii) at the instance of a creditor of such person or company having a first lien or charge upon the railway or section, or

(iii) at the instance of a holder of a first mortgage of such railway or section; or,

(b) the foreclosure, at the instance of a mortgagee of such railway or section, of the interest of the person or company owning or entitled to such railway or section, with the rolling stock, equipment and other accessories thereof, or the equity of redemption therein, whenever in like circumstances of default the High Court of Justice in England can so order or decree with respect to mortgaged lands situate in England.

2. Nothing in this section contained shall in any way affect the provisions of the Railway Act as respects the power of a company to secure its bonds, debentures or other securities by a mortgage upon its property, assets, rents, and revenues, or as respects the powers, privileges, preferences, priorities and restrictions by the said Act authorized to be granted or imposed upon the holders of said bonds, debentures or other securities.

3. The Exchequer Court, in any of the cases in this section mentioned, shall have all the powers for the appointment of a receiver either before or after default, the interim preservation of the property, the delivery of possession, the making of all necessary inquiries, the taking of accounts, the settling and determining of claims and priorities of creditors, the taxation and payment of costs, and generally the taking and directing of all such proceedings requisite and necessary to enforce its order or decree and render it effective, as in mortgage actions the High Court of Justice in England, or any division, judge or officer thereof, may exercise.

4. A receiver so appointed shall take possession of such railway, or of such section, and of all the railway stock, equipment and other accessories thereof, and shall, under the direction of the Court, carry on the working and operating of the railroad.
the railway or section or any part thereof, and shall keep and maintain the road, rolling stock, equipment and other accessories thereof in good condition, and renew the same or any part thereof, and, generally shall do all acts necessary for the preservation, working, maintenance, administration and operation of the railway or section, and shall, in the name of the company, institute or defend any suits or actions on its behalf.

5. The receiver may also, if the Court, either upon his appointment or subsequently, so directs, do all acts necessary for the completion of the construction or equipment of the railway or section.

6. The remuneration of the receiver shall be fixed by the Court, and shall, as also shall the expenses lawfully incurred by him as receiver, including the expenses of working, operation, maintenance, renewal and completion, and of the institution and defence of actions aforesaid, be a debt of the company and be the first charge upon the railway or section, and upon the rolling stock, equipment, accessories and earnings thereof. 3 E. VII., c. 21, ss. 1, 2, 3, 4 and 5.

27. A railway company is insolvent within the meaning of the last preceding section,—

(a) if it is unable to pay its debts as they become due;

(b) if it calls a meeting of its creditors for the purpose of compounding with them;

(c) if it exhibits a statement showing its inability to meet its liabilities;

(d) if it has otherwise acknowledged its insolvency;

(e) if it assigns, removes or disposes of, or attempts or is about to assign, remove or dispose of, any of its property, with intent to defraud, defeat or delay its creditors, or any of them;

(f) if, with such intent, it has procured its money, goods, chattels, lands or property to be seized, levied on or taken under or by any process or execution;

(g) if it has made any general conveyance or assignment of its property for the benefit of its creditors, or if, being unable to meet its liabilities in full, it makes any sale or conveyance of the whole or the main part of its stock in trade or assets, without the consent of its creditors, or without satisfying their claims: Provided that the taking possession of any railway or section thereof by trustees for bondholders, by virtue of the powers contained in any mortgage deed made to secure the bondholders under the provisions in that behalf of the Railway Act, shall not be deemed a general conveyance or assignment, or a sale or conveyance, within the meaning of this paragraph; or,

(h) if it permits any execution issued against it, under which any of its goods, chattels, land or property, is seized, levied

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levied upon or taken in execution, to remain unsatisfied till within four days of the time fixed by the sheriff or proper officer for the sale thereof, or for fifteen days after such seizure.

2. A company is deemed unable to pay its debts as they become due, whenever a creditor, to whom the company is indebted in a sum exceeding two hundred dollars then due, has served on the company, in the manner in which process may legally be served on it in the place where service is made, a demand in writing, requiring the company to pay the sum so due, and the company has, for fifteen days next succeeding the service of the demand, neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor. 3 E. VII., c. 21, s. 6.

28. Nothing in the two last preceding sections contained shall affect the present jurisdiction of any court of a province in any such matters as aforesaid affecting railways, or sections thereof, wholly within the province, and the superior courts of a province now possessing such jurisdiction shall continue as regards such railways and sections of railways to have concurrent jurisdiction with the Exchequer Court in all matters within the purview of this Act. 3 E. VII., c. 21, s. 1.

29. Nothing in the three last preceding sections shall apply to or authorize proceedings against the Central Ontario Railway, nor shall it apply to or affect any action or proceeding pending on the twenty-fourth day of October, one thousand nine hundred and three, in any court on behalf of or against the Central Ontario Railway Company, or any judgment against the said Company, which was appealed against on or before the said date. 3 E. VII., c. 21, s. 8.

30. Notwithstanding the repeal of the Act passed in the session held in the sixty-second and sixty-third years of the reign of Her late Majesty Queen Victoria, chapter forty-four, intituled An Act respecting the jurisdiction of the Exchequer Court as to Railway Debts, all proceedings begun under the provisions of the said Act shall be continued and terminated as if the said repeal had not taken place. 3 E. VII., c. 21, s. 7.

31. The Exchequer Court shall have and possess concurrent original jurisdiction in Canada,—

(a) in all cases relating to the revenue in which it is sought to enforce any law of Canada, including actions, suits and proceedings by way of information to enforce penalties and proceedings by way of information in rem, and as well in qui tam suits for penalties or forfeiture as where the suit is on behalf of the Crown alone;

(b) in all cases in which it is sought at the instance of the Attorney General of Canada, to impeach or annul any patent
patent of invention, or any patent, lease or other instrument respecting lands;
(c) in all cases in which demand is made or relief sought against any officer of the Crown for anything done or omitted to be done in the performance of his duty as such officer; and,
(d) in all other actions and suits of a civil nature at common law or equity in which the Crown is plaintiff or petitioner. 50-51 V., c. 16, s. 17.

32. When the legislature of any province of Canada has passed an Act agreeing that the Exchequer Court shall have jurisdiction in cases of controversies,—
(a) between the Dominion of Canada and such province;
(b) between such province and any other province or provinces which have passed a like Act; the Exchequer Court shall have jurisdiction to determine such controversies.

2. An appeal shall lie in such cases from the Exchequer Court to the Supreme Court. R.S., c. 135, s. 72.

LIMITATIONS.

33. The laws relating to prescription and the limitation of actions in force in any province between subject and subject shall, subject to the provisions of any Act of the Parliament of Canada, apply to any proceeding against the Crown in respect of any cause of action arising in such province. 50-51 V., c. 16, s. 18.

34. The Court shall not entertain any claim in respect of which the claimant has a suit or process against any person pending in any other court, if such person, at the time when the cause of action alleged in such suit or process arose, was, in respect thereof, acting under the authority of the Crown. 50-51 V., c. 16, s. 19.

SITTINGS OF THE COURT.

35. Subject to rules of court, the judge of the Exchequer Court may sit and act at any time and at any place in Canada for the transaction of the business of the Exchequer Court, or any part thereof. 50-51 V., c. 16, s. 20.

PROCEDURE.

36. All provisions of law and all rules and orders regulating the practice and procedure including evidence in the Exchequer Court, now existing and in force shall, so far as they are consistent with the provisions of this Act, remain in force until altered or rescinded or otherwise determined. 50-51 V., c. 16, s. 22.

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37. The practice and procedure in suits, actions and matters in the Exchequer Court, shall, so far as they are applicable, and unless it is otherwise provided for by this Act, or by general rules made in pursuance of this Act, be regulated by the practice and procedure in similar suits, actions and matters in His Majesty's High Court of Justice in England, on the first day of October, one thousand eight hundred and eighty-seven. 50-51 V., c. 16, s. 21.

38. Any claim against the Crown may be prosecuted by petition of right, or may be referred to the Court by the head of the department in connection with the administration of which the claim arises.

2. If any such claim is so referred no fiat shall be given on any petition of right in respect thereof. 50-51 V., c. 16, s. 23.

39. The head of any department in connection with the administration of which any claim arises may, instead of referring such claim to the Court for adjudication thereon, refer the same to one of the official referees for examination and report, both as to the matters of fact involved and as to the amount of damages, if any, sustained; and such official referee shall make such examination upon the oath or affirmation of witnesses, and shall report his findings upon the questions of fact and upon the amount of damages, if any, sustained and the principles upon which such amount has been computed. 50-51 V., c. 16, s. 54.

40. Issues of fact and inquisitions in the Exchequer Court shall be tried by the Judge without a jury. 50-51 V., c. 16, s. 24.

41. The trial of any issue of fact or inquisition may, by order of the Court, take place partly at one place and partly at another; and the evidence of any witness may, by like order, be taken by commission, or on examination or affidavit. 50-51 V., c. 16, s. 25.

42. The Court may, for the purpose of taking accounts or making inquiries, or for the determination of any question or issue of fact, refer any cause, claim, matter or petition to the Registrar or any other officer of the Court, or to any official or special referee for inquiry and report, and may also, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such cause, matter or petition, wholly or partially, with the assistance of such assessor or assessors. 52 V., c. 38, s. 1.

43. By direction of the Court the testimony of any witness may be taken down in shorthand by a stenographer who shall
be previously sworn faithfully to take down and transcribe the testimony; and the Court may make such order for the payment of the costs thereby incurred as is just. 50-51 V., c. 16, s. 27.

SECURITY FOR COSTS.

44. If an order on any petition, reference or proceeding against the Crown, on application by or on behalf of the Attorney General of Canada, is made for security for costs, and the suppliant, claimant or petitioner fails to give security to the satisfaction of the judge for the payment of costs, in the event of the judgment being against such suppliant, claimant or petitioner, or of its not exceeding the sum tendered by the Crown, all further proceedings on such petition, reference or proceeding shall be stayed until otherwise ordered. 50-51 1. V., c. 16, s. 28.

TENDER.

45. The Crown may, in the matter of any petition, reference or proceeding, plead a tender without paying the money tendered into Court. 50-51 1. V., c. 16, s. 29.

46. Every tender of a sum of money on behalf of the Crown shall be deemed to be legally made if made by a written offer to pay such sum, given under the hand of a minister of the Crown, or some person acting for him in that behalf, and notified to the person having such claim. 50-51 V., c. 16, s. 30.

RULES FOR ADJUDICATING UPON CLAIMS.

47. The Court, in determining the amount to be paid to any claimant for any land or property taken for the purpose of any public work, or for injury done to any land or property, shall estimate or assess the value or amount thereof at the time when the land or property was taken, or the injury complained of was occasioned. 50-51 V., c. 16, s. 32.

48. In adjudicating upon any claim arising out of any contract in writing the Court shall decide in accordance with the stipulations in such contract, and shall not allow,—

(a) compensation to any claimant on the ground that he expended a larger sum of money in the performance of his contract than the amount stipulated for therein; or,

(b) interest on any sum of money which it considers to be due to such claimant, in the absence of any contract in writing stipulating for payment of such interest or of a statute providing in such a case for the payment of interest by the Crown. 50-51 V., c. 16, s. 33.

49.
49. No clause in any such contract in which a drawback or penalty is stipulated for on account of the non-performance of any condition thereof, or on account of any neglect to complete any public work or to fulfil any covenant in such contract, shall be considered as comminatory, but it shall be construed as importing an assessment by mutual consent of the damages caused by such non-performance or neglect. 50-51 V., c. 16, s. 34.

50. The Court shall, in determining the compensation to be made to any person for land taken for or injuriously affected by the construction of any public work, take into account and consideration, by way of set-off, any advantage or benefit, special or general, accrued or likely to accrue, by the construction and operation of such public work, to such person in respect of any lands held by him with the lands so taken or injuriously affected. 54-55 V., c. 26, s. 7.

**EFFECT OF PAYMENT OR JUDGMENT.**

51. The payment of the amount due by any judgment of the Court shall be a full discharge to the Crown of all claim and demand touching any of the matters involved in the controversy. 50-51 V., c. 16, s. 35.

52. Any final judgment against the claimant on any claim prosecuted as provided in this Act shall for ever bar any further claim or demand against the Crown arising out of the matters involved in the controversy. 50-51 V., c. 16, s. 36.

**INTEREST.**

53. The Minister of Finance may allow and pay to any person entitled by the judgment of the Court to any moneys or costs, interest thereon at a rate not exceeding four per centum from the date of such judgment until such moneys or costs are paid. 52 V., c. 38, s. 4.

**EXECUTION.**

54. In addition to any writs of execution which are prescribed by general rules or orders, the Court may issue writs of execution against the person or the goods, lands or other property of any party, of the same tenor and effect as those which may be issued out of any of the superior courts of the province in which any judgment or order is to be executed; and when, by the law of the province, an order of a judge is required for the issue of any writ of execution, the judge of the court may make a similar order, as regards like executions to issue out of the court. 50-51 V., c. 16, s. 37.
55. No person shall be taken into custody under process of execution for debt issued out of the Court at the suit of the Crown, unless he might be taken into custody under the laws of the province in which he happens to be, in a similar case between subject and subject; and any person taken into custody under such process may be discharged from imprisonment upon the same grounds as would entitle him to be discharged under the laws in force relating to imprisonment for debt in the province in which he is in custody. 50-51 V., c. 16, s. 38.

56. All writs of execution against real or personal property, as well those prescribed by general rules and orders as those hereinbefore authorized, shall, unless otherwise provided by general rule or order, be executed, as regards the property liable to execution and the mode of seizure and sale, as nearly as possible in the same manner as similar writs, issued out of the superior courts of the province in which the property to be seized is situated, are, by the law of the province, required to be executed; and such writs shall bind property in the same manner as such similar writs, and the rights of purchasers thereunder shall be the same as those of purchasers under such similar writs. 50-51 V., c. 16, s. 39.

57. Every claim made by any person to property seized under a writ of execution issued out of the court, or to the proceeds of the sale of such property, shall, unless otherwise provided by general rule or order, be heard and disposed of, as nearly as may be, according to the procedure applicable to like claims to property seized under similar writs of execution issued out of the courts of the province. 50-51 V., c. 16, s. 40.

SHERIFFS' FEES.

58. Sheriffs and coroners shall receive and take to their own use such fees as the Judge of the Exchequer Court, by general order, shall fix and determine. 50-51 V., c. 16, s. 41.

EVIDENCE.

59. All persons authorized to administer affidavits to be used in any of the superior courts of any province may administer oaths, affidavits and affirmations in such province to be used in the Exchequer Court. R.S., c. 135, s. 91.

60. The Governor in Council may, by commission, from time to time, empower such persons as he thinks necessary, within or out of Canada, to administer oaths, and to take and receive affidavits, declarations and affirmations in or concerning any proceeding had or to be had in the Exchequer Court.

2. Every such oath, affidavit, declaration or affirmation so taken or made shall be as valid and of the like effect, to all intents, as valid as if

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taken before the Court.

3. Every commissioner so empowered shall be styled a commissioner for administering oaths in the Exchequer Court of Canada. R.S., c. 135, s. 92.

61. Any oath, affidavit, affirmation or declaration concerning any proceeding had or to be had in the Exchequer Court administered, sworn, affirmed or made out of Canada shall be as valid and of like effect to all intents as if it had been administered, sworn, affirmed or made before a commissioner appointed under this Act, if it is so administered, sworn, affirmed or made out of Canada before,—

(a) any commissioner authorized to take affidavits to be used in His Majesty's High Court of Justice in England; or,

(b) any notary public and certified under his hand and official seal; or,

(c) a mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland or in any colony or possession of His Majesty out of Canada or in any foreign country and certified under the common seal of such city, borough, or town corporate; or,

(d) a judge of any court of superior jurisdiction in any colony or possession of His Majesty or dependency of the Crown out of Canada; or,

(e) any consul, vice-consul, acting consul, pro-consul or consular agent of His Majesty exercising his functions in any foreign place and certified under his official seal. R.S., c. 135, s. 93.

62. Every document purporting to have affixed, imprinted or subscribed thereon or thereto the signature of,—

(a) any commissioner appointed under this Act; or,

(b) any person authorized to take affidavits to be used in any of the superior courts of any province; or,

(c) any commissioner authorized to receive affidavits to be used in His Majesty's High Court of Justice in England; or,

(d) any notary public under his official seal; or,

(e) any mayor or chief magistrate of any city, borough or town corporate in Great Britain or Ireland or in any colony or possession of His Majesty out of Canada or in a foreign country, under the common seal of the corporation; or,

(f) any judge of any court of superior jurisdiction in any colony or possession of His Majesty, or dependency of the Crown out of Canada under the seal of the court of which he is such judge; or,

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(g) any consul, vice-consul, acting consul, pro-consul or consul
sular agent of His Majesty exercising his functions in any
foreign place under his official seal;
in testimony of any oath, affidavit, affirmation or declaration
having been administered, sworn, affirmed or made by or before
him, shall be admitted in evidence without proof of any such
signature or seal or of the official character of such person.
R.S., c. 135, s. 94.

63. No informality in the heading or other formal requisites
of any affidavit, declaration or affirmation, made or taken before
any person under any provision of this or any other Act, shall
be an objection to its reception in evidence in the Exchequer
Court, if the Court or Judge thinks proper to receive it; and
if such affidavit is actually sworn to, declared or affirmed by
the person making the same before any person duly authorized
thereto, and is received in evidence, no such informality shall be
set up to defeat an indictment for perjury. R.S., c. 135, s. 95.

64. If any party to any proceeding had or to be had in the
Exchequer Court is desirous of having therein the evidence of
any person, whether a party or not, or whether resident within
or out of Canada, and, if in the opinion of the Court or the
Judge thereof, it is, owing to the absence, age or infirmity, or
the distance of the residence of such person from the place of
trial, or the expense of taking his evidence otherwise, or for any
other reason, convenient so to do, the Court or the Judge may,
on the application of such party, order the examination of
any such person upon oath, by interrogatories or otherwise,
before the Registrar of the Court, or any commissioner for
taking affidavits in the Court, or any other person or persons
to be named in such order, or may order the issue of a commis-
ion under the seal of the Court for such examination.

2. The Court or the Judge may, by the same or any subse-
dent order, give all such directions touching the time, place
and manner of such examination, the attendance of the
witnesses and the production of papers thereat, and all matters
connected therewith, as appears reasonable. R.S., c. 135, s. 96.

65. Every person authorized to take the examination of
any witness in pursuance of any of the provisions of this Act,
shall take such examination upon the oath of the witness, or
upon affirmation, as provided in the Canada Evidence Act.
R.S., c. 135, s. 97; 56 V., c. 31, ss. 23 and 24.

66. The Court, or the Judge may, if it is considered
for the ends of justice expedient so to do, order the further
examination before either the Court, or the Judge thereof,
or other person, of any witness; and if the party on whose
behalf the evidence is tendered neglects or refuses to obtain
such further examination, the Court or Judge, in its or his
discretion,
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discretion, may decline to act on the evidence. R.S., c. 135, s. 98.

67. Such notice of the time and place of the examination as is prescribed in the order, shall be given to the adverse party. R.S., c. 135, s. 99.

68. When any order is made for the examination of a witness, and a copy of the order, together with a notice of the time and place of attendance, signed by the person or one of the persons to take the examination, has been duly served on the witness within Canada, and he has been tendered his legal fees for attendance and travel, his refusal or neglect to attend for examination or to answer any proper question put to him on examination, or to produce any paper which he has been notified to produce, shall be deemed a contempt of court and may be punished by the same process as other contempts of court; but he shall not be compelled to produce any paper which he would not be compelled to produce, or to answer any question which he would not be bound to answer in court. R.S., c. 135, s. 100.

69. If the parties in any case pending consent in writing that a witness may be examined within or out of Canada by interrogatories or otherwise, such consent and the proceedings had thereunder shall be as valid in all respects as if an order had been made and the proceedings had thereunder. R.S., c. 135, s. 101.

70. All examinations taken in Canada, in pursuance of any of the provisions of this Act, shall be returned to the Court; and the depositions, certified under the hands of the person or one of the persons taking the same, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 135, s. 102.

71. All examinations taken out of Canada, in pursuance of any of the provisions of this Act, shall be proved by affidavit of the due taking of such examinations, sworn before some commissioner or other person authorized under this or any other Act to take such affidavit, at the place where such examination has been taken, and shall be returned to the Court; and the depositions so returned, together with such affidavit, and the order or commission, closed under the hand and seal of the person or one of the persons authorized to take the examination, may, without further proof, be used in evidence, saving all just exceptions. R.S., c. 135, s. 103.

72. When any examination has been returned, any party may give notice of such return, and no objection to the examination being read shall have effect, unless taken within the

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the time and in the manner prescribed by general order. R.S., c. 135, s. 104.

**GENERAL.**

73. The process of the Exchequer Court shall be tested in the name of the Judge of the Court and shall run throughout Canada. 50-51 V., c. 16, s. 42.

74. The process of the Court shall be directed to the sheriff of any county or other judicial division into which any province is divided; and the sheriffs of the said respective counties or divisions shall be deemed and taken to be ex officio officers of the Exchequer Court, and shall perform the duties and functions of sheriffs in connection with the Court.

2. In any case where the sheriff is disqualified, such process shall be directed to any of the coroners of the county or district. 50-51 V., c. 16, s. 43.

75. When a defendant, whether a British subject or a foreigner, is out of the jurisdiction of the Exchequer Court and whether in His Majesty's dominions or in a foreign country, the Court or the Judge, upon application, supported by affidavit or other evidence, stating that, in the belief of the deponent, the plaintiff has a good cause of action, and showing in what place or country such defendant is or probably may be found, may order that a notice of the information, petition of right, or statement of claim be served on the defendant in such place or country or within such limits as the Court or the Judge thinks fit to direct.

2. The order shall in such case limit a time, depending on the place of service, within which the defendant is to file his statement in defence, plea, answer, exception or demurrer, or otherwise make his defence, according to the practice applicable to the particular case, or obtain from the Court or Judge further time to do so.

3. Upon service being effected as authorized by the order, the Court shall have jurisdiction to proceed and adjudicate in the cause or matter to all intents and purposes in the same manner, to the same extent, and with the like effect as if the defendant had been duly served within the jurisdiction of the Court. 2 E. VII., c. 8, s. 3.

76. Every commissioner for administering oaths in the Exchequer Court, who resides within Canada, may take and receive acknowledgments or recognizances of bail, and all other recognizances in the Exchequer Court. 50-51 V., c. 16, s. 44.

77. An order for payment of money, whether for costs or otherwise, may be enforced by the same writs of execution as a judgment. 50-51 V., c. 16, s. 45.

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78. No attachment as for contempt shall issue for the non-payment of money only. 50-51 V., c. 16, s. 46.

79. Any moneys or costs awarded to the Crown shall be paid to the Minister of Finance, and he shall pay, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, any moneys or costs awarded to any person against the Crown. 50-51 V., c. 16, s. 47.

80. All fees payable to the Registrar under the provisions of this Act shall be paid by means of stamps, which shall be issued for that purpose by the Minister of Inland Revenue, who shall regulate the sale thereof; and the proceeds of the sale of such stamps shall be paid into the Consolidated Revenue Fund of Canada. 50-51 V., c. 16, s. 48.

81. The Judge of the Court shall file with the Registrar a copy of the reason, if any, given by him for any judgment pronounced by him. 50-51 V., c. 16, s. 49.

APPEALS.

82. Any party to any action, suit, cause, matter or other judicial proceeding, in which the actual amount in controversy exceeds five hundred dollars, who is dissatisfied with any final judgment, or with any judgment upon any demurrer or point of law raised by the pleadings, given therein by the Exchequer Court, in virtue of any jurisdiction now or hereafter, in any manner, vested in the Court and who is desirous of appealing against such judgment, may, within thirty days from the day on which such judgment has been given, or within such further time as the Judge of such Court allows, deposit with the Registrar of the Supreme Court the sum of fifty dollars by way of security for costs.

2. The Registrar shall thereupon set the appeal down for hearing by the Supreme Court at the nearest convenient time according to the rules in that behalf of the Supreme Court, and the party appealing shall within ten days after the said appeal has been so set down as aforesaid, or within such other time as the Court or a judge thereof shall allow, give to the parties affected by the appeal, or their respective attorneys or solicitors, by whom such parties were represented before the Exchequer Court, a notice in writing that the case has been so set down to be heard in appeal as aforesaid, and the said appeal shall thereupon be heard and determined by the Supreme Court.

3. In such notice the said party so appealing may, if he so desires, limit the subject of the appeal to any special defined question or questions.

4. A judgment shall be considered final for the purpose of this section if it determines the rights of the parties, except as to the amount of the damages or the amount of liability. 53 V., c. 35, s. 1; 2 E. VII., c. 8, s. 2; 6 E. VII., c. 11, s. 1.

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83. No appeal shall lie from any judgment of the Exchequer Court in any action, suit, cause, matter or other judicial proceeding, wherein the actual amount in controversy does not exceed the sum or value of five hundred dollars, unless such appeal is allowed by a judge of the Supreme Court, and such action, suit, cause, matter or other judicial proceeding,—

(a) involves the question of the validity of an Act of the Parliament of Canada, or of the legislature of any of the provinces of Canada, or of an ordinance or act of any of the councils or legislative bodies of any of the territories or districts of Canada; or,

(b) relates to any fee of office, duty, rent, revenue or any sum of money payable to His Majesty, or to any title to lands, tenements or annual rents, or to any question affecting any patent of invention, copyright, trade mark or industrial design, or to any matter or thing where rights in future might be bound. 50-51 V., c. 16, s. 52; 54-55 V., c. 26, s. 8.

84. Notwithstanding anything in this Act contained, an appeal shall lie on behalf of the Crown from any final judgment given by the Court in any action, suit, cause, matter or other judicial proceeding wherein the Crown is a party, in which the actual amount in controversy does not exceed five hundred dollars; if,—

(a) such final judgment or the principle affirmed thereby affects or is likely to affect any case or class of cases then pending or likely to be instituted wherein the aggregate amount claimed or to be claimed exceeds or will probably exceed five hundred dollars; or,

(b) in the opinion of the Attorney General of Canada, certified in writing, the principle affirmed by the decision is of general public importance; and,

(c) such appeal is allowed by a judge of the Supreme Court.

2. In case of such appeal being allowed by a judge of the Supreme Court, he may impose such terms as to costs and otherwise as he thinks the justice of the case requires. 2 E. VII., c. 8, s. 4.

85. If the appeal is by or on behalf of the Crown no deposit shall be necessary, but the person acting for the Crown shall file with the Registrar of the Supreme Court a notice stating that the Crown is dissatisfied with such decision, and intends to appeal against the same, and thereupon the like proceedings shall be had as if such notice were a deposit by way of security for costs. 50-51 V., c. 16, s. 53.

86. Every appeal from the Exchequer Court set down for hearing before the Supreme Court shall be entered by the Registrar on the list for the province in which the action, matter or proceeding, the subject of the appeal, was tried or heard.

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heard by the Exchequer Court; or if such action, matter or proceeding was partly heard or tried in one province and partly in another, then on such list as the Registrar thinks most convenient for the parties to the appeal. 54-55 V., c. 26, s. 9.

RULES AND ORDERS.

87. The Judge of the Exchequer Court may, from time to time, make general rules and orders,—
(a) for regulating the procedure of and in the Exchequer Court;
(b) for the effectual execution and working of this Act, and the attainment of the intention and objects thereof;
(c) for the effectual execution and working in respect to proceedings in such Court or before such Judge, of any Act giving jurisdiction to such Court or Judge and the attainment of the intention and objects of any such Act;
(d) for fixing the fees and costs to be taxed and allowed to, and received and taken by, and the rights and duties of the officers of the said Court; and,
(e) for awarding and regulating costs in such Court in favour of or against the Crown, as well as the subject. 52 V., c. 38, s. 2.

88. Such rules and orders may extend to any matter of procedure or otherwise, not provided for by any Act, but for which it is found necessary to provide in order to ensure their proper working and the better attainment of the objects thereof.

2. Copies of all such rules and orders shall be laid before both Houses of Parliament within ten days after the opening of the session next after the making thereof.

3. All such rules and orders and every portion of the same not inconsistent with the express provisions of any Act shall have and continue to have force and effect as if herein enacted, unless during such session an address of either the Senate or House of Commons shall be passed for the repeal of the same or of any portion thereof, in which case the same or such portion shall be and become repealed: Provided that the Governor in Council may, by proclamation, published in the Canada Gazette, or either House of Parliament may, by any resolution passed at any time within thirty days after such rules and orders have been laid before Parliament, suspend any rule or order made under this Act; and such rule or order shall, thereupon, cease to have force and effect until the end of the then next session of Parliament. 50-51 V., c. 16, s. 56; 52 V., c. 38, s. 2.
CHAPTER 141.

An Act to provide for the exercise of Admiralty Jurisdiction within Canada in accordance with the Colonial Courts of Admiralty Act, 1890.

Note.—This consolidation of the Admiralty Act, 1891, and amending Acts was duly approved by His Majesty pursuant to section 4 of the Colonial Courts of Admiralty Act, 1890, (Imperial).

SHORT TITLE.

1. This Act may be cited as the Admiralty Act. 54-55 V., c. 29, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, "the Exchequer Court" or "the Court" means the Exchequer Court of Canada. 54-55 V., c. 29, s. 2.

JURISDICTION.

3. The Exchequer Court is and shall be, within Canada, a Colonial Court of Admiralty, and, as a Court of Admiralty, shall, within Canada, have and exercise all the jurisdiction, powers and authority conferred by the Colonial Courts of Admiralty Act, 1890, and by this Act. 54-55 V., c. 29, s. 3.

4. Such jurisdiction, powers and authority shall be exercisable and exercised by the Exchequer Court throughout Canada, and the waters thereof, whether tidal or non-tidal, or naturally navigable or artificially made so, and all persons shall, as well in such parts of Canada as have heretofore been beyond the reach of the process of any Vice-Admiralty court as elsewhere therein, have all rights and remedies in all matters, including cases of contract and tort and proceedings in rem and in personam, arising out of or connected with navigation, shipping, trade or commerce, which may be had or enforced in any Colonial Court of Admiralty under the Colonial Courts of Admiralty Act, 1890. 54-55 V., c. 29, s. 4.

5. Nothing herein contained shall limit, lessen or impair the jurisdiction of the Judge of the Exchequer Court in respect of the Admiralty jurisdiction of the Court or otherwise. 54-55 V., c. 29, s. 24.

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Admiralty.

ADmiralty districts and registries.

6. The Governor in Council may from time to time,—
(a) constitute any part of Canada an Admiralty district for the purposes of this Act;
(b) assign a name to any such district and change such name as he may think proper;
(c) fix and change the limits of any such district;
(d) establish at some place within any Admiralty district a registry of the Exchequer Court on its Admiralty side; and,
(e) divide the territory comprised in any Admiralty district into two or more registry divisions, and establish a registry of the Exchequer Court on its Admiralty side at some place in each of such divisions. 63-64 V., c. 45, s. 1.

7. Until otherwise provided by the Governor in Council, the following provinces shall each constitute an Admiralty district for the purposes of this Act, and a registry of the Exchequer Court on its Admiralty side shall be established and maintained within such districts at the places following, that is to say:—
(a) The province of Ontario, under the name of 'The Toronto Admiralty District,' with a registry at the city of Toronto;
(b) The province of Quebec, with a registry at the city of Quebec;
(c) The province of Nova Scotia, with a registry at the city of Halifax;
(d) The province of New Brunswick, with a registry at the city of St. John;
(e) The province of British Columbia, with a registry at the city of Victoria;
(f) The province of Prince Edward Island, with a registry at the city of Charlottetown. 54-55 V., c. 29, ss. 17 and 18.

Local judges in Admiralty.

Tenure.

How designated.

Oath of office.

8. The Governor in Council may, from time to time, appoint any judge of a superior or county court, or any barrister of not less than seven years' standing, to be a local judge in Admiralty of the Exchequer Court in and for any Admiralty district.

2. Every such local judge shall hold office during good behaviour, but shall be removable by the Governor General, on address of the Senate and House of Commons.

3. Such judge shall be designated a local judge in Admiralty of the Exchequer Court. 54-55 V., c. 29, s. 6.

9. Every such local judge in Admiralty shall, previously to his entering on the duties of his office, take, before the judge
of the Exchequer Court or a judge of any superior court, an oath in the form following, that is to say:—

'I,  do solemnly and sincerely swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as local judge in Admiralty in and for the Admiralty district of (as the case may be). So help me God.' 54-55 V., c. 29, s. 7.

10. Every local judge in Admiralty shall, within the Admiralty district for which he is appointed, have and exercise the jurisdiction, and the powers and authority relating thereto, of the judge of the Exchequer Court in respect of the Admiralty jurisdiction of such court. 54-55 V., c. 29, s. 9.

11. A local judge in Admiralty may, from time to time, with the approval of the Governor in Council, appoint a deputy judge; and such deputy judge shall have and exercise all such jurisdiction, powers and authority as are possessed by the local judge.

2. The appointment of a deputy judge shall not be determined by the occurrence of a vacancy in the office of the judge.

3. A local judge in Admiralty may, with the approval of the Governor in Council, at any time revoke the appointment of a deputy judge. 54-55 V., c. 29, s. 10.

12. The Governor in Council may, from time to time, appoint, for any district or portion of a district, a surrogate judge or judges; and any such surrogate judge shall have such jurisdiction, powers and authority, and be paid such fees, as are, from time to time, prescribed by general rules or orders.

2. A surrogate judge shall hold office during pleasure; and his appointment shall not be determined by the occurrence of a vacancy in the office of the local judge of his district. 54-55 V., c. 29, s. 11.

13. Every deputy and surrogate judge shall, previously to entering on the duties of office, take, before the judge of the Exchequer Court, or the judge of any superior court, an oath similar in form to that to be taken by a local judge. 54-55 V., c. 29, s. 12.

14. The Governor in Council may from time to time appoint for any district or for any registry division of any district a registrar, a marshal and such other officers and clerks as are necessary. 63-64 V., c. 45, s. 2.

15. Every person who, at the coming into force of the Colonial Courts of Admiralty Act. 1890, held in Canada the office of judge of a Vice-Admiralty court, shall, until his death, resign his commission. 2351 R.S., 1906.
resignation or removal from such office, or from the office by virtue of which he is such judge of a Vice-Admiralty court, or until an arrangement is made with him under the seventeenth section of the said Act, have and exercise, within the Admiralty district corresponding to the limits of his former jurisdiction as such judge of a court of Vice-Admiralty, all the jurisdiction, powers and authority of a local judge in Admiralty. 54-55 V., c. 29, s. 19.

As to officers of Vice-Admiralty courts.

16. Every person who, at the coming into force of the Colonial Courts of Admiralty Act, 1890, was a registrar, marshal or other officer of a Vice-Admiralty court in Canada, shall, during the pleasure of the Governor in Council, and within the Admiralty district corresponding to the limits of the jurisdiction of such Vice-Admiralty court, have and exercise the like office in the Exchequer Court in respect of its Admiralty jurisdiction, and shall, subject to any general rule or order, have the like powers and authority, and perform the like duties, as he might have had or performed, as such registrar, marshal or other officer of a Vice-Admiralty court. 54-55 V., c. 29, s. 21.

17. The registrar and marshal of the Maritime Court of Ontario holding office respectively on the second day of October, one thousand eight hundred and ninety-one, shall, during the pleasure of the Governor in Council, be the registrar and marshal, respectively, of the Toronto Admiralty district. 54-55 V., c. 29, s. 22.

PROCEDURE.

18. Any suit may be instituted in any registry when,—

(a) the ship or property, the subject of the suit, is at the time of the institution of the suit within the district or division of such registry;

(b) the owner or owners of the ship or property, or the owner or owners of the larger number of shares in the ship, or the managing owner, or the ship’s husband reside at the time of the institution of the suit within the district or division of such registry;

(c) the port of registry of the ship is within the district or division of such registry; or,

(d) the parties so agree by a memorandum signed by them or their attorneys or agents.

2. When a suit has been instituted in any registry, no further suit shall be instituted in respect of the same matter in any other registry of the Court without the leave of the Judge of the Court, which leave may be granted subject to such terms as to costs and otherwise as he directs. 63-64 V., c. 45, s. 3.

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19. When in any district there are more registries than one, all proceedings in any suit shall be carried on in the registry in which the suit is instituted, unless the judge shall otherwise order.

2. Any party to a suit may, at any stage of such suit by leave of the Court, and subject to such terms as to costs or otherwise as the Court directs, remove such suit pending in any registry to any other registry. 54-55 V., c. 29, s. 15; 63-64 V., c. 45, s. 4.

20. Any appeal from any final judgment, decree or order of any local judge in Admiralty, may be made,—

(a) to the Exchequer Court; or,
(b) subject to the provisions of the Exchequer Court Act regarding appeals, direct to the Supreme Court of Canada.

2. On security for costs being first given, and subject to such provisions as are prescribed by general rules and orders, an appeal, with the leave of the Judge of the Exchequer Court or of any local judge, may be made to the Exchequer Court from any interlocutory decree or order of such local judge. 54-55 V., c. 29, s. 14.

21. A scale of costs, charges and fees in Admiralty causes shall be prescribed by general rules or orders. 54-55 V., c. 29, s. 16.

Ontario.

22. In the province of Ontario,—

(a) no right or remedy in rem given by this Act only shall be enforced as against any subsequent bona fide purchaser or mortgagee of a ship, unless the proceedings for the enforcement thereof are begun within ninety days from the time when such right or remedy accrued;

(b) no right or remedy in rem given by this Act, except a right or remedy in rem for the wages of seamen and other persons employed on board a ship on any river, lake, canal or inland water, of which the whole or part is in the province of Ontario shall be enforced as against any bona fide mortgagee under a mortgage duly executed and registered prior to the first day of October, one thousand eight hundred and seventy-eight. R.S., c. 137, s. 14; 54-55 V., c. 29, s. 23.

Rules and Orders.

23. Any rules or orders of court made by the Exchequer Court for regulating the procedure and practice therein, including fees and costs, in the exercise of the jurisdiction conferred by R.S., 1906.

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by the *Colonial Courts of Admiralty Act, 1890*, and this Act, which require the approval of His Majesty in Council, shall be submitted to the Governor in Council for his approval, and, if approved by him, shall be transmitted to His Majesty in Council for his approval. 54-55 V., c. 29, s. 25.

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CHAPTER 142.

An Act respecting proceedings against the Crown by Petition of Right.

1. This Act may be cited as the Petition of Right Act. Short title. R.S., c. 136, s. 1.

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

(a) 'Court' means the Exchequer Court of Canada;
(b) 'judge' means the judge of the said Court;
(c) 'relief' includes every species of relief claimed or prayed for in a petition of right, whether a restitution of any incorporeal right or a return of lands or chattels, or payment of money, or damages, or otherwise. R.S., c. 136, s. 2; 50-51 V., c. 16, sch. A.

3. A petition of right may be addressed to His Majesty to Form of the effect of the form A in the schedule to this Act. R.S., c. 136, s. 3.

4. The petition shall be left with the Secretary of State of Canada, for submission to the Governor General, so that he may consider it and, if he thinks fit, grant his fiat that right be done; and nothing shall be payable by the suppliant on leaving the petition. R.S., c. 136, s. 4; 4 E. VII., c. 27, s. 1.

5. Upon the Governor General's fiat being obtained, the suppliant shall pay to the Secretary of State the sum of two dollars, the amount of the court fee on filing the petition, and thereupon the Secretary of State shall cause the petition and fiat to be filed in the Exchequer Court of Canada, which Court shall have exclusive original cognizance of such petitions, and thereafter a copy of the petition and fiat shall be left at the office of the Attorney General of Canada, with an endorsement thereon to the effect of the form B in the schedule to this Act. R.S., c. 136, s. 5; 4 E. VII., c. 27, s. 2.

6. There shall be no preliminary inquisition finding the truth of the petition, or the right of the suppliant, but the statement in defence or demurrer, or both, shall be filed within 148½ 2355 four Time of filing statement of defence. R.S., 1906.
four weeks after service of the petition, or such further time as is allowed by the Court. R.S., c. 136, s. 6; 50-51 V., c. 16, s. 57.

7. If the petition is presented for the recovery of any real or personal property, or any right in or to the same, which has been granted away or disposed of by or on behalf of His Majesty, or his predecessors, a copy of the petition and flat, endorsed with a notice to the effect of the form C in the schedule to this Act, shall be served upon or left at the last or usual or last known place of abode of the person in the possession or occupation of such property or right.

2. It shall not be necessary to issue any scire facias or other process to such person for the purpose of requiring him to file his statement in defence, but, if he intends to contest the petition, he shall, within four weeks after such copy has been so served or left, or within such further time as is allowed by the Court, file his statement of defence or demurrer, or both. R.S., c. 136, s. 7; 50-51 V., c. 16, s. 57.

8. The statement of defence or demurrer may raise, besides any legal or equitable defences in fact or in law available under this Act, any legal or equitable defences which would have been available if the proceeding had been a suit or action in a competent court between subject and subject; and any grounds of defence which would be sufficient on behalf of His Majesty may be alleged on behalf of any such person as aforesaid. R.S., c. 136, s. 8.

9. In case of default, on behalf of His Majesty or of such other person as aforesaid, to file a statement in defence or demurrer in due time, the suppliant may apply to the Court for an order that the petition may be taken as confessed; and the Court may, on being satisfied that there has been such failure, order that the petition be taken as confessed as against His Majesty, or such other person, and thereupon the suppliant may have judgment, but such judgment may afterwards be set aside by the Court, in its discretion, upon such terms as to the Court seems fit. R.S., c. 136, s. 11; 50-51 V., c. 16, s. 57.

10. The judgment on every petition of right shall be that the suppliant is not entitled to any portion, or that he is entitled to the whole or to some specified portion of the relief sought by his petition, or to such other relief, and upon such terms and conditions, if any, as are just. R.S., c. 136, s. 12.

11. In all cases in which the judgment commonly called a judgment of amoveas manus, was formerly given in England upon a petition of right, a judgment that the suppliant is entitled

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entitled to relief, as herein provided, shall be of the same effect as such judgment of amoveas manus. R.S., c. 136, s. 13.

12. Upon any such petition of right, the suppliant shall be entitled to costs against His Majesty, and also against any other person appearing or pleading, or answering to any such petition of right, in like manner and subject to the same rules, regulations and provisions, restrictions and discretion, so far as they are applicable, as are or may be usually adopted or in force in respect to the right to recover costs in proceedings between subject and subject.

2. For the recovery of any such costs from any such person other than His Majesty, appearing or pleading, or answering, in pursuance hereof, to any such petition of right, such and the same remedies and writs of execution as are authorized for enforcing payment of costs upon rules, orders, decrees or judgments, in personal actions between subject and subject, shall and may be prosecuted, sued out and executed on behalf of such suppliant. R.S., c. 136, s. 14.

13. Whenever, on a petition of right, judgment is given that the suppliant is entitled to relief and there is no appeal, and whenever, upon appeal, judgment is affirmed or given that the suppliant is entitled to relief, and whenever any rule or order is made, entitling the suppliant to costs, the judge shall, upon application after the lapse of fourteen days from the making, giving or affirming of such judgment, rule or order, certify to the Minister of Finance the tenor and purport of the same, to the effect of the form D in the schedule to this Act.

2. Such certificate may be sent to, or left at the Department of Finance. R.S., c. 136, s. 15; 50-51 V., c. 16, s. 57.

SCHEDULE.

FORM A.

PETITION OF RIGHT.

In the Exchequer Court of Canada.
To the King's Most Excellent Majesty:
County (or district) of (place proposed for trial) to wit:
The humble petition of A. B. of , showeth that (state with convenient certainty the facts on which petitioner relies as entitling him to relief).

Conclusion.

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**Conclusion.**

Your suppliant therefore humbly prays that (state the relief claimed).

Dated the day of , A.D. .

(Signed) A. B. or C. D., Counsel for A. B.

**Form B.**

The suppliant prays for a statement in defence on behalf of His Majesty, within four weeks after the date of service hereof, or otherwise that the petition may be taken as confessed.

**Form C.**

To A. B.:

You are hereby required to file a statement in defence to the within petition in His Majesty's Exchequer Court of Canada, within four weeks after the date of service hereof.

Take notice, that if you fail to file a statement in defence or demurrer in due time, the said petition may, as against you, be ordered to be taken as confessed.

Dated the day of , A.D. .

**Form D.**

To the Honourable the Minister of Finance and Receiver General:

Petition of right of A. B. in His Majesty's Exchequer Court of Canada, at I hereby certify, that on the day of , A.D. , it was, by the said court adjudged (or ordered), that the above named suppliant was entitled to, etc.

(Judge’s signature.)

R.S., c. 136, sch.

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CHAPTER 143.

An Act respecting the Expropriation of Lands.

SHORT TITLE.

1. This Act may be cited as the Expropriation Act. 52 V., Short title. c. 13, s. 1.

INTERPRETATION.

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

(a) 'minister' means the head of the department charged with the construction and maintenance of the public work;

(b) 'department' means the department of the Government of Canada charged with the construction and maintenance of the public work;

(c) 'superintendent' means the superintendent of the public work of which he has, under the minister, the charge and direction;

(d) 'public work' or 'public works' means and includes the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads and bridges, the public buildings, the telegraph lines, Government railways, canals, locks, dry-docks, fortifications and other works of defence, and all other property, which now belong to Canada, and also the works and properties acquired, constructed, extended, enlarged, repaired or improved at the expense of Canada, or for the acquisition, construction, repairing, extending, enlarging or improving of which any public moneys are voted and appropriated by Parliament, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only;

(e) 'conveyance' includes a 'surrender' to the Crown; and any conveyance to His Majesty, or to the minister, or to any officer of the department, in trust for or to the use of His Majesty, shall be held to be a surrender;

(f) 'land' includes all granted or ungranted, wild or cleared, public or private lands, and all real property,
Expropriation.

3. The minister may by himself, his engineers, superintendents, agents, workmen and servants,—

(a) enter into and upon any land to whomsoever belonging, 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 the public work;

(b) enter upon and take possession of any land, real property, streams, waters and watercourses, the appropriation of which is, in his judgment, necessary for the use, construction, maintenance or repair of the public work, or for obtaining better access thereto;

(c) enter with workmen, carts, carriages and horses upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land required for the public work, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom, for the making, constructing, maintaining or repairing the public work;

(d) make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the works during their construction and repair;

(e) enter upon any land for the purpose of making proper drains to carry off the water from the public work, or for keeping such drains in repair;

(f) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any rivers, streams, railways, roads, streets or ways, or raise or sink the level of the same,
same, in order to carry them over or under, on the level of, or by the side of the public work, as he thinks proper: but before discontinuing or altering any railway or public road or any portion thereof, he shall substitute another convenient railway or road in lieu thereof; and in such case the owner of such railway or road shall take over the substituted railway or road in mitigation of damages, if any, claimable by him under this Act, and the land therefor used for any railway or road, or the part of a railway or road so discontinued, may be transferred by the minister to, and shall thereafter become the property of, the owner of the land of which it originally formed part: and,

(g) divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric light wire or pole. 52 V., c. 13, s. 3; 62-63 V., c. 39, s. 1.

4. Whenever it is necessary, in the building, maintaining or repairing of the public work, to take down or remove any wall or fence of any owner or occupier of land or premises adjoining the public work, or to construct any back ditches or drains for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased; and after the same has been so replaced, or when such drain or back ditch is completed, the owner or occupier of such land or premises shall maintain such walls or fences, drains or back ditches, to the same extent as such owner or occupier might be by law required to do, if such walls or fences had never been so taken down or removed, or such drains or back ditches had always existed. 52 V., c. 13, s. 4.

5. Whenever any gravel, stone, earth, sand or water is taken as aforesaid, at a distance from the public work, the minister may lay down the necessary sildings, water pipes or conduits, or tracks over or through any land intervening between the public work and the land on which such material or water is found, whatever the distance is; and all the provisions of this Act, except such as relate to the filing of plans and descriptions, shall apply and may be used and exercised to obtain the right of way from the public work to the land on which such materials are situate; and such right may be acquired for a term of years, or permanently, as the minister thinks proper.

2. The powers in this section contained may, at all times, be exercised and used in all respects, after the public work is constructed, for the purpose of repairing and maintaining the same. 52 V., c. 13, s. 5.

6. Whenever for the purpose of procuring sufficient lands for railway stations or gravel pits, or for constructing, main-

When whole lot can be

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more advantageously purchased than a part.

Expropriation.

Obtaining and using the public work, any land may be taken under the provisions of this Act, and by purchasing the whole of any lot or parcel of land, of which any part may be taken under the said provisions, the minister can obtain the same at a more reasonable price, or to greater advantage than by purchasing such part only as aforesaid, he may purchase, hold, use or enjoy the whole of such lot or parcel, and also the right of way thereto, if the same is separated from the public work, and may sell and convey the same, or any part thereof, from time to time, as he deems expedient; but the compulsory provisions of this Act shall not apply to the taking of any portion of such lot or parcel which is not, in the opinion of the minister, necessary for the purposes aforesaid. 52 V., c. 13, s. 6.

Who may be employed to make surveys of land.

Boundaries.

Effect of survey.

Boundaries true and unalterable.

Formalities not obligatory.

7. The minister may employ any person duly licensed or empowered to act as a surveyor for any province of Canada or any engineer, to make any survey, or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by His Majesty for the public work.

2. The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the engineer or surveyor so employed by the minister.

3. Such surveys, boundaries, plans and descriptions shall have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and such boundaries had been established and such monuments planted by a land surveyor duly licensed and sworn in and for the province in which the property is situate.

4. Such boundaries shall be held to be the true and unalterable boundaries of such property, if—

(a) they are so established, and such monuments of iron or stone so planted, after due notice of the intention to establish and plant the same has been given in writing to the proprietors of the land thereby affected; and,

(b) a process-verbal or written description of such boundaries is approved and signed in the presence of two witnesses by such engineer or surveyor on behalf of the minister and by the other person concerned; or, in case of the refusal of any proprietor to approve or to sign such process-verbal or description, such refusal is recorded in such process-verbal or description; and,

(c) such boundary marks or monuments are planted in the presence of at least one witness who shall sign the said process-verbal or description.

5. It shall not be incumbent on the minister or those acting for him to have boundaries established with the formalities in this section mentioned, but the same may be resorted to whenever the minister deems it necessary. 52 V., c. 13, s. 7.

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EXPROPRIATION.

8. Land taken for the use of His Majesty shall be laid off by metes and bounds; and when no proper deed or conveyance thereof to His Majesty is made and executed by the person having the power to make such deed or conveyance, or, when a person interested in such land is incapable of making such deed or conveyance, or when, for any other reason, the minister deems it advisable so to do, a plan and description of such land signed by the minister, the deputy of the minister or the secretary of the department, or by the superintendent of the public work, or by an engineer of the department, or by a land surveyor duly licensed and sworn in and for the province in which the land is situate, shall be deposited of record in the office of the registrar of deeds for the county or registration division in which the land is situate, and such land, by such deposit, shall thereupon become and remain vested in His Majesty.

2. When any land taken is required for a limited time only, or only a limited estate or interest therein is required, the plan and description so deposited may indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate or interest, shall become and be vested in His Majesty.

3. All the provisions of this Act shall, so far as they are applicable, apply to the acquisition for public works of such right of possession and such limited estate or interest. 52 V., c. 13, s. 8; 3 E. VII., c. 22, s. 1.

9. In case of any omission, misstatement or erroneous description in such plan or description, a corrected plan and description may be deposited with like effect. 52 V., c. 13, s. 9.

10. A plan and description of any land at any time in the occupation or possession of His Majesty, and used for the purposes of any public work, may be deposited at any time, in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein. 52 V., c. 13, s. 10.

11. In all cases, when any such plan and description, purporting to be signed by the deputy of the minister, or by the secretary of the department, or by the superintendent of the public work, or by an engineer of the department, or by a land surveyor duly licensed as aforesaid, is deposited of record as aforesaid, the same shall be deemed and taken to have been deposited by the direction and authority of the minister, and as indicating that in his judgment the land therein described is vested in His Majesty.
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is necessary for the purposes of the public work; and the said plan and description shall not be called in question except by the minister, or by some person acting for him or for the Crown. 52 V., c. 13, s. 11.

12. A copy of any such plan and description, certified by the registrar of deeds, to be a true copy thereof, shall, without proof of the official character or handwriting of such registrar, be deemed and taken as \textit{prima facie} evidence of the original, and of the depositing thereof. 52 V., c. 13, s. 12.

13. A copy of any such plan and description, certified by the registrar of deeds, as in the last preceding section mentioned, shall be \textit{prima facie} evidence of the original and of the depositing thereof, although such registrar at the time the same is so offered in evidence, is dead, or has resigned or has been removed from office. 52 V., c. 13, s. 13.

14. If the land taken is Crown land, under the control of the government of the province in which such land is situate, a plan of such land shall also be deposited in the Crown land department of the province. 52 V., c. 13, s. 14.

\textbf{AGREEMENTS AND CONVEYANCES.}

15. Any tenant in tail or for life, \textit{grevé de substitution}, seigneur, guardian, tutor, curator, executor, administrator, master or person, not only for and on behalf of himself, his heirs, successors and assigns, but also for and on behalf of those whom he represents, whether infants, issue unborn, lunatics, idiots, married women, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the minister for the sale of the whole or any part thereof, and may convey the same to the Crown; and may also contract and agree with the minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, by the construction of any public work, and give acquittance therefor. 52 V., c. 13, s. 15.

16. In any case in which there is no guardian or other person to represent any person under any disability, the Exchequer Court may, after due notice to the persons interested, appoint a guardian or person to represent for the purposes hereof such person so under such disability, with authority to give such acquittance. 52 V., c. 13, s. 16.

17. The Court in making any order in the two sections last preceding mentioned shall give such directions as to the disposal, application or investment of such compensation money

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as it deems necessary to secure the interests of all persons interested therein. 52 V., c. 13, s. 17.

18. Any contract or agreement made hereunder, and any conveyance or other instrument made or given in pursuance of such contract or agreement shall be good and valid to all intents and purposes whatsoever. 52 V., c. 13, s. 18.

19. Every such contract or agreement made before the deposit of plans and description, and before the setting out and ascertaining of the land required for the public work, shall be binding at the price agreed upon for the same land, if it is afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land has, in the meantime, become the property of a third person. 52 V., c. 13, s. 19.

20. No surrender, conveyance, agreement or award under this Act shall require registration or enrolment to preserve the rights of His Majesty under it, but the same may be registered in the registry of deeds for the place where the land lies, if the minister deems it advisable. 52 V., c. 13, s. 20.

WARRANT FOR POSSESSION.

21. If any resistance or opposition is made by any person to the minister, or any person acting for him, entering upon and taking possession of any lands, the judge of the Exchequer Court, or any judge of any superior court may, on proof of the execution of a conveyance of such lands to His Majesty, or agreement therefor, or of the depositing in the office of the registrar of deeds of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the district or county within which such lands are situate directing him to put down such resistance or opposition, and to put the minister, or some person acting for him, in possession thereof.

2. The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the minister, or such person acting for him, in possession thereof; and shall forthwith make return to the Exchequer Court of such warrant, and of the manner in which he executed the same. 52 V., c. 13, s. 21.

COMPENSATION.

22. The compensation money agreed upon or adjudged for any land or property acquired or taken for or injuriously affected by the construction of any public work shall stand in the stead of such land or property; and any claim to or encumbrance thereon shall immediately cease and determine. 2365 R.S., 1906.
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encumbrance upon such land or property shall, as respects His Majesty, be converted into a claim to such compensation money or to a proportionate amount thereof, and shall be void as respects any land or property so acquired or taken, which shall, by the fact of the taking possession thereof, or the filing of the plan and description, as the case may be, become and be absolutely vested in His Majesty. 52 V., c. 13, s. 22.

23. Whenever, from time to time, or at any time before the compensation money has been actually paid, any parcel of land taken for a public work, or any portion of any such parcel, is found to be unnecessary for the purposes of such public work, or if it is found that a more limited estate or interest therein only is required, the minister may, by writing under his hand, declare that the land or such portion thereof is not required and is abandoned by the Crown, or that it is intended to retain only such limited estate or interest as is mentioned in such writing.

2. Upon such writing being registered in the office of the registrar of deeds for the county or registration division in which the land is situate, such land declared to be abandoned shall re vest in the person from whom it was taken or in those entitled to claim under him.

3. In the event of a limited estate or interest therein being retained by the Crown, the land shall so re vest subject to the estate or interest so retained.

4. The fact of such abandonment or re vesting shall be taken into account, in connection with all the other circumstances of the case, in estimating or assessing the amount to be paid to any person claiming compensation for the land taken. 3 E. VII., c. 22, ss. 2 and 3.

24. If the compensation money agreed for or adjudged does not exceed one hundred dollars, it may, in any province, be paid to the person who, under this Act, can lawfully convey the land or property or agree for the compensation to be made in the case, saving always the rights of any other person to such compensation money as against the person receiving the same. 52 V., c. 13, s. 23.

25. Every person who has any estate or interest in any land or property acquired or taken for, or injuriously affected by the construction of any public work, or who represents or is the husband of any such person, shall, upon demand made therefor by or on behalf of the minister, furnish to the minister a true statement showing the particulars of such estate and interest and of every charge, lien or encumbrance to which the same is subject, and of the claim made by such person in respect of such estate or interest. 52 V., c. 13, s. 24.

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26. In any case in which land or property is acquired or taken for or injuriously affected by the construction of any public work, the Attorney General of Canada may cause to be exhibited in the Exchequer Court an information in which shall be set forth,—
   (a) the date at which and the manner in which such land or property was so acquired, taken or injuriously affected;
   (b) the persons who, at such date, had any estate or interest in such land or property and the particulars of such estate or interest and of any charge, lien or encumbrance to which the same was subject, so far as the same can be ascertained;
   (c) the sums of money which the Crown is ready to pay to such persons respectively, in respect of any such estate, interest, charge, lien or encumbrance; and,
   (d) any other facts material to the consideration and determination of the questions involved in such proceedings. 52 V., c. 13, s. 25.

27. Such information shall be deemed and taken to be the institution of a suit against the persons named therein, and shall conclude with a claim for such a judgment or declaration as, in the opinion of the Attorney General, the facts warrant.

2. The information shall be served in like manner as other informations, and all proceedings in respect thereof or subsequent thereto shall be regulated by and shall conform as nearly as may be to the procedure in other cases instituted by information in the Court. 52 V., c. 13, s. 26.

28. Any person who is mentioned in any such information, or who afterwards is made or becomes a party thereto, may, by his answer, exception or defence, raise any question of fact or law incident to the determination of his rights to such compensation money or any part thereof, or in respect of the sufficiency of such compensation money. 52 V., c. 13, s. 27.

29. Such proceedings shall, so far as the parties thereto are concerned, bar all claims to the compensation money or any part thereof, including any claim in respect of dower, or of dower not yet open, as well as in respect of all mortgages, hypothecs or encumbrances upon the land or property; and the Court shall make such order for the distribution, payment or investment of the compensation money and for the securing of the rights of all persons interested, as to right and justice, and according to the provisions of this Act, and to law appertain. 52 V., c. 13, s. 28.

30. If the injury to any land or property alleged to be injuriously affected by the construction of any public work may
may be removed wholly or in part by any alteration in, or addition to, any such public work, or by the construction of any additional work, or by the abandonment of any portion of the land taken from the claimant, or by the grant to him of any land or easement, and if the Crown, by its pleadings, or on the trial, or before judgment, undertakes to make such alteration or addition, or to construct such additional work, or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be assessed in view of such undertaking, and the Court shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or portion of land abandoned, or such grant made to him. 3 E. VII., c. 22, s. 4.

**INTEREST.**

31. Interest at the rate of five per centum per annum may be allowed on such compensation money from the time when the land or property was acquired, taken or injuriously affected to the date when judgment is given; but no person to whom has been tendered a sum equal to or greater than the amount to which the Court finds him entitled shall be allowed any interest on such compensation money for any time subsequent to the date of such tender.

2. If the Court is of opinion that the delay in the final determination of any such matter is attributable in whole or in part to any person entitled to such compensation money or any part thereof, or that such person has not, upon demand made therefor, furnished to the minister within a reasonable time a true statement of the particulars of his claim required to be furnished as hereinbefore provided, the Court may, for the whole or any portion of the time for which he would otherwise be entitled to interest, refuse to allow him interest, or it may allow the same at such rate less than five per centum per annum as to the Court appears just.

3. This section shall not apply to any case where the land was expropriated or injuriously affected prior to the seventh day of July, one thousand nine hundred. 63-64 V., c. 22, ss. 1, 2 and 3.

**COSTS.**

32. The costs of and incident to any proceedings hereunder shall be in the discretion of the Exchequer Court, which may direct that the whole or any part thereof shall be paid by the Crown or by any party to such proceeding. 52 V., c. 13, s. 31.

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PAYMENT OF COMPENSATION OR COSTS.

33. The Minister of Finance may pay to any person, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, any sum to which, under the judgment of the Exchequer Court, in virtue of the provisions of this Act, he is entitled as compensation money or costs. 52 V., c. 13, s. 32.

LANDS VESTED IN HIS MAJESTY.

34. All lands, streams, watercourses and property acquired for any public work shall be vested in His Majesty and, when not required for the public work, may be sold or disposed of under the authority of the Governor in Council.

2. All hydraulic powers created by the construction of any public work, or the expenditure of public money thereon, shall be vested in His Majesty, and any portion thereof not required for the public work may be sold or leased under the authority aforesaid.

3. Any portion of the shore or bed of any public harbour vested in His Majesty, as represented by the Government of Canada, not required for public purposes, may, on the joint recommendation of the Ministers of Public Works and of Marine and Fisheries, be sold or leased under the authority aforesaid.

4. No such sale or lease shall prejudice or affect any right or privilege of any riparian owner.

5. The proceeds of all such sales and leases shall be accounted for as public money. 52 V., c. 13, s. 33.

WORKS INTERFERING WITH NAVIGATION.

35. Whenever in any Act of the Parliament of Canada authority is given by the appropriation of public money or otherwise to construct any bridge, wharf or other public work in any navigable water, such authority includes authority to interfere with the navigation of such water in such manner and to such extent as shall be approved by the Governor in Council, subject always to any provisions of any such Act for limiting such interference.

2. Every bridge, wharf or other public work heretofore constructed with the public money of Canada in or over navigable water, shall be and be deemed to be a lawful work or structure. 52 V., c. 13, s. 34.
CHAPTER 144.


SHORT TITLE.

1. This Act may be cited as the Winding-up Act. R.S., Short title. c. 129, s. 1.

INTERPRETATION.

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

(a) 'Minister' means the Minister of Finance;

(b) 'company' includes any corporation subject to the provisions of this Act;

(c) 'insurance company' means a company carrying on insurance, whether life, fire, marine, ocean or inland marine, accident, guarantee or otherwise;

(d) 'trading company' means any company, except a railway or telegraph company, carrying on business similar to that carried on by apothecaries, auctioneers, bankers, brokers, brickmakers, builders, carpenters, carriers, cattle or sheep salesmen, coach proprietors, dyers, fullers, keepers of inns, taverns, hotels, saloons or coffee houses, lime burners, livery stable keepers, market gardeners, millers, miners, packers, printers, quarrymen, share-brokers, ship-owners, shipwrights, stockbrokers, stock jobbers, victuallers, warehousemen, wharfingers, persons using the trade of merchandise by way of bargaining, exchange, bartering, commission, consignment or otherwise, in gross or by retail, or by persons who, either for themselves, or as agents or factors for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the manufacture, workmanship or the conversion of goods or commodities or trees;

(e) 'court' means,

(i) in the province of Ontario, the High Court of Justice,

(ii) in the province of Quebec, the Superior Court,

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(iii) in the province of Nova Scotia, the Supreme Court,
(iv) in the province of New Brunswick, the Supreme Court,
(v) in the province of Manitoba, the Court of King's Bench,
(vi) in the province of British Columbia, the Supreme Court,
(vii) in the province of Prince Edward Island, the Supreme Court,
(viii) in the province of Saskatchewan, a superior court,
(ix) in the province of Alberta, a superior court,
(x) in the Northwest Territories, such court or magistrate or other judicial authority as is designated, from time to time, by proclamation of the Governor in Council, published in the Canada Gazette, and
(xi) in the Yukon Territory, the Territorial Court:

(f) 'official gazette' means the Canada Gazette and the gazette published under the authority of the government of the province where the proceedings for the winding-up of the business of the company are carried on, or used as the official means of communication between the lieutenant governor and the people, and if no such gazette is published, then it means any newspaper published in the province, which is designated by the court for publishing the notices required by this Act;

(g) 'contributory' means a person liable to contribute to the assets of a company under this Act; and, in all proceedings for determining the persons who are to be deemed contributors and in all proceedings prior to the final determination of such persons, it includes any person alleged to be a contributory;

(h) 'winding-up order' means an order granted by the court under this Act to wind up the business of the company, and includes any order granted by the court to bring within the provisions of this Act any company in liquidation or in process of being wound up;

(i) 'capital stock' includes a capital stock de jure or de facto;

(j) 'creditor' includes all persons having any claim against the company present or future, certain, ascertained, or contingent, for liquidated or unliquidated damages; and in all proceedings for determining the persons who are to be deemed creditors it shall include any person making any such claim. R.S., c. 129, ss. 2, 33, 56 and 61; 62-63 V., c. 43, s. 5.

3. A company is deemed insolvent,—

(a) if it is unable to pay its debts as they become due;
(b) if it calls a meeting of its creditors for the purpose of compounded with them;

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(c) if it exhibits a statement showing its inability to meet its liabilities;
(d) if it has otherwise acknowledged its insolvency;
(e) if it assigns, removes or disposes of, or attempts or is about to assign, remove or dispose of, any of its property, with intent to defraud, defeat or delay its creditors, or any of them;
(f) if, with such intent, it has procured its money, goods, chattels, land or property to be seized, levied on or taken, under or by any process of execution;
(g) if it has made any general conveyance or assignment of its property for the benefit of its creditors, or if, being unable to meet its liabilities in full, it makes any sale or conveyance of the whole or the main part of its stock in trade or assets, without the consent of its creditors, or without satisfying their claims; or,
(h) if it permits any execution issued against it, under which any of its goods, chattels, land or property are seized, levied upon or taken in execution, to remain unsatisfied till within four days of the time fixed by the sheriff or proper officer for the sale thereof, or for fifteen days after such seizure. R.S., c. 129, s. 5.

4. A company is deemed to be unable to pay its debts as they become due, whenever a creditor, to whom the company is indebted in a sum exceeding two hundred dollars then due has served on the company, in the manner in which process may legally be served on it in the place where service is made, a demand in writing, requiring the company to pay the sum so due, and the company has, for ninety days, in the case of a bank, and for sixty days in all other cases, next succeeding the service of the demand, neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor. R.S., c. 129, s. 6.

5. The winding-up of the business of a company shall be deemed to commence at the time of the service of the notice of presentation of the petition for winding-up. R.S., c. 129, s. 7.

APPLICATION.

6. This Act applies to all corporations incorporated by or under the authority of an Act of the Parliament of Canada, or by or under the authority of any Act of the late province of Canada, or of the province of Nova Scotia, New Brunswick, British Columbia or Prince Edward Island, and whose incorporation and the affairs whereof are subject to the legislative authority of the Parliament of Canada; and also to incorporated banks, savings banks, incorporated insurance companies, 2373 R.S., 1906.
companies, loan companies having borrowing powers, building societies having a capital stock, and incorporated trading companies doing business in Canada wheresoever incorporated and,—

(a) which are insolvent; or,
(b) which are in liquidation or in process of being wound up, and, on petition by any of their shareholders or creditors, assignees or liquidators ask to be brought under the provisions of this Act. R.S., c. 129, s. 3; 52 V., c. 32, s. 3.

7. This Act does not apply to building societies which have not a capital stock or to railway or telegraph companies. R.S., c. 129, s. 3; 52 V., c. 32, s. 3.

PART I.

GENERAL.

Limitation of Part.

8. In the case of a bank other than a savings bank the provisions of this Part are subject to the provisions of Part II. of this Act. R.S., c. 129, ss. 4 and 97.

9. In the case of life insurance companies, and of insurance companies doing life insurance and other insurance, in so far as relates to the life insurance business of such companies, the provisions of this Part are subject to the provisions of Part III. of this Act. R.S., c. 129, ss. 4 and 105.

10. In the case of insurance companies other than life insurance companies, and of insurance companies doing life insurance and other insurance, in so far as relates to such other insurance, the provisions of this Part are subject to the provisions of Part IV. of this Act. R.S., c. 129, ss. 4 and 115.

Winding-up Order.

11. The court may make a winding-up order,—

(a) where the period, if any, fixed for the duration of the company by the Act, charter or instrument of incorporation has expired; or where the event, if any, has occurred, upon the occurrence of which it is provided by the Act or charter or instrument of incorporation that the company is to be dissolved;

(b) where the company at a special meeting of shareholders called for the purpose has passed a resolution requiring the company to be wound up;

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(c) when the company is insolvent;
(d) when the capital stock of the company is impaired to the extent of twenty-five per centum thereof, and when it is shown to the satisfaction of the court that the lost capital will not likely be restored within one year; or,
(e) when the court is of opinion that for any other reason it is just and equitable that the company should be wound up. 52 V., c. 32. s. 4.

Application for Order.

12. The application for such winding-up order may, in the cases mentioned in paragraphs (a) and (b) of the last preceding section be made by the company or by a shareholder; and in the case mentioned in paragraph (c) of the last preceding section by the company or by a creditor for the sum of at least two hundred dollars, or, except in the case of banks and insurance corporations, by a shareholder holding shares in the capital stock of the company to the amount of at least five hundred dollars, and, in the other cases mentioned in the said section, by a shareholder holding shares in the capital stock of the company to the amount of at least five hundred dollars. R.S., c. 129, s. 8; 52 V., c. 32, s. 5; 62-63 V., c. 43, s. 4.

13. Such application may be made by petition to the court in the province where the head office of the company is situated, or, if there is no head office in Canada, then in the province where its chief place, or one of its chief places of business is situated.

2. Except in cases where such application is made by the company, four days' notice of the application shall be given to the company before the making of the same. R.S., c. 129, s. 8; 52 V., c. 32, s. 6.

14. The court may, on application for a winding-up order, make the order applied for, dismiss the petition with or without costs, adjourn the hearing conditionally or unconditionally, or make any interim or other order that it deems just. R.S., c. 129, s. 9.

15. If the company opposes the application on the ground that it has not become insolvent, or that its suspension or default was only temporary, and was not caused by any deficiency in its assets, or that the capital stock is not impaired to the extent aforesaid, or that such impairment does not endanger the capacity of the company to pay its debts in full, or that there is a probability that the lost capital will be restored within a year or within a reasonable time thereafter, and shows reasonable cause for believing that such opposition is well founded, the court, in its discretion, may, from time to time, adjourn proceedings upon such application, for a time not 2375

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not exceeding six months from the date of the application, and may order an accountant or other person to inquire into the affairs of the company, and to report thereon within a period not exceeding thirty days from the date of such order. R.S., c. 129, s. 10; 52 V., c. 32, s. 8.

16. Upon the service on the company of an order made under the last preceding section, for an inquiry into the affairs of the company, the president, directors, officers and employees of the company and every other person, shall respectively exhibit to the accountant or other person named for the purpose of making such inquiry, the books of account of the company, and all inventories, papers and vouchers referring to the business of the company or of any person therewith, which are in his or their possession, custody or control, respectively; and they shall also respectively give all such information as is required by such accountant or other person as aforesaid, in order to form a just estimate of the affairs of the company. R.S., c. 129, s. 11.

17. Upon receiving the report of the accountant or person ordered to inquire into the affairs of the company, and after hearing such shareholders or creditors of the company as desire to be heard thereon, the court may either refuse the application or make the winding-up order. R.S., c. 129, s. 12.

Staying Proceedings.

18. The court may, upon the application of the company, or of any creditor or contributory, at any time after the presentation of a petition for a winding-up order and before making the order, restrain further proceedings in any action, suit or proceeding against the company, upon such terms as the court thinks fit. R.S., c. 129, s. 13.

19. The court may, upon the application of any creditor or contributory, at any time after the winding-up order is made, and upon proof, to the satisfaction of the court, that all proceedings in relation to the winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the court thinks fit. R.S., c. 129, s. 18.

Effect of Winding-up Order.

20. The company, from the time of the making of the winding-up order, shall cease to carry on its business, except in so far as is, in the opinion of the liquidator, required for the beneficial winding-up thereof; but the corporate state and all the corporate powers of the company, notwithstanding it is otherwise provided by the Act, charter or instrument of incorporation,

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poration, shall continue until the affairs of the company are wound up. R.S., c. 129, s. 15.

21. All transfers of shares, except transfers made to or with the sanction of the liquidator, under the authority of the court, and every alteration in the status of the members of the company, after the commencement of such winding-up, shall be void. R.S., c. 129, s. 15.

22. After the winding-up order is made, no suit, action or other proceeding shall be proceeded with or commenced against the company, except with the leave of the court and subject to such terms as the court imposes. R.S., c. 129, s. 16.

23. Every attachment, sequestration, distress or execution put in force against the estate or effects of the company after the making of the winding-up order shall be void. R.S., c. 129, s. 17.

Appointment of Liquidators.

24. The court in making the winding-up order, may appoint a liquidator or more than one liquidator of the estate and effects of the company. R.S., c. 129, s. 20.

25. If more than one liquidator is appointed, the court may declare whether any act to be done by a liquidator is to be done by all or any one or more of the liquidators. R.S., c. 129, s. 23.

26. The court may, if it thinks fit, after the appointment of one or more liquidators, appoint an additional liquidator or liquidators. R.S., c. 129, s. 22.

27. No liquidator aforesaid shall be appointed unless a previous notice is given to the creditors, contributories and shareholders or members; and the court shall by order direct the manner and form in which such notice shall be given and the length of such notice. R.S., c. 129, s. 20.

28. The court shall also determine what security shall be given by a liquidator on his appointment. R.S., c. 129, s. 24.

29. The court may on the presentation of the petition for a winding-up order or at any time thereafter and before the first appointment of a liquidator appoint provisionally a liquidator of the estate and effects of the company and may limit and restrict his powers by the order appointing him. R.S., c. 129, s. 26; 52 V., c. 32, s. 12.

30. An incorporated company may be appointed liquidator to the goods and effects of a company under this Act; and if

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an incorporated company is so appointed, it may act through one or more of its principal officers designated by the court. R.S., c. 129, s. 21.

31. Upon the appointment of the liquidator all the powers of the directors shall cease, except in so far as the court or the liquidator sanctions the continuance of such powers. R.S., c. 129, s. 34.

32. A liquidator may resign or may be removed by the court on due cause shown, and every vacancy in the office of liquidator shall be filled by the court. R.S., c. 129, s. 27.

Powers and Duties of Liquidators.

33. The liquidator, upon his appointment, shall take into his custody or under his control, all the property, effects and choses in action to which the company is or appears to be entitled, and he shall perform such duties in reference to winding-up the business of the company as are imposed by the court or by this Act. R.S., c. 129, s. 30.

34. The liquidator may, with the approval of the court, and upon such previous notice to the creditors, contributories, shareholders or members as the court orders,—

(a) bring or defend any action, suit or prosecution or other legal proceeding, civil or criminal, in his own name as liquidator or in the name or on behalf of the company, as the case may be;

(b) carry on the business of the company so far as is necessary to the beneficial winding-up of the same;

(c) sell the real and personal and heritable and movable property, effects and choses in action of the company, by public auction or private contract, and transfer the whole thereof to any person or company, or sell the same in parcels;

(d) do all acts, and execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose use, when necessary, the seal of the company;

(e) prove, rank, claim and draw dividends in the matter of the bankruptcy, insolvency or sequestration of any contributory, for any sum due the company from such contributory, and take and receive dividends in respect of such sum in the matter of the bankruptcy, insolvency or sequestration, as a separate debt due from such contributory and ratably with the other separate creditors;

(f) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company;

(g)
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(g) raise upon the security of the assets of the company, from time to time any requisite sum or sums of money: and,

(h) do and execute all such other things as are necessary for winding-up the affairs of the company and distributing its assets.

2. The drawing, accepting, making or endorsing of every such bill of exchange or promissory note, as aforesaid, on behalf of the company, shall have the same effect, with respect to the liability of such company, as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such company in the course of the carrying on of its business.

3. No delivery of the whole or of any part of the assets of the company shall be necessary to give a lien to any person taking security as aforesaid upon the assets of the company.

R.S., c. 129, s. 31; 62-63 V., c. 42, s. 3.

35. The liquidator may, with the approval of the court, appoint a solicitor or law agent to assist him in the performance of his duties. R.S., c. 129, s. 32.

36. The liquidator may, with the approval of the court, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, demands and matters in dispute in any way relating to or affecting the assets of the company or the winding-up of the company, upon the receipt of such sums, payable at such times, and generally upon such terms, as are agreed upon.

2. The liquidator may take any security for the discharge of such calls, debts, liabilities, claims, demands, or disputed matters, and give a complete discharge in respect of all or any such calls, debts, liabilities, claims, demands, or matters. R.S., c. 129, s. 33.

37. The liquidator may, with the approval of the court, make such compromise or other arrangement with creditors or persons claiming to be creditors of the company as he shall deem expedient. R.S., c. 129, s. 61.

38. The court may provide, by any order subsequent to the winding-up order, that the liquidator may exercise any of the powers conferred upon him by this Act, without the sanction or intervention of the court. 52 V., c. 32, s. 12.

Appointment of Inspectors.

39. The court may appoint, at any time when found advisable, one or more inspectors, whose duty it shall be to assist and advise the liquidator in the liquidation of the company. 62-63 V., c. 42, s. 1.

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Remuneration of Liquidators and Inspectors.

40. The liquidator shall be paid such salary or remuneration, by way of percentage or otherwise, as the court directs, upon such notice to the creditors, contributories, shareholders or members, as the court orders.

2. If there is more than one liquidator, the remuneration shall be distributed amongst them in such proportions as the court directs. R.S., c. 129, s. 28.

41. The court shall determine the remuneration, if any is deemed just, of the inspector or inspectors. 62-63 V., c. 42, s. 2.

Depositing in Bank.

42. The liquidator shall deposit at interest in some chartered bank or post office savings bank, or other Government savings bank designated by the court, all sums of money which he has in his hands belonging to the company, whenever and so often as such sums amount to one hundred dollars. R.S., c. 129, s. 35.

43. Such deposits shall not be made in the name of the liquidator individually, on pain of dismissal; but a separate account shall be kept for the company of the moneys belonging to the company in the name of the liquidator as such liquidator. R.S., c. 129, s. 36.

44. The liquidator shall, within three days after the date of the final winding-up of the business of the company, deposit at interest in the bank appointed or designated, as hereinbefore provided, any money belonging to the estate then in his hands not required for any other purpose authorized by this Act, with a sworn statement and account of such money, and that the same is all that he has in his hands. R.S., c. 129, s. 40.

45. In case any liquidator shall not, within three days after the date of the final winding-up of the business of the company, deposit in the bank, appointed or designated as hereinbefore provided, any money belonging to the estate of which he is such liquidator, then in his hands, he shall be deemed a debtor to His Majesty for such money, and may be compelled as such to account for and pay over the same. R.S., c. 129, s. 40.

Court Discharging Functions of Liquidator.

46. If at any time there is no liquidator, all the property of the company shall be deemed to be in the custody of the court. R.S., c. 129, s. 25.

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47. Whenever a company is being wound up, and the realization and distribution of its assets has proceeded so far that in the opinion of the court it becomes expedient that the liquidator should be discharged, and that the balance remaining in his hands of the money and assets of the company can be better realized and distributed by the court, the court may make an order discharging the liquidator, and for payment, delivery and transfer into court, or to such officer or person as the court may direct, of such money and assets, and the same shall be realized and distributed, by or under the direction of the court, among the persons entitled thereto, in the same way, as nearly as may be, as if the distribution were being made by the liquidator.

2. In such case the court may make an order directing how the books, accounts and documents of the company and of the liquidator may be disposed of, and may order that they be deposited in court or otherwise dealt with as may be thought fit. 55-56 V., c. 28, s. 2.

Contributories.

48. As soon as may be after the commencement of the winding-up of a company the court shall settle a list of contributories. R.S., c. 129, s. 42.

49. In the list of contributories, persons who are contributories in their own right shall be distinguished from persons who are contributories as representatives of or liable for the debts of others. R.S., c. 129, s. 43.

50. It shall not be necessary, where the personal representative of any deceased contributory is placed on the list, to add the heirs or devisees of such contributory, but such heirs or devisees may be added as and when the court thinks fit. R.S., c. 129, s. 43.

51. Every shareholder or member of the company or his representative, shall be liable to contribute the amount unpaid on his shares of the capital, or on his liability to the company, or to its members or creditors, as the case may be, under the Act, charter or instrument of incorporation of the company, or otherwise.

2. The amount which he is liable to contribute shall be deemed an asset of the company, and a debt due to the company, payable as directed or appointed under this Act. R.S., c. 129, s. 44.

52. If a shareholder has transferred his shares under circumstances which do not, by law, free him from liability in respect thereof, or if he is by law liable to the company or its members or creditors, as the case may be, to an amount beyond the
the amount unpaid on his shares, he shall be deemed a member of the company for the purposes of this Act, and shall be liable to contribute, as aforesaid, to the extent of his liabilities to the company or its members or creditors, independently of this Act.

2. The amount which he is so liable to contribute shall be deemed an asset and a debt as aforesaid. R.S., c. 129, s. 45.

53. The liability of any person to contribute to the assets of a company under this Act, in the event of the business of the same being wound up, shall create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made, as hereinafter mentioned, for enforcing such liability. R.S., c. 129, s. 46.

54. In the case of the bankruptcy or insolvency of any contributory, the estimated value of his liability to future calls, as well as calls already made, may be proved against his estate. R.S., c. 129, s. 46.

55. The court may, at any time, after making a winding-up order, require any contributory for the time being settled on the list of contributories as trustee, receiver, banker, agent or officer of the company, to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to or into the hands of the liquidator, any sum or balance, books, papers, estate or effects which are in his hands for the time being, and to which the company is prima facie entitled. R.S., c. 129, s. 47.

56. The court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the said order mentioned, of any moneys due from him or from the estate of the person whom he represents, to the company, exclusive of any moneys which he or the estate of the person whom he represents is liable to contribute by virtue of any call made in pursuance of this Act. R.S., c. 129, s. 48.

57. The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves. R.S., c. 129, s. 49.
58. The court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same: Provided that no call shall compel payment of a debt before the maturity thereof, and that the extent of the liability of any contributory shall not be increased by anything in this section contained. R.S., c. 129, s. 49.

59. The court may order any contributory, purchaser or other person from whom money is due to the company, to pay the same into some chartered bank or post office savings bank, or other bank or Government savings bank, to the account of the court, instead of the liquidator.

2. Such order may be enforced in the same manner as if it had directed payment to the liquidator. R.S., c. 129, s. 50.

60. The court shall adjust the rights of the contributories among themselves. R.S., c. 129, s. 51.

Meetings of Creditors.

61. The court may, if it thinks expedient, direct meetings of the creditors, contributories, shareholders or members to be summoned, held and conducted in such manner as the court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the court. R.S., c. 129, s. 19.

62. In such case regard shall, as to creditors, be had to the amount of the debt due to each creditor and as to shareholders or members, to the number of votes conferred on each shareholder or member by law or by the regulations of the company.

2. The court may prescribe the mode of preliminary proof of creditors' claims for the purpose of the meeting. R.S., c. 129, s. 19.

63. Where any compromise or arrangement is proposed between a company in course of being wound up under this Act and the creditors of the company, or by and between any such creditors or any class or classes of such creditors and the company, the court, in addition to any other of its powers, may, on the application, in a summary way, of any creditor, or of the liquidator, order that a meeting of such creditors or class or classes of creditors shall be summoned in such manner as the court shall direct. 62-63 V., c. 43, s. 3.

64. If a majority in number, representing three-fourths in value, of such creditors, or class or classes of creditors, present either in person or by proxy at such meeting, agree to any arrangement or compromise, such arrangement or compromise may be sanctioned. R.S., 1906.
may be sanctioned by an order of the court, and in such case shall be binding on all such creditors, or on such class or classes of creditors, as the case may be, and also on the liquidator and contributories of the company. 62-63 V., c. 43, s. 3.

65. In directing meetings of creditors, contributories, shareholders or members of the company to be held as provided in this Act, the court may either appoint a person to act as chairman of such meeting, or direct that a chairman be appointed by the persons entitled to be present at such meeting; and, in case the appointed chairman fails to attend the said meeting, the persons present at the meeting may elect a chairman qualified who shall perform the duties prescribed by this Act. 52 V., c. 32, s. 13.

66. No contributory, creditor, shareholder, or member shall vote at any meeting unless present personally or represented by some person acting under a written authority, filed with the chairman or liquidator, to act as such representative at the meeting, or generally. R.S., c. 129, s. 55.

Production of Pass-books.

67. At every meeting of the contributories, creditors, shareholders or members, the liquidator shall produce a bank pass-book, showing the amount of the deposits made for the company, the dates at which such deposits were made, the amount withdrawn and dates of such withdrawal. R.S., c. 129, s. 37.

68. The liquidator shall also produce such pass-book whenever ordered so to do by the court. R.S., c. 129, s. 38.

Creditors' Claims.

69. When the business of a company is being wound up under this Act, all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, and for liquidated or unliquidated damages, shall be admissible to proof against the company.

2. In case of any claim subject to any contingency or for unliquidated damages or which for any other reason does not bear a certain value, the court shall determine the value of the same and the amount for which it shall rank. R.S., c. 129, s. 56.

70. Clerks or other persons in, or having been in the employment of the company, in or about its business or trade, shall be collocated in the dividend sheet by special privilege over other creditors, for any arrears of salary or wages due and unpaid to them at the time of the making of the winding-up order,
order, not exceeding the arrears which have accrued to them during the three months next previous to the date of such order. R.S., c. 129, s. 56.

71. The law of set-off, as administered by the courts, whether of law or equity, shall apply to all claims upon the estate of the company, and to all proceedings for the recovery of debts due or accruing due to the company at the commencement of the winding-up, in the same manner and to the same extent as if the business of the company was not being wound up under this Act. R.S., c. 129, s. 57.

72. The court may fix a certain day or certain days on or within which creditors of the company may send in their claims, and may direct notice thereof to be given by the liquidator, and determine the manner in which notice of the day or days so fixed shall be given by the liquidator to the creditors. R.S., c. 129, s. 50.

73. The liquidator may give notice in writing to creditors who have sent in their claims to him, or of whose claims he has notice, and whose claims he considers should not be allowed without proof, requiring such creditors to attend before the court on a day to be named in such notice and prove their claims to the satisfaction of the court.

2. In case any creditor does not attend in pursuance of such notice his claim shall be disallowed, unless the court sees fit to grant further time for the proof thereof.

3. If any creditor attends in pursuance of such notice, the court may on hearing the matter allow or disallow the claim of such creditor in whole or in part. 52 V., c. 32, s. 14; 55-56 V., c. 28, s. 1.

74. After the notices required by the two last preceding sections have been given, and the respective times therein specified have expired, and all claims of which proof has been required by due notice in writing by the liquidator in that behalf have been allowed or disallowed by the court in whole or in part, the liquidator may distribute the assets of the company or any part thereof among the persons entitled thereto and without reference to any claim against the company which shall not have then been sent to the liquidator.

2. The liquidator shall not be liable to any person whose claim shall not have been sent in at the time of distributing such assets or part thereof for the assets or part thereof so distributed. R.S., c. 129, s. 60.

75. In case any claim or claims shall be sent in to the liquidator after any partial distribution of the assets of the company, such claim or claims, subject to proof and allowance as to claims not sent in, rank of claims sent in after the distribution as R.S., 1906.
has been commenced. as required by this Act, shall rank with other claims of creditors in any future distribution of assets of the company. R.S., c. 129, s. 60.

Secured Claims.

76. If a creditor holds security upon the estate of the company, he shall specify the nature and amount of such security in his claim, and shall therein, on his oath, put a specified value thereon. R.S., c. 129, s. 62.

77. The liquidator, under the authority of the court, may either consent to the retention by the creditor of the property and effects constituting such security or on which it attaches, at such specified value, or he may require from such creditor an assignment and delivery of such security, property and effects, at such specified value, to be paid by him out of the estate so soon as he has realized such security, together with interest on such value from the date of filing the claim till payment. R.S., c. 129, s. 62.

78. In case of such retention, the difference between the value at which the security is retained and the amount of the claim of such creditor shall be the amount for which he may rank as aforesaid. R.S., c. 129, s. 62.

79. If a creditor holds a claim based upon negotiable instruments upon which the company is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall be considered to hold security within the meaning of the three last preceding sections, and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof.

2. After the maturity of such liability and its non-payment, he shall be entitled to amend and revalue his claim. R.S., c. 129, s. 62.

80. If the security consists of a mortgage upon ships or shipping, or upon real property, or of a registered judgment, or an execution binding real property which is not by some other provision of this Act invalid for any purpose of creating a lien, claim or privilege upon the real or personal property of the company, the property mortgaged or bound by such security shall only be assigned and delivered to the creditor,—

(a) subject to all previous mortgages, judgments, executions, hypothecs and liens thereon, holding rank and priority before his claim; and,

(b) upon his assuming and binding himself to pay all such previous mortgages, judgments, executions, hypothecs and liens; and,
(c) upon his securing the estate of the company to the satisfaction of the liquidator against any claim by reason of such previous mortgages, judgments, executions, hypotheces and liens. R.S., c. 129, s. 63.

81. If there are mortgages, judgments, executions, hypotheces, or liens upon such ships or shipping or real property subsequent to those of such creditor, he shall only obtain the property,—

(a) by consent of the subsequently secured creditors; or,

(b) upon their filing their claims specifying their security thereon as of no value; or,

(c) upon his paying them the value by them placed thereon; or,

(d) upon his securing the estate of the company to the satisfaction of the liquidator against any claim by reason of such subsequent mortgages, judgments, executions, hypotheces and liens. R.S., c. 129, s. 63.

82. Upon a secured claim being filed, with a valuation of the security, the liquidator shall procure the authority of the court to consent to the retention of the security by the creditor, or shall require from him an assignment and delivery thereof. R.S., c. 129, s. 64:

Dividend Sheet.

83. In the preparation of the dividend sheet, due regard shall be had to the rank and privilege of every creditor, but no dividend shall be allotted or paid to any creditor holding security upon the estate of the company for his claim until the amount for which he may rank as a creditor upon the estate, as to dividends therefrom, is established as herein provided. R.S., c. 129, s. 65.

Liens.

84. No lien or privilege upon either the real or personal property of the company shall be created for the amount of any judgment debt, or of the interest thereon, by the issue or delivery to the sheriff of any writ of execution, or by levying upon or seizing under such writ the effects or estate of the company.

2. No lien, claim or privilege shall be created upon the real or personal property of the company, or upon any debts due or accruing or becoming due to the company, by the filing or registering of any memorial or minute of judgment, or by the issue or making of any attachment or garnishee order or other process or proceeding, if, before the payment over to the plaintiff of the moneys actually levied, paid or received under such writ, memorial, minute, attachment, garnishee order or other process or proceeding, the winding-up of the business of the company.

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the company has commenced: Provided that this section shall not affect any lien or privilege for costs, which the plaintiff possesses under the law of the province in which such writ, attachment, garnishee order or other process or proceeding was issued. R.S., c. 129, s. 66.

Contestation of Claims.

85. Any liquidator, creditor or contributory, or shareholder or member may object to any claim filed with the liquidator, or to any dividend declared. R.S., c. 129, s. 67; 52 V., c. 32, s. 15.

86. If a claim or dividend is objected to, the objections shall be filed in writing with the liquidator, together with the evidence of the previous service of a copy thereof on the claimant.

1. The claimant shall have six days to answer the objections, or such further time as the court allows, and the contestant shall have three days to reply, or such further time as the court allows. R.S., c. 129, s. 67.

87. Upon the completion of the issues upon the objections, the liquidator shall transmit to the court all necessary papers relating to the contestation, and the court shall then, on the application of either party, fix a day for taking evidence upon the contestation, and hearing and determining the same. R.S., c. 129, s. 67.

88. The court may make such order as seems proper in respect to the payment of the costs of the contestation by either party or out of the estate of the company. R.S., c. 129, s. 67.

89. If, after a claim or dividend has been duly objected to, the claimant does not answer the objections, the court may, on the application of the contestant, make an order barring the claim or correcting the dividend, or may make such other order in reference thereto as appears right. R.S., c. 129, s. 67.

90. The court may order the person objecting to a claim or dividend to give security for the costs of the contestation within a limited time, and may, in default, dismiss the contestation or stay proceedings thereon, upon such terms as the court thinks just. R.S., c. 129, s. 67.

Distribution of Assets.

91. The property of the company shall be applied in satisfaction of its debts and liabilities, and the charges, costs and expenses incurred in winding-up its affairs. R.S., c. 129, s. 58.
92. All costs, charges and expenses properly incurred in the winding-up of a company, including the remuneration of the liquidator, shall be payable out of the assets of the company, in priority to all other claims. R.S., c. 129, s. 91.

93. The court shall distribute among the persons entitled thereto any surplus that remains after satisfaction of the debts and liabilities of the company, and the winding-up charges, costs and expenses, and unless otherwise provided by law or by the Act, charter or instrument of incorporation, any property or assets remaining after such satisfaction shall be distributed among the members or shareholders according to their rights and interests in the company. R.S., c. 129, ss. 51 and 58.

Fraudulent Preferences.

94. All gratuitous contracts, or conveyances or contracts without consideration, or with a merely nominal consideration, respecting either real or personal property, made by a company in respect to which a winding-up order under this Act is afterwards made, with or to any person whatsoever, whether a creditor of the company or not, within three months next preceding the commencement of the winding-up, or at any time afterwards, shall be presumed to have been made with intent to defraud the creditors of such company. R.S., c. 129, s. 68.

95. All contracts by which creditors are injured, obstructed or delayed, made by a company unable to meet its engagements, and in respect to which a winding-up order under this Act is afterwards made, with a person whether a creditor of the company or not, who knows such inability or has probable cause for believing such inability to exist, or after such inability is public and notorious, shall be presumed to be made with intent to defraud the creditors of such company. R.S., c. 129, s. 68.

96. A contract or conveyance for consideration, respecting either real or personal property, by which creditors are injured or obstructed, made by a company unable to meet its engagements with a person ignorant of such inability, whether a creditor of the company or not, and before such inability has become public and notorious, but within thirty days next before the commencement of the winding-up of the business of such company under this Act, or at any time afterwards, is voidable, and may be set aside by any court of competent jurisdiction, upon such terms as to the protection of such person from actual loss or liability by reason of such contract as the court orders. R.S., c. 129, s. 69.

97. All contracts or conveyances made and acts done by a company respecting either real or personal property, with intent fraudulently to impede, obstruct or delay the creditors of R.S., 1906.
of the company in their remedies against the company, or with intent to defraud the creditors of the company or any of them, and so made, done and intended with the knowledge of the person contracting or acting with the company, whether a creditor of the company or not, and which have the effect of impeding, obstructing or delaying the creditors in their remedies, or of injuring them, or any of them, shall be null and void. R.S., c. 129, s. 70.

98. If any sale, deposit, pledge or transfer is made of any property, real or personal, by a company in contemplation of insolvency under this Act, by way of security for payment to any creditor, or if any property real or personal, movable or immovable, goods, effects or valuable security, are given by way of payment by such company to any creditor, whereby such creditor obtains or will obtain an unjust preference over the other creditors, such sale, deposit, pledge or transfer or payment shall be null and void; and the subject thereof may be recovered back for the benefit of the estate by the liquidator, in any court of competent jurisdiction.

2. If such sale, deposit, pledge or transfer is made within thirty days next before the commencement of the winding-up under this Act, or at any time afterwards, it shall be presumed to have been so made in contemplation of insolvency. R.S., c. 129, s. 71.

99. Every payment made within thirty days next before the commencement of the winding-up under this Act by a company unable to meet its engagements in full, to a person knowing such inability, or having probable cause for believing the same to exist, shall be void, and the amount paid may be recovered back by the liquidator by suit or action in any court of competent jurisdiction.

2. If any valuable security is given up in consideration of such payment, such security or the value thereof shall be restored to the creditor upon the return of such payment. R.S., c. 129, s. 72.

100. When a debt due or owing by the company has been transferred within the time and under the circumstances in the last preceding section mentioned, or at any time afterwards, to a contributor, or to any person indebted or liable in any way to the company, who knows or has probable cause for believing the company to be unable to meet its engagements, or in contemplation of its insolvency under this Act, for the purpose of enabling such contributor, or such person so indebted or liable to the company, to set up, by way of compensation or set-off, the debt so transferred, such debt shall not be set up by way of compensation or set-off against the claim upon such contributory or person. R.S., c. 129, s. 73; 52 V., c. 32, s. 16.
Appendix.

101. Except in the Northwest Territories, any person dissatisfied with an order or decision of the court or a single judge in any proceeding under this Act may,—

(a) if the question to be raised on the appeal involves future rights; or,

(b) if the order or decision is likely to affect other cases of a similar nature in the winding-up proceedings; or,

(c) if the amount involved in the appeal exceeds five hundred dollars;

by leave of a judge of the court, appeal therefrom. R.S., c. 129, s. 74.

102. Such appeal shall lie,—

(a) in Ontario, to the Court of Appeal for Ontario;

(b) in Quebec, to the Court of King’s Bench; and,

(c) in any of the other provinces, and the Yukon Territory, to a superior court in banc. R.S., c. 129, s. 74.

103. In the Northwest Territories, any person dissatisfied with an order or decision of the court or a single judge, in any proceeding under this Act may, by leave of a judge of the Supreme Court of Canada, appeal therefrom to the Supreme Court of Canada. R.S., c. 129, s. 74.

104. All appeals shall be regulated, as far as possible, according to the practice in other cases of the court appealed to, but no appeal hereinbefore authorized shall be entertained unless the appellant has, within fourteen days from the rendering of the order or decision, or within such further time as the court or judge appealed from, or, in the Northwest Territories, a judge of the Supreme Court of Canada, allows, taken proceedings therein to perfect his appeal, nor unless, within the said time, he has made a deposit or given sufficient security.

According to the practice of the court appealed to, that he will duly prosecute the said appeal and pay such damages and costs as may be awarded to the respondent. R.S., c. 129, s. 74.

105. If the party appellant does not proceed with his appeal, according to this Act and the rules of practice applicable, the court appealed to, on the application of the respondent, may dismiss the appeal with or without costs. R.S., c. 129, s. 75.

106. An appeal, if the amount involved therein exceeds two thousand dollars, shall, by leave of a judge of the Supreme Court of Canada, lie to that Court from,—

(a) the Court of Appeal for Ontario;

(b) the Court of King’s Bench in Quebec; or,

(c) R.S., 1906.
(c) a superior court in banc, in any of the other provinces, or in the Yukon Territory. R.S., c. 129, s. 76:

Procedure.

107. In all proceedings connected with the company, a liquidator shall be described as the liquidator of the (name of company), and not by his individual name only. R.S., c. 129, s. 20.

108. The proceedings under a winding-up order shall be carried on as nearly as may be in the same manner as an ordinary suit, action or proceeding within the jurisdiction of the court. 52 V., c. 32, s. 21.

109. The powers conferred by this Act upon the court may, subject to the appeal in this Act provided for, be exercised by a single judge thereof; and such powers may be exercised in chambers, either during term or in vacation. R.S., c. 129, s. 77.

110. After a winding-up order is made the court may, subject to an appeal according to the practice of the court in like cases, from time to time as to the court may seem meet, by order of reference, refer and delegate, according to the practice and procedure of the court, to any officer of the court any of the powers conferred upon the court by this Act. 52 V., c. 32, s. 20.

111. The court shall have the power and jurisdiction to cause or allow the service of process or proceedings under this Act to be made on persons out of the jurisdiction of the court, in the same manner, and with the like effect, as in ordinary actions or suits within the ordinary jurisdiction of the court. 52 V., c. 32, s. 19.

112. Every order of the court or judge for the payment of money or costs, charges or expenses made under this Act shall be deemed a judgment of the court, and may be enforced against the person or goods and chattels, lands and tenements of the person ordered to pay, in the manner in which judgments or decrees of any superior court obtained in any suit may bind lands or be enforced in the province where the court making the same is situate. 58-59 V., c. 18, s. 1.

113. The practice with respect to the discovery of assets of judgment debtors, from time to time in force in the superior courts or in any superior court in the province where any such order is made, shall be applicable to and may be availed of in like manner for the discovery of the assets of any person who

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by such order is ordered to pay any money or costs, charges or expenses. 58-59 V., c. 18, s. 1.

114. Debts due to any person against whom such order for Attachment the payment of money, costs or expenses has been obtained, may, in any province where the attachment and garnishment of debts is allowed by law, be attached and garnisheed in the same manner as debts in such province due to a judgment debtor may be attached and garnisheed by a judgment creditor. R.S., c. 129, s. 79.

115. In any action, suit, proceeding or contestation under this Act, the court may order the issue of a writ of subpoena ad testificandum or of subpoena duces tecum, commanding the attendance, as a witness, of any person who is within Canada. R.S., c. 129, s. 80.

116. The court may, at any time before or after it has made a winding-up order, upon proof being given that there is reasonable cause for believing that any contributory or any past or present director, manager, officer or employee of the company is about to quit Canada or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the company, cause such person to be arrested, and his books, papers, moneys, securities for money, goods and chattels to be seized, and him and them to be safely kept until such time as the court orders. R.S., c. 129, s. 52.

117. The court may, after it has made a winding-up order, summon before it or before any person named by it, any officer of the company or person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the trade, dealings, estate or effects of the company. R.S., c. 129, s. 81.

118. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses, without a lawful excuse, to attend at the time appointed, the court may cause such person to be apprehended and brought up for examination. R.S., c. 129, s. 81.

119. The court may require any such officer or person to produce before the court, any book, paper, deed, writing or other document in his custody or power relating to the company. R.S., c. 129, s. 81.

120. If any person claims any lien on papers, deeds, writings or documents produced by him, such production shall be without R.S., 1906.
without prejudice to such lien, and the court shall have jurisdiction in the winding-up to determine all questions relating to such lien. R.S., c. 129, s. 81.

121. The court or person so named may examine, upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought up in manner aforesaid, concerning the affairs, dealings, estate, or effects of the company, and may reduce to writing the answers of any such person, and require him to subscribe the same. R.S., c. 129, s. 82.

122. After a winding-up order has been made, the court may make such order for the inspection, by the creditors, shareholders, members or contributories of the company, of its books and papers, as the court thinks just.

2. Any books and papers in the possession of the company may be inspected in conformity with the order of the court, but not further or otherwise. R.S., c. 129, s. 54.

123. When in the course of the winding-up of the business of a company under this Act, it appears that any past or present director, manager, liquidator, receiver, employee or officer of such company has misapplied or retained in his own hands, or become liable or accountable for any moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of any liquidator, or of any creditor or contributory of the company, notwithstanding that the offence is one for which the offender is criminally liable, examine into the conduct of such director, manager, liquidator, receiver, officer or employee, and, upon such examination, may make an order requiring him to repay any moneys so misapplied or retained, or for which he has become liable or accountable, together with interest, at such rate as the court thinks just, or to contribute such sums of money to the assets of the company, by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, as the court thinks fit. R.S., c. 129, s. 83.

124. The court may, by any order made after the winding-up order and the appointment of a liquidator, dispense with notice to creditors, contributories, shareholders or members of the company required by this Act, where in its discretion such notice may properly be dispensed with. 52 V., c. 32, s. 11.

125. The courts of the various provinces, and the judges of the said courts respectively, shall be auxiliary to one another for the purposes of this Act; and the winding-up of the business of the company or any matter or proceeding relating thereto may be transferred from one court to another with the concurrence, or by the order or orders of the two courts, or by
by an order of the Supreme Court of Canada. R.S., c. 129, s. 84.

126. When any order made by one court is required to be enforced by another court, an office copy of the order so made, certified by the clerk or other proper officer of the court which made the same, under the seal of such court shall be produced to the proper officer of the court required to enforce the same. R.S., c. 129, s. 85.

127. Such last mentioned court shall, upon such production of the said certified copy of such order, take the same proceedings thereon for enforcing the order as if it was the order of the court required to enforce it. R.S., c. 129, s. 85.

128. The rules of procedure, for the time being, as to amendments of pleadings and proceedings in the court, shall apply, as far as practicable, to all pleadings and proceedings under this Act.

2. Any court before which such proceedings are being carried on shall have full power and authority to apply to such proceedings the appropriate rules of such court as to amendments. R.S., c. 129, s. 86.

129. No pleading or proceeding shall be void by reason of any irregularity or default which may be amended or disregarded; but the same may be dealt with according to the rules and practice of the court in cases of irregularity or default. R.S., c. 129, s. 87.

130. Any powers by this Act conferred on the court are in addition to, and not in restriction of any other powers at law or in equity of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the company, or his estate, for the recovery of any call or other sum due from such contributory, debtor, or estate; and such proceedings may be instituted accordingly. R.S., c. 129, s. 90.

131. The court may, as to all matters relating to the winding-up, have regard, so far as it deems just, to the wishes of the creditors, contributories, shareholders or members, as proved to it by any sufficient evidence. R.S., c. 129, s. 19.

132. The liquidator shall be subject to the summary jurisdiction of the court in the same manner and to the same extent as the ordinary officers of the court are subject to its jurisdiction; and the performance of his duties may be compelled by order of the court. R.S., c. 129, s. 30.

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133. All remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, lien or right of property upon, in or to any effects or property in the hands, possession or custody of a liquidator, may be obtained by an order of the court on summary petition, and not by any action, suit, attachment, seizure or other proceeding of any kind whatsoever. R.S., c. 129, s. 39.

Rules, Regulations and Forms.

134. A majority of the judges of the court, of which the chief justice shall be one, may, from time to time make and frame and settle the forms, rules and regulations to be followed and observed in proceedings under this Act, and make rules as to the costs, fees and charges which shall or may be had, taken or paid in all such cases by or to attorneys, solicitors or counsel, and by or to officers of courts, whether for the officers or for the Crown, and by or to sheriffs, or other persons, or for any service performed or work done under this Act: Provided that in Ontario the judges of the High Court of Justice, and in Quebec, the judges of the Court of King's Bench, or a majority of such judges of which the chief justice shall be one, shall make and settle such forms, rules and regulations. R.S., c. 129, s. 92.

135. Until such forms, rules and regulations are made, the various forms and procedures, including the tariff of costs, fees and charges in cases under this Act, shall, unless otherwise specially provided, be the same as nearly as may be as those of the court in other cases. R.S., c. 129, s. 93.

Unclaimed Deposits.

136. All dividends deposited in a bank and remaining unclaimed at the time of the final winding-up of the business of the company shall be left for three years in the bank where they are deposited, subject to the claim of the persons entitled thereto.

2. If such dividends are unclaimed at the expiration of three years aforesaid they shall be paid over by such bank, with interest accrued thereon, to the Minister.

3. If such dividends are afterwards duly claimed they shall, with such interest, be paid over to the persons entitled thereto. R.S., c. 129, s. 94.

137. The money deposited in the bank by the liquidator after the final winding-up of the business of a company shall be left for three years in the bank, subject to be claimed by the persons entitled thereto, and if not then paid out to such persons, shall be then paid over, with the interest accrued thereon, to the Minister, and if afterwards claimed shall be paid, with such interest, to the persons entitled to the same. R.S., c. 129, s. 41.

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Offences and Penalties.

138. When a winding-up order is made, if it appears in the course of such winding-up that any past or present director, manager, officer or member of the company is guilty of an offence in relation to the company for which he is criminally liable, the court may, on the application of any person interested in such winding-up, or of its own motion, direct the liquidator to institute and conduct a prosecution or prosecutions for such offence, and may order the costs and expenses to be paid out of the assets of the company. R.S., c. 129, s. 96.

139. Every person who, with intent to defraud or deceive any person, destroys, mutilates, alters or falsifies any book, paper, writing or security, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or other document belonging to the company, the business of which is being wound up under this Act, is guilty of an indictable offence and liable to imprisonment in the penitentiary for any term not less than two years, or to imprisonment in any gaol or in any place of confinement other than a penitentiary for any term less than two years, with or without hard labour. R.S., c. 129, s. 95.

140. Any liquidator, director, manager, receiver, officer or employee of a company, failing to comply with the requirements or directions of any order made by the court under this Act, shall be guilty of contempt of court and shall be subject to all process and punishments of such court for contempt.

2. Any liquidator so failing may in the discretion of the court be removed from office as such liquidator. R.S., c. 129, ss. 38, 39, 40 and 53.

141. Any refusal on the part of the president, directors, officers or employees of a company to give all information possessed by them respectively as to the affairs of the company required by the accountant or other person ordered by the court under this Part to inquire into the affairs of the company and to report thereon, shall be a contempt of court, and such president, directors, officers or employees shall be subject to all penalties possessed by them respectively as to the affairs of the company c. 129, s. 11.

142. Every liquidator who shall not within three days after the date of the final winding-up of the business of the company, deposit in the bank appointed or designated as hereinafore provided, any money belonging to the estate of which he is such liquidator, then in his hands and not required for any other purpose authorized by this Act, with an account of such money, and a sworn statement that the same is all that he has in his hands, shall incur a penalty not exceeding ten dollars, and not less than ten per centum per annum interest upon the

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sums in his hands for every day after the expiration of the
said three days on which he neglects or delays such payment.
R.S., c. 129, s. 40.

143. Every person being brought up for examination before
the court after the court has made a winding-up order, or
appearing before the court for such examination, who refuses
without lawful excuse to answer any question put to him or
to subscribe any answer made by him on such examination,
shall be guilty of contempt of court, and shall be subject to all
process and punishments of such court for contempt. R.S.,
c. 129, s. 82.

Evidence.

144. If the business of a company is being wound up under
this Act, all books of the company and of the liquidators shall,
as between the contributories of the company, be prima facie
evidence of the truth of all matters purporting to be therein
recorded. R.S., c. 129, s. 53.

145. Every affidavit, affirmation or declaration required to
be sworn or made under the provisions or for the purposes of
this Act, or to be used in the court in any proceeding under
this Act, may be sworn or made in Canada before a liquidator,
judge, notary public, commissioner for taking affidavits or
justice of the peace; and out of Canada, before any judge of
a court of record, any commissioner for taking affidavits to be
used in any court in Canada, any notary public, the chief
municipal officer of any town or city, any British consul or
vice-consul, or any person authorized by or under any statute
of Canada, or of any province, to take affidavits. R.S., c. 129,
s. 88.

146. All courts, judges, justices, commissioners and persons
acting judicially shall take judicial notice of the seal,
or stamp or signature, as the case may be, of any such court,
liquidator, judge, notary public, commissioner, justice, chief
municipal officer, consul, vice-consul, or other person, attached,
appended or subscribed to any such affidavit, affirmation or
declaration or to any other document to be used for the pur-
poses of this Act. R.S., c. 129, s. 89.

147. When any order made by one court is required to be
enforced by another court, the production of an office copy of
the order so made certified by the clerk or other proper officer
of the court which made the same, under the seal of such court,
shall be sufficient evidence of such order having been made.
R.S., c. 129, s. 85.

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148. The absence of mention in the minutes of any meeting of contributories, creditors, shareholders or members under this Act, of the production of the liquidator's bank pass-book, shall be prima facie evidence that such pass-book was not produced at such meeting. R.S., c. 129, s. 37.

PART II.

BANKS.

149. The provisions of this Part apply to banks only, not including savings banks. R.S., c. 129, s. 97.

150. The application for a winding-up order shall be made by a creditor for a sum of not less than one thousand dollars. R.S., c. 129, s. 98.

151. The court shall, before making the order, direct a meeting of the shareholders of the bank and a meeting of the creditors of the bank to be summoned, held, and conducted as the court directs, for the purpose of ascertaining their respective wishes as to the appointment of liquidators. R.S., c. 129, s. 98.

152. The court may appoint a person to act as chairman of the meeting of shareholders, and in default of such appointment, the president of the bank, or other person who usually presides at a meeting of shareholders, shall be chairman. R.S., c. 129, s. 99.

153. The court may also appoint a person to act as chairman of the meeting of creditors, and in default of such appointment, the creditors at the meeting shall appoint a chairman. R.S., c. 129, s. 99.

154. In taking a vote at the meeting of shareholders, regard shall be had to the number of votes conferred by law, or by the regulations of the bank, on each shareholder present or represented at such meeting. R.S., c. 129, s. 100.

155. In taking a vote at the meeting of creditors, regard shall be had to the amount of the debt due to each creditor. R.S., c. 129, s. 100.

156. The chairman of each meeting shall report the proceedings of the meeting to the court, and, if a winding-up order is made, the court shall appoint one or more liquidators not exceeding three to be selected, in its discretion, after such hearing of the parties as it deems expedient, from among the persons nominated by the majorities and minorities of the shareholders and R.S., 1906.
and creditors at such meetings respectively. R.S., c. 129, s. 101; 52 V., c. 32, s. 17.

157. If no one has been so nominated, the liquidator or liquidators shall be chosen by the court. 52 V., c. 32, s. 18.

158. The liquidators shall ascertain as nearly as possible the amount of notes of the bank intended for circulation and actually outstanding, and shall reserve dividends on any part of the said amount in respect of which claims are not filed, until the expiration of at least two years after the date of the winding-up order, or until the last dividend, if such last dividend is not made until after the expiration of the said time.

2. If claims are not filed and dividends applied for in respect of any part of the said amount before the period by this section limited, the dividends so reserved shall form the last or part of the last dividend. R.S., c. 129, s. 103.

159. Publication in the Canada Gazette and in the official gazette of each province, and in two newspapers issued at or nearest to the place where the head office of a bank is situate, of notice of any proceeding of which, under this Act, creditors should be notified, shall be sufficient notice to holders of bank notes in circulation.

2. If the head office is situated in the province of Quebec, one of the newspapers in which publication is to be made shall be a newspaper published in English and the other a newspaper published in French. R.S., c. 129, s. 104.

PART III.

LIFE INSURANCE COMPANIES.

160. The provisions of this Part apply only to life insurance companies, and to insurance companies doing life and other insurance, in so far as relates to the life insurance business of such companies. R.S., c. 129, s. 105.

161. Whenever a license of a company has expired or been withdrawn under the Insurance Act, and has not been renewed within thirty days after such expiry or withdrawal, the company shall be subject to the provisions of this Act applicable to the case of insolvency of such a company, except in case of,—

(a) a company which previously to the twenty-eighth day of April, one thousand eight hundred and seventy-seven, was licensed to transact the business of life insurance in Canada and ceased to transact such business before the twenty-first day of March, one thousand eight hundred and 2400

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and seventy-eight, having before that date given written notice to that effect to the Minister; or,

(b) a company licensed under the Insurance Act to transact the business of life insurance in Canada which has, in manner provided by the said Act, procured the transfer of its outstanding policies in Canada to some company or companies licensed under the said Act, or obtained the surrender of its policies as far as practicable. R.S., c. 129, s. 106.

162. In case of the insolvency of any company, the deposits of such company held by the Minister, and the assets held by the trustees under the Insurance Act, shall be applied pro rata towards the discharge of all claims of policy-holders in Canada duly authenticated against such company. R.S., c. 129, s. 107.

163. Upon the insolvency of any company and the making of a winding-up order under this Act, the policy-holders in Canada shall be entitled to claim for the full net values, including bonus additions and profits accrued, of their several policies at the time of the winding-up order, less any amount previously advanced by the company on the security of the policies.

2. Such claims shall rank with judgments obtained and claims matured on Canadian policies, in the distribution of the assets. R.S., c. 129, s. 108.

164. The liquidator may require the Superintendent of Insurance to value, or procure to be valued under his supervision, the policies of the policy-holders in Canada, on the basis prescribed in the Insurance Act.

2. The expenses of such valuation, at a rate of three cents for each policy or bonus addition so valued, shall be retained by the Minister from the securities held by him. 62-63 V., c. 43, s. 6.

165. Upon the completion by the liquidator of the statement to be prepared by him of all judgments against the company upon policies in Canada, and of all claims upon policies matured or outstanding, the court shall cause the securities held by the Minister for such company, and the assets held by the trustees provided in the Insurance Act, or any part of them it deems fit, to be sold or realized in such manner and after such notice and formalities as the court appoints. R.S., c. 129, s. 108.

166. The proceeds so realized, after paying expenses incurred, shall, except in so far as they have been applied under this Act to effect a re-insurance of policies, be distributed pro rata amongst the claimants according to such statement.

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2. If the proceeds are not sufficient to cover in full all claims recorded in the statement, such policy-holders shall not be barred from any recourse they have, either in law or equity, against the company issuing the policy or against any shareholder or director thereof, other than for a share in the distribution of the proceeds aforesaid, or in respect to any distribution of the general property and assets of the company, other than the deposit and the assets vested in trustees. R.S., c. 129, s. 108.

167. Whenever the company or the liquidator, or the holder of the policy or contract of insurance exercises any right which it or he has to cancel any policy or contract, the holder shall be entitled to claim as a creditor for the sum which, under the terms of the policy or contract, is due to him upon such cancellation. R.S., c. 129, s. 109.

168. The liquidator shall, without the filing of any claim, notice or evidence, or the taking of any action by any person, make a statement of all the persons appearing by the books and records of the officers of the company to be creditors or claimants on any matured, valued or cancelled policy or contract of insurance, and of the amount due to each such person in respect of such claims, and every such person shall be collocated and ranked as, and shall be entitled to the right of, a creditor or claimant for such amount, without filing any claim, notice or evidence, or taking any action: Provided that any such collocation may be contested by any person interested, and any person who is not collocated, or who is dissatisfied with the amount for which he is collocated, may file his own claim. R.S., c. 129, s. 110.

169. A copy of such statement, certified by the liquidator, shall, forthwith after the making of such statement, be filed in the office of the Superintendent of Insurance at Ottawa.

2. Notice of such filing shall forthwith be given by the liquidator by notice in the Canada Gazette and in the official gazette of each province, and in two newspapers issued at or nearest to the place where the head office in Canada of the company is situate.

3. The liquidator shall also, forthwith, send by mail, prepaid, a notice of such filing to each creditor named in the statement, addressed to the addresses in Canada of such creditors, as far as the same are known, and, in the case of foreign creditors, addressed to the addresses of their representatives or agents in Canada, as far as the same are known. R.S., c. 129, s. 110.

170. The holder of a policy or contract of life insurance, upon which a claim accrues after the date of the winding-up order and before the expiration of thirty days after the filing, in the office of the Superintendent of Insurance, of the statement...
ment referred to in the last preceding section, shall be entitled to claim as a creditor for the full net amount of such claim less any amount previously advanced by the company on the security of the policy or contract, and the said statement and the dividend sheet shall, if necessary, be amended accordingly:

Provided that no claim which accrues after the expiration of the thirty days aforesaid shall rank upon the estate unless not until there is sufficient to pay all creditors in full. R.S., c. 129, s. 111.

171. If, before the expiration of the thirty days herein-before mentioned, the holder of a policy or contract of life insurance, on which a claim has not accrued, signifies in writing to the liquidator his willingness to accept an insurance in some other company for the amount which can be secured by the dividend on his claim to which such holder is or may become entitled, the liquidator may, with the sanction of the court, effect for such holder an insurance to the amount aforesaid in another company or companies, approved of by the Superintendent of Insurance, and may apply to that purpose the dividend on his claim to which such holder is or may become entitled: Provided that such insurance shall be effected only as part of a general scheme for the assumption, by some other company or companies, of the whole or part of the outstanding risks and liabilities of the insolvent company. R.S., c. 129, s. 112.

172. If the company is licensed under the Insurance Act, the liquidator shall report to the Superintendent of Insurance once in every six months, or oftener as the Superintendent requires, on the condition of the affairs of the company, with such particulars as the Superintendent requires. R.S., c. 129, s. 113.

173. Publication in the Canada Gazette, and in the official gazette of each province, and in two newspapers published at or nearest to the place where the head office in Canada of an insurance company is situate, of notice of any proceeding of which, under this Act, creditors should be notified, shall be sufficient notice to holders of policies or contracts of insurance in respect of which no notice of claim has been received. R.S., c. 129, s. 114.

PART IV.

OTHER THAN LIFE INSURANCE COMPANIES.

174. The provisions of this Part apply only to insurance companies other than life insurance companies, and to insurance companies doing life and other insurance, in so far as relates to the insurance business of such companies which is not life insurance business. R.S., c. 129, s. 115.

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175. Any company shall be deemed insolvent upon its failure to pay any undisputed claim arising, or loss insured against in Canada, upon any policy held in Canada for the space of sixty days after becoming due, or, if disputed, after final judgment and tender of a legal valid discharge, and, in either case, after notice thereof to the Minister.

2. In any case when a claim for loss is, by the terms of the policy, payable on proof of such loss, without any stipulated delay, the notice to the Minister under this section shall not be given until after the lapse of sixty days from the time when the claim becomes due. R.S., c. 129, s. 116.

176. Any deposit held by the Minister for policy-holders, shall be applied pro rata towards the payment of all claims duly authenticated against such company, upon or in respect of policies issued to policy-holders in Canada. R.S., c. 129, s. 117.

177. Holders of policies or contracts of insurance on which no claim has accrued at the time the winding-up order is made, shall be entitled to claim as creditors, for such part of the premium paid, as is proportionate to the period of their policies or contracts respectively unexpired at the date of the winding-up order.

2. Such return or unearned premium shall rank with judgments obtained and claims accrued in the distribution of the assets. R.S., c. 129, s. 118.

178. Upon the completion of the statement to be prepared by the liquidator under this Act, the court shall cause the securities held by the Minister for the company, or any part of them it deems fit, to be sold in such manner and after such notice and formalities as the court appoints.

2. The proceeds thereof, after paying expenses incurred, shall, except in so far as they have been applied under this Act to effect a re-insurance of the policies, be distributed pro rata among the claimants according to such statement.

3. If the proceeds are not sufficient to cover in full all claims recorded in the statement, such policy-holders shall not be barred from any recourse they have, either at law or in equity, against the company issuing the policy, other than for a share in the distribution of the proceeds of the securities held for such company by the Minister. R.S., c. 129, s. 118.

179. Whenever the company or the liquidator, or the holder of the policy or contract of insurance, exercises any right which it or he has to cancel the policy or contract, the holder shall be entitled to claim as a creditor for the sum which, under the terms of the policy or contract, is due to him upon such cancellation. R.S., c. 129, s. 118.

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180. The liquidator shall, without the filing of any claim, notice or evidence, or the taking of any action by any person, make a statement of all the persons appearing, by the books and records of the officers of the company, to be creditors or claimants under the three last preceding sections, and of the amounts due to each such person thereunder. R.S., c. 129, s. 119.

181. Every such person shall be collocated and ranked as, and shall be entitled to the rights of, a creditor or claimant for such amount, without filing any claim, notice or evidence, or taking any action: Provided that any such collocation may be contested by any person interested, and any person not collocated, or dissatisfied with the amount for which he is collocated, may file his own claim. R.S., c. 129, s. 119.

182. A copy of such statement, certified by the liquidator, shall, forthwith after the making of such statement, be filed in the office of the Superintendent of Insurance, at Ottawa, and notice of such filing shall be forthwith given by the liquidator by notice in the Canada Gazette, and in the official gazette of each province, and in two newspapers published at or nearest to the place where the head office in Canada of the company is situate. R.S., c. 129, s. 119.

183. The liquidator shall also forthwith send by mail, a notice of such filing to each creditor named in the statement, addressed to the addresses in Canada of such creditors, as far as the same are known, and, in the case of foreign creditors, addressed to the addresses of their representatives or agents in Canada, as far as the same are known. R.S., c. 129, s. 119.

184. The holder of a policy or contract of insurance upon which a claim accrues, after the date of the winding-up order, and before the expiration of thirty days after the filing, in the office of the Superintendent of Insurance, of the statement aforesaid, shall be entitled to claim, as a creditor, for the full net amount of such claim; and the said statement and the dividend sheet shall, if necessary, be amended accordingly: Provided that no claim which accrues after the expiration of the thirty days hereinbefore mentioned, shall rank upon the estate, unless nor until there is sufficient to pay all creditors in full. R.S., c. 129, s. 120.

185. Before the expiration of the thirty days aforesaid, the re-insurance may, with the sanction of the court, arrange with any incorporated insurance company, approved of for such purpose by the Superintendent of Insurance, for the re-insurance by such company of the outstanding risks of the insolvent company, R.S., 1906.
company, and for the assumption by such company of the whole or any part of the other liabilities of the insolvent company. R.S., c. 129, s. 121.

186. In case of such arrangement the liquidator may pay or transfer to such company, such of the assets of the insolvent company as may be agreed on as the consideration for such re-insurance or assumption, and in such case the arrangement for re-insurance shall be in lieu of the claim for unearned premium.

2. Any remaining assets of the insolvent company shall be retained by the liquidator as a security to the creditors for the payment of their claims, and shall, if necessary, be so applied, and shall not be returned to the company, except on the order of the court after the satisfaction of such claims. R.S., c. 129, s. 121.

187. If the company is licensed under the Insurance Act, the liquidator shall report to the Superintendent of Insurance once in every six months, or oftener, as the Superintendent requires, on the condition of the affairs of the company, with such particulars as the Superintendent requires. R.S., c. 129, s. 122.

188. Publication in the Canada Gazette, and in the official gazette of each province, and in two newspapers published at or nearest to the place where the head office of an insurance company is situate, of notice of any proceeding of which, under this Act, creditors are to be notified, shall be sufficient notice to holders of policies or contracts of insurance, in respect of which no notice of claim has been received. R.S., c. 129, s. 123.
CHAPTER 145.

An Act respecting Witnesses and Evidence.

SHORT TITLE.

1. This Act may be cited as the Canada Evidence Act. 56 Short title. V., c. 31, s. 1.

PART I.

APPLICATION.

2. This Part shall apply to all criminal proceedings, and to all civil proceedings and other matters whatsoever respecting which the Parliament of Canada has jurisdiction in this behalf. Applies to all matters within legislative jurisdiction of Canada. 56 V., c. 31, s. 2.

WITNESSES.

3. A person shall not be incompetent to give evidence by reason of interest or crime. 56 V., c. 31, s. 3.

4. Every person charged with an offence, and, except as in this section otherwise provided, the wife or husband, as the case may be, of the person so charged, shall be a competent witness for the defence, whether the person so charged is charged solely or jointly with any other person. No incompetency from interest or crime. 

2. The wife or husband of a person charged with an offence against any of the sections two hundred and two to two hundred and six inclusive, two hundred and eleven to two hundred and nineteen inclusive, two hundred and thirty-eight, two hundred and thirty-nine, two hundred and forty-four, two hundred and forty-five, two hundred and ninety-eight to three hundred and two inclusive, three hundred and seven to three hundred and eleven inclusive, three hundred and thirteen to three hundred and sixteen inclusive of the Criminal Code, shall be a competent and compellable witness for the prosecution without the consent of the person charged. Wife or husband competent and compellable witnesses for prosecution.

3. No husband shall be compellable to disclose any communication made to him by his wife during their marriage, and no wife shall be compellable to disclose any communication made to her by her husband during their marriage. Disclosure of communications during marriage not compellable.

4. Nothing in this section shall affect a case where the wife or husband of a person charged with an offence may at common law testify for the prosecution, or refuse to testify against the person so charged, in a case where such person is charged with an offence against a section of the Criminal Code, or any other Act of Parliament, and in such case the wife or husband of such person shall be compellable to disclose such communication. Saving.
mon law be called as a witness without the consent of that person.

5. The failure of the person charged, or of the wife or husband of such person, to testify, shall not be made the subject of comment by the judge, or by counsel for the prosecution. 6 E. VII., c. 10, s. 1.

5. No witness shall be excused from answering any question upon the ground that the answer to such question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person.

2. If with respect to any question a witness objects to answer upon the ground that his answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person, and if but for this Act, or the act of any provincial legislature, the witness would therefore have been excused from answering such question, then although the witness is by reason of this Act, or by reason of such provincial act, compelled to answer, the answer so given shall not be used or receivable in evidence against him in any criminal trial, or other criminal proceeding against him thereafter taking place, other than a prosecution for perjury in the giving of such evidence. 61 V., c. 53, s. 1; 1 E. VII., c. 36, s. 1.

6. A witness who is unable to speak, may give his evidence in any other manner in which he can make it intelligible. 56 V., c. 31, s. 6.

7. Where, in any trial or other proceeding, criminal or civil, it is intended by the prosecution or the defence, or by any party, to examine as witnesses professional or other experts entitled according to the law or practice to give opinion evidence, not more than five of such witnesses may be called upon either side without the leave of the court or judge or person presiding.

2. Such leave shall be applied for before the examination of any of the experts who may be examined without such leave. 2 E. VII., c. 9, s. 1.

8. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine shall be permitted to be made by witnesses; and such writings, and the evidence of witnesses respecting the same, may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute. 55-56 V., c. 29, s. 698.

9. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but if the witness, in the opinion of the court, proves adverse, such
party may contradict him by other evidence, or, by leave of the court, may prove that the witness made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. 55-56 V., c. 29, s. 699.

10. Upon any trial a witness may be cross-examined as to previous statements made by him in writing, or reduced to writing, relative to the subject-matter of the case, without such writing being shown to him: Provided that, if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; and that the judge, at any time during the trial, may require the production of the writing for his inspection, and thereupon make such use of it for the purposes of the trial as he thinks fit.

2. A deposition of the witness, purporting to have been taken before a justice on the investigation of a criminal charge and to be signed by the witness and the justice, returned to and produced from the custody of the proper officer, shall be presumed prima facie to have been signed by the witness. 55-56 V., c. 29, s. 700.

11. If a witness upon cross-examination as to a former statement made by him relative to the subject-matter of the case and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. 55-56 V., c. 29, s. 701.

12. A witness may be questioned as to whether he has been convicted of any offence, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove such conviction.

2. The conviction may be proved by producing,—

(a) a certificate containing the substance and effect only, omitting the formal part, of the indictment and conviction, if it is for an indictable offence, or a copy of the summary conviction, if for an offence punishable upon summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court in which the conviction, if upon indictment, was had.

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had, or to which the conviction, if summary, was returned; and,

(b) proof of identity. 55-56 V., c. 29, s. 695.

OATHS AND AFFIRMATIONS.

13. Every court and judge, and every person having, by law or consent of parties, authority to hear and receive evidence, shall have power to administer an oath to every witness who is legally called to give evidence before that court, judge or person. 56 V., c. 31, s. 22.

14. If a person called or desiring to give evidence, objects, on grounds of conscientious scruples, to take an oath, or is objected to as incompetent to take an oath, such person may make the following affirmation:—

'I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth.'

2. Upon the person making such solemn affirmation, his evidence shall be taken and have the same effect as if taken under oath. 56 V., c. 31, s. 23.

15. If a person required or desiring to make an affidavit or deposition in a proceeding or on an occasion whereon or touching a matter respecting which an oath is required or is lawful, whether on the taking of office or otherwise, refuses or is unwilling to be sworn, on grounds of conscientious scruples, the court or judge, or other officer or person qualified to take affidavits or depositions, shall permit such person, instead of being sworn, to make his solemn affirmation in the words following, viz.: 'I, A. B., do solemnly affirm, etc.'; which solemn affirmation shall be of the same force and effect as if such person had taken an oath in the usual form.

2. Any witness whose evidence is admitted or who makes an affirmation under this or the last preceding section shall be liable to indictment and punishment for perjury in all respects as if he had been sworn. 56 V., c. 31, s. 24.

16. In any legal proceeding where a child of tender years is offered as a witness, and such child does not, in the opinion of the judge, justice or other presiding officer, understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if, in the opinion of the judge, justice or other presiding officer, as the case may be, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth.

2. No case shall be decided upon such evidence alone, and such evidence must be corroborated by some other material evidence. 56 V., c. 31, s. 25.

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Judicial Notice.

17. Judicial notice shall be taken of all Acts of the Imperial Parliament, of all ordinances made by the Governor in Council, or the lieutenant governor in council of any province or colony which, or some portion of which, now forms or hereafter may form part of Canada, and of all the acts of the legislature of any such province or colony, whether enacted before or after the passing of The British North America Act, 1867. 56 V., c. 31, s. 7.

18. Judicial notice shall be taken of all public Acts of the Parliament of Canada without such Acts being specially pleaded. R.S., c. 1, s. 7.

Documentary Evidence.

19. Every copy of any Act of the Parliament of Canada, public or private, printed by the King's Printer, shall be evidence of such Act and of its contents; and every copy purporting to be printed by the King's Printer shall be deemed to be so printed, unless the contrary is shown. R.S., c. 1, s. 7.

20. Imperial proclamations, orders in council, treaties, orders, warrants, licenses, certificates, rules, regulations, or other Imperial official records, Acts or documents may be proved,—

(a) in the same manner as they may from time to time be provable in any court in England; or,

(b) by the production of a copy of the Canada Gazette, or a volume of the Acts of the Parliament of Canada purporting to contain a copy of the same or a notice thereof; or,

(c) by the production of a copy thereof purporting to be printed by the King's Printer for Canada. 56 V., c. 31, s. 11.

21. Evidence of any proclamation, order, regulation or appointment, made or issued by the Governor General or by the Governor in Council, or by or under the authority of any minister or head of any department of the Government of Canada, may be given in all or any of the modes following, that is to say:—

(a) By the production of a copy of the Canada Gazette, or a volume of the Acts of the Parliament of Canada purporting to contain a copy of such proclamation, order, regulation, or appointment or a notice thereof;

(b) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the King's Printer for Canada; and,

(c) By the production, in the case of any proclamation, order, regulation or appointment made or issued by the Governor.
Governor General or by the Governor in Council, of a copy or extract purporting to be certified to be true by the clerk, or assistant or acting clerk of the King’s Privy Council for Canada; and in the case of any order, regulation or appointment made or issued by or under the authority of any such minister or head of a department, by the production of a copy or extract purporting to be certified to be true by the minister, or by his deputy or acting deputy, or by the secretary or acting secretary of the department over which he presides. 56 V., c. 31, s. 8.

22. Evidence of any proclamation, order, regulation or appointment made or issued by a lieutenant governor or lieutenant governor in council of any province, or by or under the authority of any member of the executive council, being the head of any department of the government of the province, may be given in all or any of the modes following, that is to say,—

(a) By the production of a copy of the official gazette for the province, purporting to contain a copy of such proclamation, order, regulation or appointment, or a notice thereof;

(b) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the government or King’s printer for the province;

(c) By the production of a copy or extract of such proclamation, order, regulation or appointment, purporting to be certified to be true by the clerk or assistant or acting clerk of the executive council, or by the head of any department of the government of a province, or by his deputy or acting deputy as the case may be.

2. Prima facie evidence of any proclamation, order, regulation or appointment made by the lieutenant governor or lieutenant governor in council of the Northwest Territories, as constituted previously to the first day of September, one thousand nine hundred and five, or of the commissioner in council of the Northwest Territories as now constituted, or of the commissioner in council of the Yukon Territory, may also be given by the production of a copy of the Canada Gazette purporting to contain a copy of such proclamation, order, regulation or appointment, or a notice thereof. R.S., c. 50, s. 111; 56 V., c. 31, s. 9.

23. Evidence of any proceeding or record whatsoever of, in, or before any court in the United Kingdom, or the Supreme or Exchequer Courts of Canada, or any court in any province of Canada, or any court in any British colony or possession, or any court of record of the United States of America, or of any state of the United States of America, or of any other foreign country, or before any justice of the peace or coroner in any province of Canada, may be made in any action or proceeding by an exemplification or certified copy thereof, pur-
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Porting to be under the seal of such court, or under the hand
or seal of such justice or coroner, as the case may be, without
any proof of the authenticity of such seal or of the signature
of such justice or coroner, or other proof whatever.

2. If any such court, justice or coroner, has no seal, or so
certifies, such evidence may be made by a copy purporting to be
certified under the signature of a judge or presiding magistrate
of such court or of such justice or coroner, without any proof
of the authenticity of such signature, or other proof whatso-
ever. 56 V., c. 31, s. 10.

24. In every case in which the original record could be
received in evidence,—

(a) a copy of any official or public document of Canada or
of any province, purporting to be certified under the hand
of the proper officer or person in whose custody such official
or public document is placed; or,

(b) a copy of a document, by-law, rule, regulation or pro-
ceeding, or a copy of any entry in any register or other
book of any municipal or other corporation, created by
charter or statute of Canada or of any province, purport-
ing to be certified under the seal of the corporation, and the
hand of the presiding officer, clerk or secretary thereof;
shall be receivable in evidence without proof of the seal of
the corporation, or of the signature or of the official character
of the person or persons appearing to have signed the same,
and without further proof thereof. 56 V., c. 31, s. 12.

25. Where a book or other document is of so public a
nature as to be admissible in evidence on its mere production
from the proper custody, and no other statute exists which
renders its contents provable by means of a copy, a copy thereof
or extract therefrom shall be admissible in evidence in any
court of justice, or before a person having, by law or by con-
sent of parties, authority to hear, receive and examine evidence,
if it is proved that it is a copy or extract purporting to be
certified to be true by the officer to whose custody the original
has been entrusted. 56 V., c. 31, s. 13.

26. A copy of any entry in any book kept in any depart-
ment of the Government of Canada, shall be received as evidence
of such entry and of the matters, transactions and accounts
therein recorded, if it is proved by the oath or affidavit of an
officer of such department that such book was, at the time of the
making of the entry, one of the ordinary books kept in such
department, that the entry was made in the usual and ordinary
course of business of such department, and that such copy is a
true copy thereof. 56 V., c. 31, s. 17.

27. Any document purporting to be a copy of a notarial
act or instrument made, filed or unregistered in the province
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of Quebec, and to be certified by a notary or prothonotary to be a true copy of the original in his possession as such notary or prothonotary, shall be received in evidence in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved. Provided that it may be proved in rebuttal that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of the province of Quebec, be taken before a notary or be filed, enrolled or enregistered by a notary in the said province. 56 V., c. 31, s. 18.

28. No copy of any book or other document shall be received in evidence, under the authority of any of the last five preceding sections, upon any trial, unless the party intending to produce the same has before the trial given to the party against whom it is intended to be produced reasonable notice of such intention.

2. The reasonableness of the notice shall be determined by the court or judge, but the notice shall not in any case be less than ten days. 56 V., c. 31, s. 19.

29. Any order in writing, signed by the Secretary of State of Canada, and purporting to be written by command of the Governor General, shall be received in evidence as the order of the Governor General. 56 V., c. 31, s. 15.

30. All copies of official and other notices, advertisements and documents printed in the Canada Gazette shall be prima facie evidence of the originals, and of the contents thereof. 56 V., c. 31, s. 16.

31. No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, regulation, appointment, book or other document.

2. Any such copy or extract may be in print or in writing, or partly in print and partly in writing. 56 V., c. 31, s. 14.

32. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite.

2. Such instrument may be proved by admission or otherwise as if there had been no attesting witness thereto. 55-56 V., c. 29, s. 696.

33. Whenever any instrument which has been forged or fraudulently altered is admitted in evidence the court or the judge or person who admits the instrument may, at the request of any person against whom it is admitted in evidence, direct that

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that the instrument shall be impounded and be kept in the custody of some officer of the court or other proper person for such period and subject to such conditions, as to the court, judge or person admitting the instrument seems meet. 55-56 V., c. 29, s. 720.

34. The provisions of this Part shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any existing statute, or existing at law. 56 V., c. 31, s. 20.

PROVINCIAL LAWS OF EVIDENCE.

35. In all proceedings over which the Parliament of Canada has legislative authority, the laws of evidence in force in the province in which such proceedings are taken, including the laws of proof of service of any warrant, summons, subpoena or other document, shall, subject to the provisions of this and other Acts of the Parliament of Canada, apply to such proceedings. 56 V., c. 31, s. 21.

STATUTORY DECLARATIONS.

36. Any judge, notary public, justice of the peace, police or stipendiary magistrate, recorder, mayor or commissioner authorized to take affidavits to be used either in the provincial or Dominion courts, or any other functionary authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making the same before him, in the form following, in attestation of the execution of any writing, deed or instrument, or of the truth of any fact, or of any account rendered in writing:—

I, A. B., do solemnly declare that (state the fact or facts declared to), and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act.

Declared before me at this day of A.D. 19
56 V. c. 31, s. 26, and sch. A.

INSURANCE PROOFS.

37. Any affidavit, affirmation or declaration required by any insurance company authorized by law to do business in Canada, in regard to any loss of, or injury to person, property or life insured or assured therein, may be taken before any commissioner or other person authorized to take affidavits, or before any justice of the peace, or before any notary public for any province of Canada; and such officer is hereby required to take R.S., 1906.
take such affidavit, affirmation or declaration. 56 V., c. 31, s. 27.

PART II.

APPLICATION.

38. This Part applies to the taking of evidence relating to proceedings in courts out of Canada.

INTERPRETATION.

39. In this Part, unless the context otherwise requires,—

(a) 'court' means and includes the Supreme Court of Canada, and any superior court in any province of Canada;
(b) 'judge' means and includes any judge of the Supreme Court of Canada and any judge of any superior court in any province of Canada;
(c) 'cause' includes a proceeding against a criminal;
(d) 'oath' includes affirmation in cases in which by the law of Canada, or of the province, as the case may be, an affirmation is allowed instead of an oath. R.S., c. 140, ss. 1 and 6.

40. This Part shall not be so construed as to interfere with the right of legislation of the legislature of any province requisite or desirable for the carrying out of the objects hereof. R.S., c. 140, s. 8.

PROCEDURE.

41. Whenever, upon an application for that purpose, it is made to appear to any court or judge, that any court or tribunal of competent jurisdiction, in any other of His Majesty's dominions, or in any foreign country, before which any civil, commercial or criminal matter is pending, is desirous of obtaining the testimony in relation to such matter, of any party or witness within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge, such court or judge may, in its or his discretion, order the examination upon oath upon interrogatories, or otherwise, before any person or persons named in such order, of such party or witness accordingly, and by the same or any subsequent order may command the attendance of such party or witness for the purpose of being examined, and for the production of any writings or other documents mentioned in such order, and of any other writings or documents relating to the matter in question that are in the possession or power of such party or witness. R.S., c. 140, s. 2.

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42. Upon the service upon such party or witness of such order, and of an appointment of a time and place for the examination of such party or witness signed by the person named in such order for taking the same, or, if more than one person is named, then by one of the persons named, and upon payment or tender of the like conduct money as is properly payable upon attendance at a trial, such order may be enforced in like manner as an order made by such court or judge in a cause depending in such court or before such judge. R.S., c. 140, s. 3.

43. Every person whose attendance is required in manner aforesaid shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial. R.S., c. 140, s. 4.

44. Upon any examination of parties or witnesses, under the authority of any order made in pursuance of this Part, the oath shall be administered by the person authorized to take the examination, or, if more than one, then by one of such persons. R.S., c. 140, s. 6.

45. Any person examined under any order made under this Part shall have the like right to refuse to answer questions tending to criminate himself, or other questions, as a party or witness, as the case may be, would have in any cause pending in the court by which, or by a judge whereof, such order is made.

2. No person shall be compelled to produce, under any such order, any writing or other document that he could not be compelled to produce at a trial of such a cause. R.S., c. 140, s. 5.

46. The court may frame rules and orders in relation to procedure, to the evidence to be produced in support of the application for an order for examination of parties and witnesses under this Part, and generally for carrying this Part into effect.

2. In the absence of any order in relation to such evidence, letters rogatory from any court of justice in any other of the dominions of His Majesty, or from any foreign tribunal, in which such civil, commercial or criminal matter is pending, shall be deemed and taken to be sufficient evidence in support of such application. R.S., c. 140, s. 7.
CHAPTER 146.

An Act respecting the Criminal Law.

SHORT TITLE.

1. This Act may be cited as the Criminal Code. 55-56 V., Short title. c. 29, s. 1.

INTERPRETATION.

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

   (1) "any Act," or "any other Act," includes any Act passed or to be passed by the Parliament of Canada, or any Act passed by the legislature of the late province of Canada, or passed or to be passed by the legislature of any province of Canada, or passed by the legislature of any province now a part of Canada before it was included therein;

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

   (3) "banker" includes any director of any incorporated bank or banking company;

   (4) "bank-note" includes all negotiable instruments issued by or on behalf of any person, body corporate, or company carrying on the business of banking in any part of the world, or issued by the authority of the Parliament of Canada, or any governor or other authority lawfully authorized thereto in any of His Majesty's dominions, or by the authority of any foreign prince, or state or government, and intended to be used as equivalent to money, either immediately upon their issue or at some time subsequent thereto, and all bank bills and bank post bills;

   (5) "cattle" includes any horse, mule, ass, swine, sheep or goat, as well as any neat cattle or animal of the bovine species, and by whatever technical or familiar name known, and shall apply to one animal as well as to many;

   (6) "chief constable" includes the chief of police, city marshal or other head of the police force of any city, town, incorporated village or other municipality, district or place, and in the province of Quebec, the high constable of the R.S., 1906.
the district, and means any constable of a municipality, district or place which has no chief constable or deputy chief constable;

(7) 'court of appeal' includes,

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

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

(c) in the provinces of Nova Scotia, New Brunswick and British Columbia, the Supreme Court in banc,

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

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

(f) in the provinces of Saskatchewan and Alberta, the Supreme Court of the Northwest Territories in banc, until the same is abolished, and thereafter such court as is by the legislature of the said provinces respectively substituted therefor;

(g) in the Yukon Territory, the Supreme Court of Canada;

(8) 'copper coin' includes any coin of bronze or mixed metal and every other kind of coin other than gold or silver;

(9) 'deputy chief constable' includes deputy chief of police, deputy or assistant marshal or other deputy head of the police force of any city, town, incorporated village, or other municipality, district or place, and, in the province of Quebec, the deputy high constable of the district;

(10) 'district, county or place,' includes any division of any province of Canada for purposes relative to the administration of justice in the matter to which the context relates;

(11) 'document of title to goods' includes any bill of lading, India warrant, dock warrant, warehouse-keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to;

(12) 'document of title to lands' includes any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real property, or to any interest in any real property, or any notarial or registrar's copy thereof, or any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada respecting registration of titles, and relating to such title;
(13) 'every one,' 'person,' 'owner,' and other expressions of the same kind include His Majesty and all public bodies, bodies corporate, societies, companies, and inhabitants of counties, parishes, municipalities or other districts in relation to such acts and things as they are capable of doing and owning respectively;

(14) 'explosive substance' includes any materials for making an explosive substance; also any apparatus, machine, implement or materials, used or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; and also any part of any such apparatus, machine or implement;

(15) 'form' means a form in Part XXV. of this Act, and 'section' means a section of this Act;

(16) 'indictment' and 'count' respectively include information and presentment as well as indictment, and also 'plea, replication or other pleading, and any record;

(17) 'intoxicating liquor' means and includes any alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or any mixed liquor a part of which is spirituous or vinous, fermented or otherwise intoxicating;

(18) 'justice' means a justice of the peace, and includes two or more justices, if two or more justices act or have jurisdiction, and also a police magistrate, a stipendiary magistrate and any person having the power or authority of two or more justices of the peace;

(19) 'loaded arms' includes any gun, pistol or other arm loaded with gunpowder, or other explosive substance, and ball, shot, slug or other destructive material, or charged with compressed air and ball, shot, slug or other destructive material:

(20) 'military law' includes the Militia Act and any orders, rules and regulations made thereunder, the King's Regulations and Orders for the Army; any Act of the United Kingdom or other law applying to His Majesty's troops in Canada, and all other orders, rules and regulations of whatsoever nature or kind to which His Majesty's troops in Canada are subject;

(21) 'municipality' includes the corporation of any city, town, village, county, township, parish or other territorial or local division of any province of Canada, the inhabitants whereof are incorporated or have the right of holding property for any purpose;

(22) 'newspaper,' in the sections of the Act relating to defamatory libel, means any paper, magazine or periodical containing public news, intelligence or occurrences, or any remarks or observations thereon, printed for sale and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and also any paper, magazine.
magazine or periodical printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding thirty-one days, and containing only or principally advertisements;

(23) 'night' or 'night time' means the interval between nine o'clock in the afternoon and six o'clock in the forenoon of the following day, and 'day' or 'day time' includes the interval between six o'clock in the forenoon and nine o'clock in the afternoon of the same day;

(24) 'offensive weapon' or 'weapon' includes any gun or other firearm, or air-gun, or any part thereof, or any sword, sword blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, knife, or other instrument intended for cutting or stabbing, or any metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon;

(25) 'Part' means a Part of this Act;

(26) 'peace officer' includes a mayor, warden, receive, sheriff, deputy sheriff, sheriff's officer, and justice of the peace, and also the warden, keeper or guard of a penitentiary and the gaoler or keeper of any prison, and any police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process;

(27) 'public department' includes the Admiralty and War Department, and also any public department or office of the Government of Canada, or of the public or civil service thereof, or any branch of such department or office;

(28) 'public stores' includes all stores under the care, superintendence or control of any public department as herein defined, or of any person in the service of such department;

(29) 'public officer' includes any inland revenue or customs officer, officer of the army, navy, marine, militia, Royal Northwest mounted police, or other officer engaged in enforcing the laws relating to the revenue, customs, trade or navigation of Canada;

(30) 'prison' includes any penitentiary, common gaol, public or reformatory prison, lock-up, guard room or other place in which persons charged with the commission of offences are usually kept or detained in custody;

(31) 'prize fight' means an encounter or fight with fists or hands, between two persons who have met for such purpose by previous arrangement made by or for them;

(32) 'property' includes

(a) every kind of real and personal property, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods,
(b) not only such property as was originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise,

(c) any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the legislature of any province of Canada, for the payment to the Crown or any corporate body of any fee, rate or duty, and whether still in the possession of the Crown or of any person or corporation;

(33) 'shipwrecked person' includes any person belonging to, on board of, or having quitted any vessel wrecked, stranded or in distress at any place in Canada;

(34) 'stores' includes all goods and chattels, and any single 'Stores' store or article;

(35) 'superior court of criminal jurisdiction' means and includes,

(a) in the province of Ontario, the High Court of Justice for Ontario,

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

(c) in the provinces of Nova Scotia, New Brunswick, and British Columbia, the Supreme Court,

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

(e) in the province of Manitoba, the Court of Appeal or the Court of King's Bench (Crown side),

(f) in the provinces of Saskatchewan and Alberta, the Supreme Court of the Northwest Territories, until the same is abolished, and thereafter such court as is by the legislatures of said provinces respectively substituted therefor,

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

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

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

(38) 'trade combination' means any combination between masters or workmen or other persons for regulating or altering the relations between any persons being masters or workmen, or the conduct of any master or workman in or in respect of his business or employment, or contract of employment or service;

(39) 'trustee' means a trustee on some express trust created by some deed, will or instrument in writing, or by parole, or otherwise, and includes the heir or personal representative.
tative of any such trustee, and every other person upon or to whom the duty of such trust has devolved or come, whether by appointment of a court or otherwise, and also an executor or administrator, and an official manager, assignee, liquidator or other like officer acting under any Act relating to joint stock companies, bankruptcy or insolvency, and any person who is, by the law of the province of Quebec, an administrateur or fidéicommissaire; and 'trust' includes whatever is by that law an administration or fidéicommis;

(40) 'valuable security' includes any order, exchequer acquittance or other security entitling or evidencing the title of any person to any share or interest in any public stock or fund, whether of Canada or of any province thereof, or of the United Kingdom, or of Great Britain or Ireland, or of any British colony or possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada or the United Kingdom, or any British colony or possession, or in any foreign state or country, or to any deposit in any savings bank or other bank, and also includes any debenture, deed, bond, bill, note, warrant, order or other security for money or for payment of money, whether of Canada or of any province thereof, or of the United Kingdom, or of any British colony or possession, or of any foreign state, and any document of title to lands or goods wheresoever such lands or goods are situate, and any stamp or writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge or other instrument, evidencing payment of money, or the delivery of any chattel personal;

(41) 'wreck' includes the cargo, stores and tackle of any vessel and all parts of a vessel separated therefrom, and also the property of shipwrecked persons;

(42) 'writing' includes any mode in which, and any material on which, words or figures, whether at length or abridged, are written, printed or otherwise expressed, or any map or plan is inscribed.

(48) 'in Part XII. and in Parts XXII., XXIII. and XXIV. of this Act 'Part III.' means such section or sections of the said Part as are in force by virtue of any proclamation in the place or places with reference to which the Part is to be construed and applied; and 'a commissioner' means a commissioner under Part III. R.S., c. 151, s. 1; 55-56 V., c. 29, ss. 3, 92, 383, 420, 460, 519 and 839; 63-64 V., c. 40, s. 3; 1 E. VII., c. 41, s. 11; 6 E. VII., c. 4, s. 4.

Post card a chattel value.

3. For the purpose of this Act a postal card or any stamp referred to in the last preceding section shall be deemed to be

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a chattel, and to be equal in value to the amount of the postage, rate or duty expressed on its face in words or figures or both. 55-56 V., c. 29, s. 3.

4. Valuable security shall, where value is material, be deemed to be of value equal to that of the unsatisfied money, chattel personal, share, interest or deposit, for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling or evidencing title to which, such valuable security is applicable or to that of such money or chattel personal, the payment or delivery of which is evidenced by such valuable security. 55-56 V., c. 29, s. 3.

5. In this Act, unless the context otherwise requires,—
   (a) finding the indictment includes also exhibiting an indictment;
   (b) having in one's possession includes not only having in one's own personal possession, but also knowingly
      (i) having in the actual possession or custody of any other person, and
      (ii) having in any place (whether belonging to or occupied by one's self or not) for the use or benefit of one's self or of any other person.

2. If there are two or more persons, and any one or more of them, with the knowledge and consent of the rest, has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them. 55-56 V., c. 29, s. 3; 56 V., c. 32, s. 1.

6. In every case in which the offence dealt with in this Act relates to the subject treated of in any other Act the words and expressions used herein in respect to such offence shall have the meaning assigned to them in such other Act. 55-56 V., c. 29, s. 4.

7. Carnal knowledge is complete upon penetration to any, even the slightest degree, and even without the emission of seed. 55-56 V., c. 29, s. 266.
Criminal Code.

PART I.

GENERAL.

Application of this Act.

8. Nothing in this Act shall affect any of the laws relating to the government of His Majesty's land or naval forces, 55-56 V., c. 29, s. 983.

9. Except in so far as they are inconsistent with the Northwest Territories Act and amendments thereto as the same existed immediately before the first day of September, one thousand nine hundred and five, the provisions of this Act extend to and are in force in the provinces of Saskatchewan and Alberta, the Northwest Territories, and, except in so far as inconsistent with the Yukon Act, the Yukon Territory. 55-56 V., c. 29, s. 983.


10. The criminal law of England, as it existed on the seventeenth day of September, one thousand seven hundred and ninety-two, in so far as it has not been repealed by any Act of the Parliament of the United Kingdom having force of law in the province of Ontario, or by any Act of the Parliament of the late province of Upper Canada, or of the province of Canada, still having force of law, or by this Act or any other Act of the Parliament of Canada, and as altered, varied, modified or affected by any such Act, shall be the criminal law of the province of Ontario. R.S., c. 144, s. 1.

11. The criminal law of England as it existed on the nineteenth day of November, one thousand eight hundred and fifty-eight, in so far as it has not been repealed by any ordinance or Act—still having the force of law—of the colony of British Columbia, or the colony of Vancouver Island, passed before the union of the said colonies, or of the colony of British Columbia passed since such union, or by this Act or any other Act of the Parliament of Canada, and as altered, varied, modified or affected by any such ordinance or Act, shall be the criminal law of the province of British Columbia. R.S., c. 144, s. 2.

12. The criminal law of England as it existed on the fifteenth day of July, one thousand eight hundred and seventy, in so far as it is applicable to the province of Manitoba, and in so far as it has not been repealed, as to the Province, by any Act of the Parliament of the United Kingdom, or by this Act or any other Act of the Parliament of Canada, and as altered, varied, modified or affected, as to the Province, by any such Act, shall be the criminal law of the province of Manitoba. 51 V., c. 33, s. 1.

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Effect of Act on Remedies.

13. No civil remedy for any act or omission shall be suspended or affected by reason that such act or omission amounts to a criminal offence. 55-56 V., c. 29, s. 534.

14. The distinction between felony and misdemeanour is abolished, and proceedings in respect of all indictable offences, except so far as they are herein varied, shall be conducted in the same manner. 55-56 V., c. 29, s. 535.

15. Where an act or omission constitutes an offence, punishable on summary conviction or on indictment, under two or more Acts, or both under an Act and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such Acts, or at common law, but shall not be liable to be punished twice for the same offence. 55-56 V., c. 29, s. 933.

Justification or Excuse.

16. All rules and principles of the common law which render any circumstances a justification or excuse for any act, or a defence to any charge, shall remain in force and be applicable to any defence to a charge under this Act except in so far as they are hereby altered or are inconsistent herewith. 55-56 V., c. 29, s. 7.

17. No person shall be convicted of an offence by reason of any act or omission of such person when under the age of seven years. 55-56 V., c. 29, s. 9.

18. No person shall be convicted of an offence by reason of an act or omission of such person when of the age of seven, but under the age of fourteen years, unless he was competent to know the nature and consequences of his conduct, and to appreciate that it was wrong. 55-56 V., c. 29, s. 10.

19. No person shall be convicted of an offence by reason of an act done or omitted by him when labouring under natural imbecility, or disease of the mind, to such an extent as to render him incapable of appreciating the nature and quality of the act or omission, and of knowing that such an act or omission was wrong.

2. A person labouring under specific delusions, but in other respects sane, shall not be acquitted on the ground of insanity, under the provisions hereinafter contained, unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act or omission.

3. Every one shall be presumed to be sane at the time of doing or omitting to do any act until the contrary is proved. 55-56 V., c. 29, s. 11.

Compulsion by threats.

20. Except as hereinafter provided, compulsion by threats of immediate death or grievous bodily harm from a person actually present at the commission of the offence shall be an excuse for the commission, by a person subject to such threats, and who believes such threats will be executed, and who is not a party to any association or conspiracy, the being a party to which rendered him subject to compulsion, of any offence other than treason as defined by this Act, murder, piracy, offences deemed to be piracy, attempting to murder, assisting in rape, forcible abduction, robbery, causing grievous bodily harm, and arson. 55-56 V., c. 29, s. 12.

Compulsion of wife.

21. No presumption shall be made that a married woman committing an offence does so under compulsion because she commits it in the presence of her husband. 55-56 V., c. 29, s. 13.

Ignorance of the law.

22. The fact that an offender is ignorant of the law is not an excuse for any offence committed by him. 55-56 V., c. 29, s. 14.

Execution of sentence.

23. Every ministerial officer of any court authorized to execute a lawful sentence, and every gaoler, and every person lawfully assisting such ministerial officer or gaoler, is justified in executing such sentence. 55-56 V., c. 29, s. 15.

Execution of process.

24. Every ministerial officer of any court duly authorized to execute any lawful process of such court, whether of a civil or criminal nature, and every person lawfully assisting him, is justified in executing the same.

2. Every gaoler who is required under such process to receive and detain any person is justified in receiving and detaining him. 55-56 V., c. 29, s. 16.

Gaoler.

25. Every one duly authorized to execute a lawful warrant issued by any court or justice of the peace or other person having jurisdiction to issue such warrant, and every person lawfully assisting him, is justified in executing such warrant.

2. Every gaoler who is required under such warrant to receive and detain any person is justified in receiving and detaining him. 55-56 V., c. 29, s. 17.

Execution of warrants.

26. If a sentence is passed or process issued by a court having jurisdiction under any circumstances to pass the sentence or issue such process, or if a warrant is issued by a party to any association or conspiracy the being a party to court, justice or person having jurisdiction under any circumstances to issue the warrant, the sentence passed or process or warrant issued shall be sufficient to justify the officer or person thereby authorized, to execute the same, and every gaoler and person lawfully assisting in executing or carrying out such sentence,
sentence, process or warrant, although the court passing the sentence or issuing the process had not in the particular case authority to pass the sentence or to issue the process, or although the court, justice or other person in the particular case had no jurisdiction to issue, or exceeded its or his jurisdiction in issuing, the warrant, or was, at the time when such sentence was passed or process or warrant issued, out of the district in or for which such court, justice or person was entitled to act. 55-56 V., c. 20, s. 18.

27. Every officer, gaoler or person executing any sentence, process or warrant, and every person lawfully assisting such officer, gaoler or person, shall be protected from criminal responsibility if he acts in good faith under the belief that the sentence or process was that of a court having jurisdiction, or that the warrant was that of a court, justice or other person having authority to issue warrants, and if it be proved that the person passing the sentence or issuing the process acted as a court under colour of having some appointment or commission lawfully authorizing him to so act, or that the person issuing the warrant acted as a court, justice or other person having such authority, although in fact such appointment or commission did not exist or had expired, or although in fact the court or the person passing the sentence or issuing the process was not the court or the person authorized by the commission to act, or the person issuing the warrant was not duly authorized so to act. 55-56 V., c. 20, s. 19.

28. Every one duly authorized to execute a warrant to arrest, who thereupon arrests a person, believing in good faith and on reasonable and probable grounds that he is the person named in the warrant, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the person arrested had been the person named in the warrant.

2. Every one called on to assist the person making such arrest, and believing that the person in whose arrest he is called on to assist is the person for whose arrest the warrant is issued, and every gaoler who is required to receive and detain such person, shall be protected to the same extent and subject to the same provisions as if the arrested person had been the person named in the warrant. 55-56 V., c. 29, s. 20.

29. Every one acting under a warrant or process which is bad in law on account of some defect in substance or in form apparent on the face of it, if he in good faith and without culpable ignorance and negligence believes that the warrant or process is good in law, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the warrant or process were good in law, and ignorance of the law shall in such case be an excuse.

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2. It shall be a question of law whether the facts of which there is evidence may or may not constitute culpable ignorance or negligence in the belief of such person that the warrant or process is good in law. 55-56 V., c. 29, s. 21.

30. Every peace officer who, on reasonable and probable grounds, believes that an offence for which the offender may be arrested without warrant has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed that offence, is justified in arresting such person without warrant, whether such person is guilty or not. 55-56 V., c. 29, s. 22.

31. Every one called upon to assist a peace officer in the arrest of a person suspected of having committed such offence is justified in assisting, if he knows that the person calling on him for assistance is a peace officer, and does not know that there is no reasonable ground for the suspicion. 55-56 V., c. 29, s. 23.

32. Every one is justified in arresting without warrant any person whom he finds committing any offence for which the offender may be arrested without warrant, or may be arrested when found committing. 55-56 V., c. 29, s. 24.

33. If any offence for which the offender may be arrested without warrant has been committed, any one who, on reasonable and probable grounds, believes that any person is guilty of that offence is justified in arresting him without warrant, whether such person is guilty or not. 55-56 V., c. 29, s. 25.

34. Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes he finds committing by night any offence for which the offender may be arrested without warrant. 55-56 V., c. 29, s. 26.

35. Every peace officer is justified in arresting without warrant any person whom he finds committing any offence. 55-56 V., c. 29, s. 27.

36. Every one is justified in arresting without warrant any person whom he finds by night committing any offence.

2. Every peace officer is justified in arresting without warrant any person whom he finds lying or loitering in any highway, yard or other place by night, and whom he has good cause to suspect of having committed or being about to commit any offence for which an offender may be arrested without warrant. 55-56 V., c. 29, s. 28.
37. Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes to have committed an offence and to be escaping from and to be freshly pursued by those whom he, on reasonable and probable grounds, believes to have lawful authority to arrest that person for such offence. 55-56 V., c. 29, s. 29.

38. Nothing in this Act shall take away or diminish any authority given by any Act in force for the time being to arrest, detain or put any restraint on any person. 55-56 V., c. 29, s. 30.

39. Every one executing any sentence, warrant or process, or in making any arrest, and every one lawfully assisting him, is justified, or protected from criminal responsibility, as the case may be, in using such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, process or warrant can be executed or the arrest effected by reasonable means in a less violent manner. 55-56 V., c. 29, s. 31.

40. It is the duty of every one executing any process or warrant to have it with him, and to produce it if required. 2. It is the duty of every one arresting another, whether with or without warrant, to give notice, where practicable, of the process or warrant under which he acts, or of the cause of the arrest.

3. A failure to fulfil either of the two duties last mentioned shall not of itself deprive the person executing the process or warrant, or his assistants, or the person arresting, of protection from criminal responsibility, but shall be relevant to the inquiry whether the process or warrant might not have been executed, or the arrest effected, by reasonable means in a less violent manner. 55-56 V., c. 29, s. 32.

41. Every peace officer proceeding lawfully to arrest, with or without warrant, any person for any offence for which the offender may be arrested without warrant, and every one lawfully assisting in such arrest, is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by such flight, unless such escape can be prevented by reasonable means in a less violent manner. 55-56 V., c. 29, s. 33.

42. Every private person proceeding lawfully to arrest without warrant any person for any offence for which the offender may be arrested without warrant is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless
unless such escape can be prevented by reasonable means in a less violent manner, if such force is neither intended nor likely to cause death or grievous bodily harm. 55-56 V., c. 29, s. 34.

43. Every one proceeding lawfully to arrest any person for any cause other than an offence in the last section mentioned is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner, if such force is neither intended nor likely to cause death or grievous bodily harm. 55-56 V., c. 29, s. 35.

44. Every one who has lawfully arrested any person for any offence for which the offender may be arrested without warrant is protected from criminal responsibility in using such force in order to prevent the rescue or escape of the person arrested as he believes, on reasonable grounds, to be necessary for that purpose. 55-56 V., c. 29, s. 36.

45. Every one who has lawfully arrested any person for any cause other than an offence for which the offender may be arrested without warrant is protected from criminal responsibility in using such force in order to prevent his escape or rescue as he believes, on reasonable grounds, to be necessary for that purpose, if such force is neither intended nor likely to cause death or grievous bodily harm. 55-56 V., c. 29, s. 37.

46. Every one who witnesses a breach of the peace is justified in interfering to prevent its continuance or renewal and may detain any person committing or about to join in or renew such breach of the peace, in order to give him into the custody of a peace officer, if the person interfering uses no more force than is reasonably necessary for preventing the continuance or renewal of such breach of the peace, or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of such breach of the peace. 55-56 V., c. 29, s. 38.

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

2. Every peace officer is justified in receiving into custody any person given into his charge as having been a party to a breach of the peace by one who has, or whom such peace officer, upon reasonable and probable grounds, believes to have, witnessed such breach of the peace. 55-56 V., c. 29, s. 39.

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48. Every sheriff, deputy sheriff, mayor or other head officer or acting head officer of any county, city, town or district, and every magistrate and justice of the peace, is justified in using, and ordering to be used, and every peace officer is justified in using, such force as he, in good faith, and on reasonable and probable grounds, believes to be necessary to suppress a riot, and as is not disproportioned to the danger which he, on reasonable and probable grounds, believes to be apprehended from the continuance of the riot. 55-56 V., c. 29, s. 40.

49. Every one, whether subject to military law or not, acting in good faith in obedience to orders given by any sheriff, deputy sheriff, mayor or other head officer or acting head officer of any county, city, town or district, or by any magistrate or justice, for the suppression of a riot, is justified in obeying the orders so given unless such orders are manifestly unlawful, and is protected from criminal responsibility in using such force as he, on reasonable and probable grounds, believes to be necessary for carrying into effect such orders.

2. It shall be a question of law whether any particular order is manifestly unlawful or not. 55-56 V., c. 29, s. 41.

50. Every one, whether subject to military law or not, who in good faith and on reasonable and probable grounds believes that serious mischief will arise from a riot before there is time to procure the intervention of any of the authorities aforesaid, is justified in using such force as he, in good faith and on reasonable and probable grounds, believes to be necessary for the suppression of such riot, and as is not disproportioned to the danger which he, on reasonable grounds, believes to be apprehended from the continuance of the riot. 55-56 V., c. 29, s. 42.

51. Every one who is bound by military law to obey the lawful command of his superior officer is justified in obeying any command given him by his superior officer for the suppression of a riot, unless such order is manifestly unlawful.

2. It shall be a question of law whether any particular order is manifestly unlawful or not. 55-56 V., c. 29, s. 43.

52. Every one is justified in using such force as may be reasonably necessary in order,—

(a) to prevent the commission of any offence for which, if committed, the offender might be arrested without warrant, and the commission of which would be likely to cause immediate and serious injury to the person or property of any one; or,

(b) to prevent any act being done which he, on reasonable grounds, believes would, if committed, amount to any such offence. 55-56 V., c. 29, s. 44.

Suppression of riot by magistrate.

Suppression of riot by persons commanded thereto.

Protection of persons apprehending serious mischief.

Use of force.

To prevent commission of offence.

Act amounting to offence.
53. Every one unlawfully assaulted, not having provoked such assault, is justified in repelling force by force, if the force he uses is not meant to cause death or grievous bodily harm, and is no more than is necessary for the purpose of self-defence.

2. Every one so assaulted is justified, though he causes death or grievous bodily harm, if he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purpose, and if he believes, on reasonable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm. 55-56 V., c. 29, s. 45.

54. Every one who has without justification assaulted another, or has provoked an assault from that other, may nevertheless justify force subsequent to such assault, if he uses such force under reasonable apprehension of death or grievous bodily harm from the violence of the person first assaulted or provoked, and in the belief, on reasonable grounds, that it is necessary for his own preservation from death or grievous bodily harm, if he did not commence the assault with intent to kill or do grievous bodily harm, and did not endeavour, at any time before the necessity for preserving himself arose, to kill or do grievous bodily harm, and if before such necessity arose, he declined further conflict, and quitted or retreated from it as far as was practicable.

2. Provocation, within the meaning of this and the last preceding section, may be given by blows, words or gestures. 55-56 V., c. 29, s. 46.

55. Every one is justified in using force in defence of his own person, or that of any one under his protection, from an assault accompanied with insult, if he uses no more force than is necessary to prevent such assault, or the repetition of it.

2. This section shall not justify the wilful infliction of any hurt or mischief disproportionate to the insult which the force used was intended to prevent. 55-56 V., c. 29, s. 47.

56. Every one who is in peaceable possession of any movable property or thing, and every one lawfully assisting him, is justified in resisting the taking of such thing by any trespasser, or in retaking it from such trespasser, if in either case he does not strike or do bodily harm to such trespasser.

2. If, after any one, being in peaceable possession as aforesaid, has laid hands upon any such thing, such trespasser persists in attempting to keep it or to take it from the possessor, or from any one lawfully assisting him, the trespasser shall be deemed to commit an assault without justification or provocation. 55-56 V., c. 29, s. 48.

57. Every one who is in peaceable possession of any movable property or thing under a claim of right, and every one acting
acting under his authority, is protected from criminal responsibility for defending such possession, even against a person entitled by law to the possession of such property or thing, if he uses no more force than is necessary. 55-56 V., c. 29, s. 49.

58. Every one who is in peaceable possession of any movable property or thing, but neither claims right thereto nor acts under the authority of a person claiming right thereto, is neither justified nor protected from criminal responsibility for defending his possession against a person entitled by law to the possession of such property or thing. 55-56 V., c. 29, s. 50.

59. Every one who is in peaceable possession of a dwelling-house, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of such dwelling-house, either by night or day, by any person with the intent to commit any indictable offence therein. 55-56 V., c. 29, s. 51.

60. Every one who is in peaceable possession of a dwelling-house, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of such dwelling-house by night by any person, if he believes, on reasonable and probable grounds, that such breaking and entering is attempted with the intent to commit any indictable offence therein. 55-56 V., c. 29, s. 52.

61. Every one who is in peaceable possession of any house or land, or other real property, and every one lawfully assisting him or acting by his authority, is justified in using force to prevent any person from trespassing on such property, or to remove him therefrom, if he uses no more force than is necessary.

2. If such trespasser resists such attempt to prevent his entry or to remove him such trespasser shall be deemed to commit an assault without justification or provocation. 55-56 V., c. 29, s. 53.

62. Every one is justified in peaceably entering in the daytime to take possession of any house or land to the possession of which he, or some person under whose authority he acts, is lawfully entitled.

2. If any person, not having or acting under the authority of one having peaceable possession of any such house or land with a claim of right, assaults any one peaceably entering as aforesaid, for the purpose of making him desist from such entry.
entry, such assault shall be deemed to be without justification or provocation.

3. If any person having peaceable possession of such house or land with a claim of right, or any person acting by his authority, assaults any one entering as aforesaid, for the purpose of making him desist from such entry, such assault shall be deemed to be provoked by the person entering. 55-56 V., c. 29, s. 54.

### Correction of child by force.

63. It is lawful for every parent, or person in the place of a parent, schoolmaster or master, to use force by way of correction towards any child, pupil or apprentice under his care, provided that such force is reasonable under the circumstances. 55-56 V., c. 29, s. 55.

### Master of ship.

64. It is lawful for the master or officer in command of a ship on a voyage to use force for the purpose of maintaining good order and discipline on board of his ship, provided that he believes, on reasonable grounds, that such force is necessary, and provided also that the force used is reasonable in degree. 55-56 V., c. 29, s. 56.

### Surgical operations.

65. Every one is protected from criminal responsibility for performing with reasonable care and skill any surgical operation upon any person for his benefit, provided that performing the operation was reasonable, having regard to the patient's state at the time, and to all the circumstances of the case. 55-56 V., c. 29, s. 57:

66. Every one authorized by law to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess. 55-56 V., c. 29, s. 58.

### Consent to death, Causing death with consent.

67. No one has a right to consent to the infliction of death upon himself.

2. If such consent is given, it shall have no effect upon the criminal responsibility of any person by whom such death may be caused. 55-56 V., c. 29, s. 59.

### Obedience to de facto law.

68. Every one is protected from criminal responsibility for any act done in obedience to the laws for the time being, made and enforced by those in possession de facto of the sovereign power in and over the place where the act is done. 55-56 V., c. 29, s. 60.

### Parties to Offences.

69. Every one is a party to and guilty of an offence who,—

(a) actually commits it; or,

(b)

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(b) does or omits an act for the purpose of aiding any person to commit the offence; or,
(c) abets any person in commission of the offence; or,
(d) counsels or procures any person to commit the offence.

2. If several persons form a common intention to prosecute any unlawful purpose, and to assist each other thereto, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was, or ought to have been known to be a probable consequence of the prosecution of such common purpose. 55-56 V., c. 29, s. 61.

70. Every one who counsels or procures another person to be a party to an offence of which that person is afterwards guilty, is a party to that offence, although it may be committed in a way different from that which was counselled or suggested.

2. Every one who counsels or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such counselling or procuring, and which the person counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring. 55-56 V., c. 29, s. 62.

71. An accessory after the fact to an offence is one who receives, comforts or assists any one who has been a party to such offence in order to enable him to escape, knowing him to have been a party thereto.

2. No married person whose husband or wife has been a party to an offence shall become an accessory after the fact thereto by receiving, comforting or assisting the other of them, and no married woman whose husband has been a party to an offence shall become an accessory after the fact thereto, by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to such offence in order to enable her husband or such other person to escape. 55-56 V., c. 29, s. 63.

72. Every one who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of an attempt to commit the offence intended whether under the circumstances it was possible to commit such offence or not.

2. The question whether an act done or omitted with intent to commit an offence is or is not only preparation for the commission of that offence, and too remote to constitute an attempt to commit it, is a question of law. 55-56 V., c. 29, s. 64.
PART II.

OFFENCES AGAINST PUBLIC ORDER, INTERNAL AND EXTERNAL.

Interpretation.

73. In the sections of this Part relating to information illegally obtained or communicated, unless the context otherwise requires,—

(a) any reference to a place belonging to His Majesty includes a place belonging to any department of the Government of the United Kingdom, or of the Government of Canada, or of any province, whether the place is or is not actually vested in His Majesty;

(b) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated;

(c) 'document' includes part of a document;

(d) 'model' includes design, pattern and specimen;

(e) 'sketch' includes any photograph or other mode of expression of any place or thing;

(f) 'office under His Majesty' includes any office or employment in or under any department of the Government of the United Kingdom, or for the Government of Canada or of any province. 55-56 V., c. 29, s. 76.

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

74. Treason is,—

(a) the act of killing His Majesty, or doing him any bodily harm tending to death or destruction, maim or wounding, and the act of imprisoning or restraining him; or,

(b) the forming and manifesting by any overt act an intention to kill His Majesty, or to do him any bodily harm tending to death or destruction, maim or wounding, or to imprison or to restrain him; or,

(c) the act of killing the eldest son and heir apparent of His Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland; or,

(d) the forming and manifesting, by an overt act, an intention to kill the eldest son and heir apparent of His Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland; or,

(e) conspiring with any person to kill His Majesty, or to do him any bodily harm tending to death or destruction, maim or wounding, or conspiring with any person to imprison or restrain him; or,

(f) Conspiring to do His Majesty bodily harm.

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(f) levying war against His Majesty either

(i) with intent to depose His Majesty from the style, honour and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland or of any other of His Majesty's dominions or countries, or

(ii) in order, by force or constraint, to compel His Majesty to change his measures or counsels, or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada; or,

(g) conspiring to levy war against His Majesty with any such intent or for any such purpose as aforesaid; or,

(h) instigating any foreigner with force to invade the said United Kingdom or Canada or any other of the dominions of His Majesty; or,

(i) assisting any public enemy at war with His Majesty in such war by any means whatsoever; or,

(j) violating, whether with her consent or not, a Queen consort, or the wife of the eldest son and heir apparent, for the time being, of the King or Queen regnant.

2. Every one who commits treason is guilty of an indictable offence and liable to suffer death. 55-56 V., c. 29, s. 65; 57-58 V., c. 57, s. 1.

75. In every case in which it is treason to conspire with any person for any purpose, the act of so conspiring, and every overt act of any such conspiracy, is an overt act of treason. 55-56 V., c. 29, s. 66.

76. Every one is guilty of an indictable offence and liable to two years' imprisonment who,—

(a) becomes an accessory, after the fact, to treason; or,

(b) knowing that any person is about to commit treason does not, with all reasonable despatch, give information thereof to a justice of the peace, or use other reasonable endeavours to prevent the commission of the same. 55-56 V., c. 29, s. 67.

77. Every subject or citizen of any foreign state or country at peace with His Majesty, who,—

(a) is or continues in arms against His Majesty within Canada; or,

(b) commits any act of hostility therein; or,

(c) enters Canada with intent to levy war against His Majesty, or to commit any indictable offence therein for which any person would, in Canada, be liable to suffer death; and,

every subject of His Majesty who,—

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(a)

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(a) within Canada levies war against His Majesty in company with any of the subjects or citizens of any foreign state or country at peace with His Majesty; or,

(b) enters Canada in company with any such subjects or citizens with intent to levy war against His Majesty, or to commit any such offence therein; or,

(c) with intent to aid and assist, joins himself to any person who has entered Canada with intent to levy war against His Majesty, or to commit any such offence in Canada;

is guilty of an indictable offence and liable to suffer death. 55-56 V., c. 29, s. 68.

78. Every one is guilty of an indictable offence and liable to imprisonment for life who forms,—

(a) an intention to depose His Majesty from the style, honour and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's dominions or countries; or,

(b) an intention to levy war against His Majesty within any part of the said United Kingdom, or of Canada, in order by force or constraint to compel him to change his measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada; or,

(c) an intention to move or stir any foreigner or stranger with force to invade the said United Kingdom, or Canada, or any other of His Majesty's dominions or countries under the authority of His Majesty;

and manifests any such intention by conspiring with any person to carry it into effect, or by any other overt act, or by publishing any printing or writing. 55-56 V., c. 29, s. 69.

79. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who confederates, combines or conspires with any person to do any act of violence in order to intimidate, or to put any force or constraint upon, any legislative council, legislative assembly or house of assembly. 55-56 V., c. 29, s. 70.

80. Every one is guilty of an indictable offence and liable to seven years' imprisonment, and to be whipped once, twice or thrice as the court directs, who,—

(a) wilfully produces, or has, near His Majesty, any arm or destructive or dangerous thing with intent to use the same to injure the person of, or to alarm His Majesty; or,

(b) wilfully and with intent to alarm or to injure His Majesty, or to break the public peace,

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(i) points, aims or presents, or attempts to point, aim or present, at or near His Majesty, any firearm, loaded or not, or any other kind of arm,

(ii) discharges or attempts to discharge at or near His Majesty any loaded arm,

(iii) discharges or attempts to discharge any explosive material near His Majesty,

(iv) strikes, or strikes at, or attempts to strike, or strike at, His Majesty in any manner whatever,

(v) throws, or attempts to throw, anything at or upon His Majesty. 55-56 V., c. 29, s. 71.

81. Every one is guilty of an indictable offence and liable to imprisonment for life, who for any traitorous or mutinous purpose, endeavours to seduce any person serving in His Majesty's forces by sea or land from his duty and allegiance to His Majesty, or to incite or stir up any such person to commit any traitorous or mutinous practice. 55-56 V., c. 29, s. 72.

82. Every one is guilty of an offence punishable on indictment, or on summary conviction before two justices, who, not being an enlisted soldier in His Majesty's service, or a seaman in His Majesty's naval service,—

(a) by words or with money, or by any other means whatsoever, directly or indirectly, persuades or procures, or goes about or endeavours to persuade, prevail on or procure, any such seaman or soldier to desert from or leave His Majesty's military or naval service; or,

(b) conceals, receives or assists any deserter from His Majesty's military or naval service, knowing him to be such deserter;

and is liable, on conviction under indictment, to fine and imprisonment in the discretion of the court, and on summary conviction before two justices, to a penalty not exceeding two hundred dollars, and not less than eighty dollars and costs, and in default of payment to imprisonment for any term not exceeding six months. 55-56 V., c. 29, s. 73.

83. Every one who resists the execution of any warrant authorizing the breaking open of any building to search for any deserter from His Majesty's military or naval service is guilty of an offence and liable, on summary conviction before two justices, to a penalty of eighty dollars. 55-56 V., c. 29, s. 74.

84. Every one is guilty of an offence and liable, on summary conviction, to six months' imprisonment with or without hard labour, who,—

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(a)

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Persuading men to desert.

(a) persuades any man who has been enlisted to serve in any corps of militia, or who is a member of or has engaged to serve in the Royal Northwest Mounted Police Force, to desert, or attempts to procure or persuade any such man to desert; or,

Assisting.

(b) knowing that any such man is about to desert, aids or assists him in deserting; or,

Concealing.

(c) knowing that any such man is a deserter, conceals him or aids or assists in his rescue. 55-56 V., c. 29, s. 75.

Information Illegally Obtained or Communicated.

85. Every one is guilty of an indictable offence and liable to imprisonment for one year, or to a fine not exceeding one hundred dollars, or to both imprisonment and fine, who,—

(a) for the purpose of wrongfully obtaining information,

(i) enters or is in any part of a fortress, arsenal, factory, dockyard, camp, ship, office or other like place in Canada belonging to His Majesty, in which part he is not entitled to be, or

(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything, which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or

(iii) when outside any fortress, arsenal, factory, dockyard or camp in Canada, belonging to His Majesty, takes, or attempts to take, without authority given by or on behalf of His Majesty, any sketch or plan of that fortress, arsenal, factory, dockyard or camp; or,

(b) knowingly having possession of or control over any document, sketch, plan, model, or knowledge obtained or taken by means of any act which constitutes an offence against this and the next following section, at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interests of the state, to be communicated at that time; or,

(c) after having been entrusted in confidence by some officer under His Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of His Majesty, wilfully, and in breach of such confidence, communicates the same when, in the interests of the state, it ought not to be communicated; or,

(d) having possession of any document relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to His Majesty, or to the naval or military affairs of His Majesty, in whatever manner the

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same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interests of the state, to be then communicated.

2. Every one who commits any such offence intending to communicate to a foreign state any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or communicates the same to any agent of a foreign state, is guilty of an indictable offence and liable to imprisonment for life. 55-56 V., c. 29, s. 77.

86. Every one who, by means of his holding or having held an office under His Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly, or contrary to his official duty, communicates or attempts to communicate such document, sketch, plan, model or information to any person to whom the same ought not, in the interests of the state, or otherwise in the public interest, to be then communicated, is guilty of an indictable offence and liable,—

(a) if the communication was made, or attempted to be made, to a foreign state, to imprisonment for life; and,

(b) in any other case, to imprisonment for one year, or to a fine not exceeding one hundred dollars, or to both imprisonment and fine.

2. This section shall apply to a person holding a contract with His Majesty, or with any department of the Government of the United Kingdom, or of the Government of Canada, or of any province, or with the holder of any office under His Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract who is under a like obligation of secrecy, as if the person holding the contract, and the person so employed, were respectively holders of an office under His Majesty. 55-56 V., c. 29, s. 78.

Unlawful Assemblies and Riots.

87. An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when assembled as to cause persons in the neighbourhood of such assembly to fear, on reasonable grounds, that the persons so assembled will disturb the peace tumultuously, or will by such assembly needlessly and without any reasonable occasion provoke other persons to disturb the peace tumultuously.

2. Persons lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in such

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such a manner as would have made their assembling unlawful if they had assembled in that manner for that purpose.

3. An assembly of three or more persons for the purpose of protecting the house of any one of their number against persons threatening to break and enter such house in order to commit any indictable offence therein is not unlawful. 55-56 V., c. 29, s. 79.

**Definition of riot.**

88. A riot is an unlawful assembly which has begun to disturb the peace tumultuously. 55-56 V., c. 29, s. 80.

**Punishment of unlawful assembly.**

89. Every member of an unlawful assembly is guilty of an indictable offence and liable to one year's imprisonment. 55-56 V., c. 29, s. 81.

**Punishment of riot.**

90. Every rioter is guilty of an indictable offence and liable to two years' imprisonment with hard labour. 55-56 V., c. 29, s. 82.

**Reading the Riot Act.**

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

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

55-56 V., c. 29, s. 83.

**Penalty.**

92. All persons are guilty of an indictable offence and liable to imprisonment for life who,—

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

(b) continue together to the number of twelve for thirty minutes after such proclamation has been made, or if they know that its making was hindered as aforesaid, within thirty minutes after such hindrance. 55-56 V., c. 29, s. 83.

**Duty of officers if**

93. If the persons so unlawfully, riotously and tumultuously assembled together, or twelve or more of them, continue together,
together, and do not disperse themselves, for the space of thirty minutes after the proclamation is made or after such hindrance as aforesaid, it is the duty of every such sheriff, justice and other officer, and of all persons required by them to assist, to cause such persons to be apprehended and carried before a justice.

2. If any of the persons so assembled are killed or hurt in the apprehension of such persons or in the endeavour to apprehend or disperse them, by reason of their resistance, every person ordering them to be apprehended or dispersed, and every person executing such orders, are indemnified against all proceedings of every kind in respect thereof.

3. Nothing in this section contained shall, in any way, limit or affect any duties or powers imposed or given by this Act as to the suppression of riots before or after the making of the said proclamation. 55-56 V., c. 29, s. 84.

94. Every sheriff, deputy sheriff, mayor or other head officer, justice, or other magistrate, or other peace officer, of any county, city, town, or district, who has notice that there is a riot within his jurisdiction, who, without reasonable excuse omits to do his duty in suppressing such riot, is guilty of an indictable offence and liable to two years' imprisonment. 55-56 V., c. 29, s. 140.

95. Every one is guilty of an indictable offence and liable to one year's imprisonment who, having reasonable notice that he is required to assist any sheriff, deputy sheriff, mayor, or other head officer, justice, magistrate, or peace officer in suppressing any riot, without reasonable excuse omits to do so. 55-56 V., c. 29, s. 141.

96. All persons are guilty of an indictable offence and liable to imprisonment for life who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish or pull down, or begin to demolish or pull down, any building, or any machinery, whether fixed or movable, or any erection used in farming land, or in carrying on any trade or manufacture, or any erection or structure used in conducting the business of any mine, or any bridge, wagon-way or track for conveying minerals from any mine. 55-56 V., c. 29, s. 85.

97. All persons are guilty of an indictable offence and liable to seven years' imprisonment who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force injure or damage any of the things mentioned in the last preceding section.

2. It shall not be a defence to a charge of an offence against this or the last preceding section that the offender believed he had R.S., 1906.
had a right to act as he did, unless he actually had such a right. 55-56 V., c. 29, s. 86.

**Unlawful Drilling.**

98. The Governor in Council is authorized from time to time to prohibit assemblies, without lawful authority, of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, and to prohibit persons when assembled for any other purpose from so training or drilling themselves or being trained or drilled.

2. Any such prohibition may be general or may apply only to a particular place or district or to assemblies of a particular character, and shall come into operation from the publication in the Canada Gazette of a proclamation embodying the terms of such prohibition, and shall continue in force until the like publication of a proclamation issued by the authority of the Governor in Council revoking such prohibition.

3. Every person is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority and in contravention of such prohibition or proclamation,—

(a) is present at or attends any such assembly for the purpose of training or drilling any other person to the use of arms or the practice of military exercises or evolutions; or,

(b) at any assembly trains or drills any other person to the use of arms or the practice of military exercises or evolutions. 55-56 V., c. 29, s. 87.

99. Every one is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority, attends, or is present at, any such assembly as in the last preceding section mentioned, for the purpose of being, or who at any such assembly is, without lawful authority and in contravention of such prohibition or proclamation, trained or drilled to the use of arms or the practice of military exercises or evolutions. 55-56 V., c. 29, s. 88.

**Affrays and Duels.**

100. An affray is the act of fighting in any public street or highway, or fighting to the alarm of the public in any other place to which the public have access.

2. Every one who takes part in an affray is guilty of an indictable offence and liable to one year's imprisonment with hard labour. 55-56 V., c. 29, s. 90.

101. Every one is guilty of an indictable offence and liable to three years' imprisonment who challenges or endeavours by any means to provoke any person to fight a duel, or endeavours to
to provoke any person to challenge any other person so to do. 55-56 V., c. 29, s. 91.

**Forcible Entry and Detainer.**

102. Forcible entry is where a person, whether entitled or not, enters in a manner likely to cause a breach of the peace, or reasonable apprehension thereof, on land then in actual and peaceable possession of another.

2. Forcible detainer is where a person in actual possession of land, without colour of right, detains it in a manner likely to cause a breach of the peace, or reasonable apprehension thereof, against a person entitled by law to the possession thereof.

3. What amounts to actual possession or colour of right is a question of law. 55-56 V., c. 29, s. 89.

103. Every one who forcibly enters or forcibly detains land is guilty of an indictable offence and liable to one year's imprisonment. 55-56 V., c. 29, s. 89.

**Prize Fights.**

104. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one thousand dollars and not less than one hundred dollars, or to imprisonment for a term not exceeding six months, with or without hard labour, or to both, who sends or publishes, or causes to be sent or published or otherwise made known, any challenge to fight a prize fight, or accepts any such challenge, or causes the same to be accepted, or goes into training preparatory to such fight, or acts as trainer or second to any person who intends to engage in a prize fight. 55-56 V., c. 29, s. 93.

105. Every one is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding twelve months and not less than three months, with or without hard labour, who engages as a principal in a prize fight. 55-56 V., c. 29, s. 94.

106. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding twelve months, with or without hard labour, or to both, who is present at a prize fight as an aid, second, surgeon, umpire, backer, assistant or reporter, or who advises, encourages or promotes such fight. 55-56 V., c. 29, s. 95.

107. Every inhabitant or resident of Canada is guilty of an offence and liable, on summary conviction, to a penalty not exceeding four hundred dollars and not less than fifty dollars.

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or

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or to imprisonment for a term not exceeding six months, with
or without hard labour, or to both, who leaves Canada with
intend to engage in a prize fight without the limits thereof.
55-56 V., c. 29, s. 96.

When fight
is not a
prize fight.

108. If, after hearing evidence of the circumstances con-
ected with the origin of the fight or intended fight, the person
before whom the complaint is made is satisfied that such fight
or intended fight was bona fide the consequence or result of a
quarrel or dispute between the principals engaged or, intended
to engage therein, and that the same was not an encounter or
fight for a prize, or on the result of which the handing over or
transfer of money or property depended, such person may, in
his discretion, discharge the accused or impose upon him a
penalty not exceeding fifty dollars. 55-56 V., c. 29, s. 97.

Discharge
or fine.

Penalty.

109. Every one is guilty of an indictable offence and liable
to two years' imprisonment who induces, incites or stirs up any
three or more Indians, non-treaty Indians, or half-breeds, ap-
parently acting in concert,—

(a) to make any request or demand of any agent or servant
of the Government in a riotous, routous, disorderly or
threatening manner, or in a manner calculated to cause a
breach of the peace; or,

(b) to do any act calculated to cause a breach of the peace.
55-56 V., c. 29, s. 98.

Riotous
request.

Breach of
the peace.

Indictable
offence.

110. Every one who incites any Indian to commit any
indictable offence is guilty of an indictable offence and liable to
imprisonment for any term not exceeding five years. R.S.,
c. 43, s. 112.

Inciting Indians.

Explosive Substances.

111. Every one is guilty of an indictable offence and liable
to imprisonment for life who wilfully causes, by any explosive
substance, an explosion of a nature likely to endanger life or
to cause serious injury to property, whether any injury to
person or property is actually caused or not. 55-56 V., c. 29,
s. 99.

Causing
dangerous
explosions.

112. Every one is guilty of an indictable offence and liable
to fourteen years' imprisonment who wilfully places or throws
any explosive substance into or near any building or ship with
intent to destroy or damage the same or any machinery, work-
ing tools, or chattels whatever, whether or not an explosion takes
place. 55-56 V., c. 29, s. 488.

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113. Every one who wilfully,—
(a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion of a nature likely to endanger life, or to cause serious injury to property; or,
(b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life or to cause serious injury to property, or to enable any other person by means thereof to endanger life or to cause serious injury to property:

Doing anything with intent to cause an explosion.

is guilty of an indictable offence and liable to fourteen years' imprisonment, whether an explosion takes place or not, and whether any injury to person or property is actually caused or not. 55-56 V., c. 29, s. 100.

114. Every one is guilty of an indictable offence and liable to seven years' imprisonment who makes, or knowingly has in his possession or under his control, any explosive substance under such circumstances as to give rise to a reasonable suspicion that he is not making it, or has it not in his possession or under his control, for a lawful object, unless he can show that he made it or had it in his possession or under his control for a lawful object. 55-56 V., c. 29, s. 101.

Offensive Weapons.

115. Every one is guilty of an indictable offence and liable to five years' imprisonment who has in his custody or possession, or carries any offensive weapon for any purpose dangerous to the public peace. 55-56 V., c. 29, s. 102.

116. If two or more persons openly carry offensive weapons in a public place in such a manner and under such circumstances as are calculated to create terror and alarm, each of such persons is liable, on summary conviction before two justices, to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment to imprisonment for any term not exceeding thirty days. 55-56 V., c. 29, s. 103.

117. Every one is guilty of an indictable offence and liable to imprisonment for ten years who, while carrying offensive weapons, is found with any goods liable to seizure or forfeiture under any law relating to inland revenue, the customs, trade or navigation, knowing such goods to be so liable. 55-56 V., c. 29, s. 104.

118. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars and not less than five dollars, or to imprisonment for one month who, not being a justice or a public officer, or a soldier, sailor, or }
or volunteer in His Majesty's service, on duty, or a constable or other peace officer, and not having a certificate of exemption from the operation of this section as hereinafter provided for, and not having at the time reasonable cause to fear an assault or other injury to his person, family or property, has upon his person a pistol, or air-gun elsewhere than in his own dwelling-house, shop, warehouse, or counting-house.

2. If sufficient cause be shown upon oath to the satisfaction of any justice, he may grant to any applicant therefor not under the age of sixteen years and as to whose discretion and good character he is satisfied by evidence upon oath, a certificate of exemption from the operation of this section, for such period, not exceeding twelve months, as he deems fit.

3. Such certificate, upon the trial of any offence, shall be prima facie evidence of its contents and of the signature and official character of the person by whom it purports to be granted.

4. Whenever the Governor in Council deems it expedient in the public interest, he may by proclamation suspend the operation of the provisions of the first and second subsections of this section respecting certificates of exemption, or exempt from such operation any particular part of Canada, and in either case for such period, and with such exceptions as to the persons affected by this section as he deems fit. 55-56 V., c. 29, s. 105.

119. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars, who sells or gives any pistol or air-gun, or any ammunition therefor, to a minor under the age of sixteen years, unless he establishes to the satisfaction of the justice before whom he is charged that he used reasonable diligence in endeavouring to ascertain the age of the minor before making such sale or gift, and that he had good reason to believe that such minor was not under the age of sixteen.

2. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars, who sells any pistol or air-gun without keeping a record of such sale, the date thereof, and the name of the purchaser and of the maker's name, or other mark by which such arm may be identified. 55-56 V., c. 29, s. 106.

120. Every one who when arrested, either on a warrant issued against him for an offence or while committing an offence, has upon his person a pistol or air-gun is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars and not less than twenty dollars, or to imprisonment for any term not exceeding three months, with or without hard labour. 55-56 V., c. 29, s. 107.

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121. Every one who has upon his person a pistol or air-gun, with intent therewith unlawfully to do injury to any other person, is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding two hundred dollars and not less than fifty dollars, or to imprisonment for any term not exceeding six months, with or without hard labour. 55-56 V., c. 29, s. 108.

122. Every one who, without lawful excuse, points at another person any firearm or air-gun, whether loaded or unloaded, is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment for any term not exceeding thirty days, with or without hard labour. 55-56 V., c. 29, s. 110.

123. Every one who carries about his person any bowie-knife, or any dagger, dirk, metal knuckles, skull cracker, slung shot, or other offensive weapon of a like character, or secretly carries about his person any instrument loaded at the end, or sells or exposes for sale, publicly or privately, any such weapon, or, being masked or disguised, carries, or has in his possession any firearm or air-gun, is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars and not less than ten dollars, and in default of payment thereof, to imprisonment for any term not exceeding thirty days, with or without hard labour. 55-56 V., c. 29, s. 110.

124. Every one, not being thereto required by his lawful trade or calling, who is found in any town or city carrying about his person any sheath-knife is liable, on summary conviction before two justices, to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment thereof, to imprisonment for any term not exceeding thirty days, with or without hard labour. 55-56 V., c. 29, s. 111.

125. It is not an offence for any soldier, public officer, peace officer, sailor or volunteer in His Majesty's service, or constable or other policeman, to carry loaded pistols or other usual arms or offensive weapons in the discharge of his duty. 55-56 V., c. 29, s. 112.

126. Every one attending any public meeting or being on his way to attend the same who, upon demand made by any justice within whose jurisdiction such public meeting is appointed to be held, declines or refuses to deliver up, peaceably and quietly, to such justice, any offensive weapon with which he is armed or which he has in his possession, is guilty of an indictable offence.

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Procedure and penalty.

2. The justice may record the refusal and adjudge the offender to pay a penalty not exceeding eight dollars, or the offender may be proceeded against by indictment, as in other cases of indictable offences. R.S., c. 152, s. 1; 55-56 V., c. 29, s. 113.

127. Every one, except the sheriff, deputy sheriff and justices for the district or county, or the mayor, justices or other peace officer for the city or town, respectively, in which any public meeting is held, and the constables and special constables employed by them, or any of them, for the preservation of the public peace at such meeting, is guilty of an indictable offence, and liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both, who, during any part of the day upon which such meeting is appointed to be held, comes within one mile of the place appointed for such meeting armed with any offensive weapon. 55-56 V., c. 29, s. 114.

128. Every one is guilty of an indictable offence and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both, who lies in wait for any person returning, or expected to return from any such public meeting, with intent to commit an assault upon such person, or with intent, by abusive language, opprobrious epithets or other offensive demeanour, directed to, at or against such person, to provoke such person, or those who accompany him, to a breach of the peace. 55-56 V., c. 29, s. 115.

Seditious Offences.

129. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,—

(a) administers, or is present at and consenting to the administration of, any oath or any engagement purporting to bind the person taking the same to commit any crime punishable by death or imprisonment for more than five years; or,

(b) attempts to induce or compel any person to take any such oath or engagement; or,

(c) takes any such oath or engagement. 55-56 V., c. 29, s. 120.

130. Every one is guilty of an indictable offence and liable to seven years' imprisonment who,—

(a) administers or is present at and consenting to the administration of any oath or engagement purporting to bind the person taking the same

(i) to engage in any mutinous or seditious purpose,

(ii) to disturb the public peace or commit or endeavour to commit any offence.

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(iii) not to inform and give evidence against any associate, confederate or other person,
(iv) not to reveal or discover any unlawful combination or confederacy, or any illegal act done or to be done, or any illegal oath or obligation or engagement which may have been administered or tendered to or taken by any person, or the import of any such oath or obligation or engagement; or,
• (b) attempts to induce or compel any person to take any attempts.
such oath or engagement; or,
( c) takes any such oath or engagement. 55-56 V., c. 29, Taking oath. s. 121.

131. Any one who, under such compulsion as would otherwise excuse him, offends against either of the last two preceding sections, shall not be excused thereby unless, within the period hereinafter mentioned, he declares the same and what he knows touching the same, and the persons by whom and in whose presence, and when and where, such oath or obligation or engagement was administered or taken, by information on oath before a justice for the district or city or county in which such oath or engagement was administered or taken.

2. Such declaration may be made by such person within fourteen days after the taking of the oath, unless he is hindered from making it by actual force or sickness, in which case it may be made within eight days of the cessation of such hindrance.

3. The declaration may be made on such person’s trial if it happens before the expiration of either of the periods aforesaid. 55-56 V., c. 29, s. 122.

132. Seditious words are words expressive of a seditious Seditions words.
intention.
2. A seditious libel is a libel expressive of a seditious Seditions intention.

3. A seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention. 55-56 V., c. 29, s. 123.

133. No one shall be deemed to have a seditious Inten- only because he intends in good faith,—
(a) to show that His Majesty has been misled or mistaken in his measures; or,
(b) to point out errors or defects in the government or con-stitution of the United Kingdom, or of any part of it, or of Canada or any province thereof, or in either House of Parliament of the United Kingdom or of Canada, or in any legislature, or in the administration of justice; or to excite His Majesty’s subjects to attempt to procure, by lawful means, the alteration of any matter in the state; or,

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(c) to point out, in order to their removal, matters which are producing or have a tendency to produce feelings of hatred and ill-will between different classes of His Majesty's subjects. 55-56 V., c. 29, s. 123.

134. Every one is guilty of an indictable offence and liable to two years' imprisonment who speaks any seditious words or publishes any seditious libel or is a party to any seditious conspiracy. 55-56 V., c. 29, s. 124.

135. Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful justification, publishes any libel tending to degrade, revile or expose to hatred and contempt in the estimation of the people of any foreign state, any prince or person exercising sovereign authority over such state. 55-56 V., c. 29, s. 125.

136. Every one is guilty of an indictable offence and liable to one year's imprisonment who wilfully and knowingly publishes any false news or tale whereby injury or mischief is or is likely to be occasioned to any public interest. 55-56 V., c. 29, s. 126.

Piracy.

137. Every one is guilty of an indictable offence who does any act which amounts to piracy by the law of nations, and is liable,—

(a) to the penalty of death, if in committing or attempting to commit such crime the offender murders, attempts to murder or wounds any person, or does any act by which the life of any person is likely to be endangered;

(b) to imprisonment for life in all other cases. 55-56 V., c. 29, s. 127.

138. Every one is guilty of an indictable offence and liable to imprisonment for life who, within Canada, does any of the piratical acts specified in this section, or who, having done any of such piratical acts, comes or is brought within Canada without having been tried therefor, that is to say:—

(a) Being a British subject, on the sea, or in any place within the jurisdiction of the Admiralty of England, under colour of any commission from any foreign prince or state, whether such prince or state is at war with His Majesty or not, or under pretense of authority from any person whomsoever commits any act of hostility or robbery against other British subjects, or during any war is in any way adherent to or gives aid to His Majesty's enemies;

(b) Whether a British subject or not, on the sea or in any place within the jurisdiction of the Admiralty of England, enters into any British ship, and throws overboard, or destroys any part of the goods belonging to such ship, or laden on board the same;
(c) Being on board any British ship on the sea or in any place within the jurisdiction of the Admiralty of England, 
(i) turns enemy or rebel, and piratically runs away with the ship, or any boat, ordnance, ammunition or goods, 
(ii) yields up voluntarily any ship, boat, ordnance, ammunition or goods to any pirate, 
(iii) brings any seducing message from any pirate, enemy or rebel, 
(iv) counsels or procures any persons to yield up or run away with any ship, goods or merchandise, or to turn pirate or to go over to pirates, 
(v) lays violent hands on the commander of any such ship, in order to prevent him from fighting in defence of his ship and goods, 
(vi) confines the master or commander of any such ship 
(vii) makes or endeavours to make a revolt in the ship; or, 

(d) Being a British subject in any part of the world, or whether a British subject or not, being in any part of His Majesty's dominions or on board a British ship, knowingly 
(i) furnishes any pirate with any ammunition or stores of any kind, 
(ii) fits out any ship or vessel with a design to trade with or supply or correspond with any pirate, 
(iii) conspires or corresponds with any pirate. 55-56 V., c. 29, s. 128.

139. Every one is guilty of an indictable offence and liable to suffer death who, in committing or attempting to commit any piratical act, assaults with intent to murder, or wounds, any person, or does any act likely to endanger the life of any person. 55-56 V., c. 29, s. 129.

140. Every one is guilty of an indictable offence and liable to six months' imprisonment, and to forfeit to the owner of the ship all wages then due to him, who, being a master, officer or seaman of any merchant ship which carries guns and arms, does not, when attacked by any pirate, fight and endeavour to defend himself and his vessel from being taken by such pirate, or who discourages others from defending the ship, if by reason thereof the ship falls into the hands of such pirate. 55-56 V., c. 29, s. 130.

Conveying Liquor on board His Majesty's Ships.

141. Every one is guilty of an offence and liable, on summary conviction before two justices, to a fine not exceeding fifty dollars for each offence, and in default of payment to imprisonment for a term not exceeding one month, with or without hard labour, who, without the previous consent of the officer commanding the ship or vessel,—

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(a) conveys any intoxicating liquor on board any of His Majesty’s ships or vessels; or,
(b) approaches or hovers about any of His Majesty’s ships or vessels for the purpose of conveying any such liquor on board thereof; or,
(c) gives or sells to any man in His Majesty’s service, on board any such ship or vessel, any intoxicating liquor. 55-56 V., c. 29, s. 119.

PART III.

RESPECTING THE PRESERVATION OF PEACE IN THE VICINITY OF PUBLIC WORKS.

Interpretation.

142. In this Part, unless the context otherwise requires,—
(a) ‘this Part’ means such section or sections thereof as are in force, by virtue of any proclamation, in the place with reference to which the Part is to be construed and applied;
(b) ‘commissioner’ means a commissioner under this Part;
(c) ‘public work’ includes any railway, canal, road, bridge or other work of any kind, and any mining operation constructed or carried on by the Government of Canada, or of any province of Canada, or by any municipal corporation, or by any incorporated company, or by private enterprise. R.S., c. 151, s. 1.

Proclamation.

143. The Governor in Council may, as often as occasion requires, declare, by proclamation, that upon and after a day therein named, this Part, or any section or sections thereof, shall be in force in any place in Canada in such proclamation designated, within the limits or in the vicinity whereof any public work is in course of construction, or in any place in the vicinity of any public work, within which he deems it necessary that this Part, or any section or sections thereof, should be in force; and this Part, or any such section or sections thereof, shall, upon and after the day named in such proclamation, take effect within the place or places designated therein.

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

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

4. All courts, magistrates and justices shall take judicial notice of every such proclamation. R.S., c. 151, s. 2.

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Weapons.

144. On or before the day named in such proclamation, every person employed on or about the public work to which the same relates, shall bring and deliver up, to some commissioner or officer appointed for the purposes of this Part, every weapon in his possession, and shall obtain from such commissioner or officer a receipt for the same. R.S., c. 151, s. 3.

145. Every weapon found in the possession of any person employed, as aforesaid, after the day named in such proclamation and within the limits designated in such proclamation, may be seized by any justice, commissioner, constable or other peace officer, and shall be forfeited to the use of His Majesty. R.S., c. 151, s. 4.

146. Every one employed upon or about any public work, within any place in which this Part is in force, who, upon or after the day named in such proclamation, keeps or has in his possession or under his care or control within any such place, any weapon, is liable on summary conviction to a penalty not exceeding four dollars and not less than two dollars for every such weapon found in his possession or under his care or control. R.S., c. 151, s. 5; 55-56 V., c. 29, s. 117.

147. Every one who, for the purpose of defeating the enforcement of this Part, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within any place in which this Part is in force, any weapon belonging to or in the custody of any person employed on or about any public work, is liable, on summary conviction, to a penalty not exceeding one hundred dollars and not less than forty dollars; and a moiety of such penalty shall belong to the informing and the other moiety to His Majesty, for the public use of Canada. R.S., c. 151, s. 6; 55-56 V., c. 29, s. 117.

148. Every person employed on any public work found carrying any weapon, within any place in which this Part is at the time in force, for purposes dangerous to the public peace, is guilty of an indictable offence. R.S., c. 151, s. 7.

149. Whenever this Part ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or whenever the owner or person lawfully entitled to any such weapon satisfies the commissioner that he is about to remove immediately from the limits within which this Part is at the time in force, the commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it. R.S., c. 151, s. 11.

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Intoxicating

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Intoxicating Liquor.

150. Upon and after the day named in such proclamation and during such period as such proclamation remains in force, no person shall, at any place within the limits specified in such proclamation, sell, barter or, directly or indirectly, for any matter, thing, profit or reward, exchange, supply or dispose of, any intoxicating liquor; or expose, keep or have in possession any intoxicating liquor intended to be dealt with in any such way.

2. The provisions of this section shall not extend to any person selling intoxicating liquor by wholesale, and not retailing the same, if such person is a licensed distiller or brewer. R.S., c. 151, s. 13; 55-56 V., c. 29, s. 118.

151. Every one who, by himself, his clerk, servant, agent or other person, violates any of the provisions of the last preceding section, is guilty of an offence against this Part and liable on summary conviction for a first offence, to a penalty of forty dollars and costs, and, in default of payment, to imprisonment for a term not exceeding three months, with or without hard labour; and for every subsequent offence, to a like penalty and to imprisonment in default of payment, and also to further imprisonment for a term not exceeding six months, with or without hard labour. R.S., c. 151, s. 14; 55-56 V., c. 29, s. 118.

152. Every clerk, servant, agent or other person who, being in the employment of, or on the premises of another person, violates or assists in violating any of the said provisions for the person in whose employment or on whose premises he is, shall be equally guilty with such person, and shall be liable to the punishment mentioned in the last preceding section. R.S., c. 151, s. 15; 55-56 V., c. 29, s. 118.

153. Any payment or compensation, whether in money or securities for money, labour or property of any kind, for intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions aforesaid, shall be held to have been criminally received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the person making, paying or furnishing such payment or compensation. R.S., c. 151, s. 18.

154. All sales, transfers, conveyances, liens and securities of every kind, which either in whole or in part have been made or given for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of contrary to such provisions, shall be void against all persons, and no right shall be acquired thereby.

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2. No action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the said provisions. R.S., c. 151, s. 18.

PART IV.
OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE.

Interpretation.

155. In this Part, unless the context otherwise requires,—

(a) 'the government' includes the government of Canada, and the government of any province of Canada, as well as His Majesty in the right of Canada or of any province thereof, and the Commissioners of the Transcontinental Railway;

(b) 'official or person in the employment of the government' and 'official or employee of the government,' extend to and include the Commissioners of the Transcontinental Railway and the persons holding office as such commissioners, and the engineers, officials, officers, employees and servants of the said commissioners;

(c) 'office' includes every office in the gift of the Crown or of any officer appointed by the Crown, and all commissions, civil, naval and military, and all places or employments in any public department or office whatever, and all deputations to any such office and every participation in the profits of any office or deputation. 55-56 V., c. 29, ss. 133 and 137; 6 E. VII., c. 7, s. 1.

Corruption and Disobedience.

156. Every one is guilty of an indictable offence and liable Penalty, to fourteen years' imprisonment who,—

(a) holding any judicial office, or being a member of Parliament or of a legislature, corruptly accepts or obtains, or agrees to accept, or attempts to obtain for himself or any other person, any money or valuable consideration, office, place, or employment on account of anything already done or omitted, or to be afterwards done or omitted, by him in his judicial capacity, or in his capacity as such member; or,

(b) corruptly gives or offers to any such person or to any other person, any such bribe as aforesaid on account of any such act or omission. 55-56 V., c. 29, s. 131.

157. Every one is guilty of an indictable offence and liable Penalty, to fourteen years' imprisonment who,—

(a) being a justice, peace officer, or public officer, employed in any capacity for the prosecution or detection or punishment of offenders, corruptly accepts or obtains, or agrees

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Offering bribe to officer.

Frauds upon the government.

Penalty.

Making offer or gift to unduly influence officer.

Accepting such offer or gift.

Procuring withdrawal of tenders.

Accepting gift, etc., as consideration.

to accept or attempts to obtain for himself, or for any other person, any money or valuable consideration, office, place or employment, with the intent to interfere corruptly with the due administration of justice, or to procure or facilitate the commission of any crime, or to protect from detection or punishment any person having committed or intending to commit any crime: or,

(b) corruptly gives or offers to any officer aforesaid any such bribe as aforesaid with any such intent. 55-56 V., c. 29, s. 132.

158. Every one is guilty of an indictable offence and liable to a fine of not less than one hundred dollars, and not exceeding one thousand dollars, and to imprisonment for a term not exceeding one year and not less than one month, and in default of payment of such fine to imprisonment for a further time not exceeding six months who,—

(a) makes any offer, proposal, gift, loan or promise, or gives or offers any compensation or consideration, directly or indirectly, to any official or person in the employment of the government, or to any member of his family, or to any person under his control or for his benefit, with intent to obtain the assistance or influence of such official or person to promote either the procuring of any contract with the government for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, the execution of any such contract, or the payment of the price or consideration stipulated therein, or any part thereof, or of any aid or subsidy payable in respect thereof; or,

(b) being an official or person in the employment of the government, directly or indirectly, accepts or agrees to accept, or allows to be accepted by any person under his control or for his benefit, any such offer, proposal, gift, loan, promise, compensation or consideration; or,

(c) in the case of tenders being called for by or on behalf of the government for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, directly or indirectly, by himself, or by the agency of any other person on his behalf, with intent to obtain the contract therefor, either for himself or for any other person, offers to make, or makes, any gift, loan, offer or promise, or offers or gives any consideration or compensation whatsoever to any person tendering for such work or other service, or to any member of his family or other person for his benefit, to induce such person to withdraw his tender for such work or other service, or to compensate or reward him for having withdrawn such tender; or,

(d) in case of tendering for the performance of any work, the doing of any thing, or the furnishing of any goods, effects,
(e) being an official or employee of the government, receives, directly or indirectly, whether personally or by or through any member of his family or person under his control or for his benefit, any gift, loan, offer, promise, compensation or consideration whatsoever, either in money or otherwise, from any person whatsoever, for assisting or favouring any individual in the transaction of any business whatsoever with the government, or who gives or offers any such gift, loan, promise, compensation or consideration; or,

(f) by reason of, or under the pretense of, possessing influence with the government, or with any minister or official thereof, demands, exacts or receives from any person, any compensation, fee or reward, for procuring from the government the payment of any claim, or of any portion thereof, or for procuring or furthering the appointment of himself, or of any other person, to any office, place or employment, or for procuring or furthering the obtaining for himself or any other person, of any grant, lease or other benefit from the government; or offers, promises or pays to such person, under the circumstances and for the causes aforesaid, or any of them, any such compensation, fee or reward; or,

(g) having dealings of any kind with the government through any department thereof, pays to any employee or official of the government, or to any member of the family of such employee or official, or to any person under his control or for his benefit, any commission or reward; or within one year before or after such dealings, without the express permission in writing of the head of the department with which such dealings have been had, the proof of which permission shall lie upon him, makes any gift, loan, or promise of any money, matter or thing, to any such employee or other person aforesaid; or,

(h) being an employee or official of the government, demands, exacts or receives from such person, directly or indirectly, by himself, or by or through any other person for his benefit, or permits or allows any member of his family, or any person under his control, to accept or receive

(i) any such commission or reward, or

(ii) .

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(ii) within the said period of one year, without the express permission in writing of the head of the department with which such dealings have been had, the proof of which permission shall lie upon him, accepts or receives any such gift, loan or promise; or,

(i) having any contract with the government for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, and having or expecting to have any claim or demand against the government by reason of such contract, directly or indirectly, by himself or by any person on his behalf, subscribes, furnishes or gives, or promises to subscribe, furnish or give, any money or other valuable consideration for the purpose of promoting the election of any candidate, or of any number, class or party of candidates, to a legislature or to Parliament, or with the intent in any way of influencing or affecting the result of a provincial or Dominion election.

2. If the value of the amount or thing paid, offered, given, loaned, promised, received or subscribed, as the case may be, exceeds one thousand dollars, the offender under this section is liable to any fine not exceeding such value. 55-56 V., c. 29, s. 133; 56 V., c. 32, s. 1.

159. Every person convicted of an offence under the last preceding section shall be incapable of contracting with the Government, or of holding any contract or office with, from, or under it, or of receiving any benefit under any such contract. 55-56 V., c. 29, s. 134.

160. Every public officer is guilty of an indictable offence and liable to five years' imprisonment who, in the discharge of the duties of his office, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person. 55-56 V., c. 29, s. 135.

161. Every one is guilty of an indictable offence and liable to a fine not exceeding one thousand dollars and not less than one hundred dollars, and to imprisonment for a term not exceeding two years and not less than one month, and in default of payment of such fine to imprisonment for a further term not exceeding six months, who directly or indirectly,—

(a) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any member of a municipal council, whether the same is to enure to his own advantage or to the advantage of any other person, for the purpose of inducing such member either to vote or to abstain from voting at any meeting of the council of which he is a member.
member or at any meeting of a committee of such council, in favour of or against any measure, motion, resolution or question submitted to such council or committee; or,

(b) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any member or to any officer of a municipal council for the purpose of inducing him to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; or,

(c) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any officer of a municipal council for the purpose of inducing him to perform or abstain from performing, or to aid in procuring or preventing the performance of, any official act; or,

(d) being a member or officer of a municipal council, accepts or consents to accept any such offer, proposal, gift, loan, promise, agreement, compensation or consideration in this section mentioned; or in consideration thereof votes or abstains from voting in favour of or against any measure, motion, resolution or question, or performs or abstains from performing any official act; or,

(e) attempts by any threat, deceit, suppression of the truth or other unlawful means to influence any member of a municipal council in giving or withholding his vote in favour of or against any measure, motion, resolution or question, or in not attending any meeting of the municipal council of which he is a member, or of any committee thereof; or,

(f) attempts by any such means as in the last preceding paragraph mentioned to influence any member or any officer of a municipal council to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or to perform or abstain from performing, or to aid in procuring or preventing the performance of, any official act. 55-56 V., c. 29, s. 136.

162. Every one is guilty of an indictable offence who, directly or indirectly,—

(a) sells or agrees to sell any appointment to or resignation of any office, or any consent to any such appointment or resignation, or receives, or agrees to receive, any reward or profit from the sale thereof; or,

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

and in addition to any other penalty incurred, forfeits any right which he may have in the office and is disabled for life from holding the same. 55-56 V., c. 29, s. 137.

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163. Every one is guilty of an indictable offence who, directly or indirectly,—

(a) receives or agrees to receive any reward or profit for any interest, request or negotiation about any office, or under pretense of using any such interest, making any such request or being concerned in any such negotiation; or,

(b) gives or procures to be given any profit or reward, or makes or procures to be made any agreement for the giving of any profit or reward, for any such interest, request or negotiation as aforesaid; or,

(c) solicits, recommends or negotiates in any manner as to any appointment to or resignation of any office in expectation of any reward or profit; or,

(d) keeps any office or place for transacting or negotiating any business relating to vacancies in, or the sale or purchase of, or appointment to or resignation of offices. 55-56 V., c. 29, s. 137.

164. Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful excuse, disobeys any Act of the Parliament of Canada or of any legislature in Canada by wilfully doing any act which it forbids, or omitting to do any act which it requires to be done, unless some penalty or other mode of punishment is expressly provided by law. 55-56 V., c. 29, s. 138.

165. Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful excuse, disobeys any lawful order, other than for the payment of money, made by any court of justice, or by any person or body of persons authorized by any statute to make or give such order, unless some penalty is imposed, or other mode of proceeding is expressly provided, by law. 55-56 V., c. 29, s. 139.

166. Every one is guilty of an indictable offence and liable to a fine and imprisonment who, being a sheriff, deputy-sheriff, coroner, elisor, bailiff, constable or other officer entrusted with the execution of any writ, warrant or process, wilfully misconduets himself in the execution of the same, or wilfully, and without the consent of the person in whose favour the writ, warrant or process was issued, makes any false return therefor. 55-56 V., c. 29, s. 143.

Peace Officers.

167. Every one is guilty of an indictable offence and liable to six months' imprisonment who, having reasonable notice that he is required to assist any sheriff, deputy-sheriff, mayor or other head officer, justice, magistrate, or peace officer, in the execution of his duty in arresting any person, or in preserving the peace, neglects to assist the peace officers in arresting offenders.
the peace, without reasonable excuse omits to do so. 55-56 V., c. 29, s. 142.

168. Every one is guilty of an indictable offence and liable to ten years' imprisonment who resists or wilfully obstructs any public officer in the execution of his duty or any person acting in aid of such officer. 55-56 V., c. 29, s. 144.

169. Every one who resists or wilfully obstructs,—

(a) any peace officer in the execution of his duty or any person acting in aid of such officer;

(b) any person in the lawful execution of any process against any lands or goods or in making any lawful distress or seizure;

is guilty of an offence punishable on indictment or on summary conviction and liable if convicted on indictment to two years' imprisonment, and, on summary conviction before two justices, to six months' imprisonment with hard labour, or to a fine of one hundred dollars. 55-56 V., c. 29, s. 144.

Misleading Justice.

170. Perjury is an assertion as to a matter of fact, opinion, belief or knowledge, made by a witness in a judicial proceeding as part of his evidence, upon oath or affirmation, whether such evidence is given in open court, or by affidavit or otherwise, and whether such evidence is material or not, such assertion being known to such witness to be false, and being intended by him to mislead the court, jury or person holding the proceeding.

2. Subornation of perjury is counselling or procuring a person to commit any perjury which is actually committed.

3. Evidence in this section includes evidence given on the voir dire and evidence given before a grand jury. 55-56 V., c. 29, s. 145.

171. Every person is a witness within the meaning of the last preceding section who actually gives his evidence, whether he was competent to be a witness or not, and whether his evidence was admissible or not.

2. Every proceeding is judicial within the meaning of the last preceding section which is held in or under the authority of any court of justice, or before a grand jury, or before either the Senate or House of Commons of Canada, or any committee of either the Senate or House of Commons, or before any legislative council, legislative assembly or house of assembly or any committee thereof, empowered by law to administer an oath, or before any justice, or any arbitrator or umpire, or any person or body of persons authorized by law or by any statute in force for the time being to make an inquiry and take evidence therein upon oath, or before any legal tribunal. 155 2465 R.S., 1906.
bunal by which any legal right or liability can be established, or before any person acting as a court, justice or tribunal, having power to hold such judicial proceeding, whether duly constituted or not, and whether the proceeding was duly instituted or not before such court or person so as to authorize it or him to hold the proceeding, and although such proceeding was held in a wrong place or was otherwise invalid. 55-56 V., c. 29, s. 145.

172. Every one is guilty of perjury who,—

(a) having taken or made any oath, affirmation, solemn declaration or affidavit where, by any Act or law in force in Canada, or in any province of Canada, it is required or permitted that facts, matters or things be verified, or otherwise assured or ascertained by or upon the oath, affirmation, declaration or affidavit of any person, wilfully and corruptly, upon such oath, affirmation, declaration or affidavit, deposes, swears to or makes any false statement as to any such fact, matter or thing; or,

(b) knowingly, wilfully and corruptly, upon oath, affirmation or solemn declaration, affirms, declares or deposes to the truth of any statement for so verifying, assuring or ascertaining any such fact, matter or thing, or purporting so to do, or knowingly, wilfully and corruptly takes, makes, signs or subscribes any such affirmation, declaration or affidavit as to any such fact, matter or thing, if such statement, affidavit, affirmation or declaration is untrue in whole or in part. 55-56 V., c. 29, s. 148.

173. Every person who wilfully and corruptly makes any false affidavit, affirmation or solemn declaration, out of the province in which it is to be used but within Canada, before any person authorized to take the same, for the purpose of being used in any province of Canada, is guilty of perjury in like manner as if such false affidavit, affirmation or declaration were made before a competent authority in the province in which it is used or intended to be used. 55-56 V., c. 29, s. 149.

174. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who commits perjury or subornation of perjury.

2. If the crime is committed in order to procure the conviction of a person for any crime punishable by death, or imprisonment for seven years or more, the punishment may be imprisonment for life. 55-56 V., c. 29, s. 146.

175. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being required or authorized by law to make any statement on oath, affirmation or solemn declaration, thereupon makes a statement which would amount
amount to perjury if made in a judicial proceeding. 55-56 V., c. 29, s. 147.

176. Every one is guilty of an indictable offence and liable to two years' imprisonment who, upon any occasion on which he is permitted by law to make any statement or declaration before any officer authorized by law to permit it to be made before him, or before any notary public to be certified by him as such notary, makes a statement which would amount to perjury if made on oath in a judicial proceeding. 55-56 V., c. 29, s. 150.

177. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to mislead any court of justice or person holding any such judicial proceeding, fabricates evidence by any means other than perjury or suborning of perjury. 55-56 V., c. 29, s. 151.

178. Every one is guilty of an indictable offence who conspires to prosecute any person for any alleged offence, knowing such person to be innocent thereof, and shall be liable,—

(a) to imprisonment for fourteen years if such person might, upon conviction for the alleged offence, be sentenced to death or imprisonment for life;

(b) to imprisonment for ten years if such person might, upon conviction for the alleged offence, be sentenced to imprisonment for any term less than life. 55-56 V., c. 29, s. 152.

179. Every justice or other person who administers, or causes or allows to be administered, or receives, or causes or allows to be received, any oath or affirmation touching any matter or thing whereof such justice or other person has not jurisdiction or cognizance by some law in force at the time being, or not authorized or required by any such law, is guilty of an indictable offence and liable to a fine not exceeding fifty dollars, or to imprisonment for any term not exceeding three months.

2. Nothing in this section contained shall be construed to extend to any oath or affirmation before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial or punishment of any offence, or to any oath or affirmation required or authorized by any law of Canada, or by any law of the province wherein such oath or affirmation is received or administered, or is to be used, or to any oath or affirmation, which is required or authorized by the laws of any foreign country to give validity to an instrument in writing or to evidence designed or intended to be used in such foreign country. 55-56 V., c. 29, s. 153.

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180. Every one is guilty of an indictable offence and liable to two years' imprisonment who,—

(a) dissuades or attempts to dissuade any person by threats, bribes, or other corrupt means from giving evidence in any cause or matter, civil or criminal; or,

(b) influences or attempts to influence, by threats or bribes or other corrupt means, any jurymen in his conduct as such, whether such person has been sworn as a jurymen or not; or,

(c) accepts any bribe or other corrupt consideration to abstain from giving evidence, or on account of his conduct as a jurymen; or,

(d) wilfully attempts in any other way to obstruct, pervert or defeat the course of justice. 55-56 V., c. 29, s. 154.

181. Every one is guilty of an indictable offence and liable to a fine not exceeding the penalty compounded for who, having brought, or under colour of bringing, an action against any person under any penal statute in order to obtain from him any penalty, compounds the said action without order or consent of the court, whether any offence has in fact been committed or not. 55-56 V., c. 29, s. 155.

182. Every one is guilty of an indictable offence and liable to seven years' imprisonment who corruptly takes any money or reward, directly or indirectly, under pretense or upon account of helping any person to recover any chattel, money, valuable security or other property which, by any indictable offence, has been stolen, taken, obtained, extorted, converted or disposed of, unless he has used all due diligence to cause the offender to be brought to trial for the same. 55-56 V., c. 29, s. 156.

183. Every one is liable to a penalty of two hundred and fifty dollars for each offence, recoverable with costs by any person who sues for the same in any court of competent jurisdiction, who,—

(a) publicly advertises a reward for the return of any property which has been stolen or lost, and in such advertisement uses any words purporting that no questions will be asked; or,

(b) makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost, without seizing or making any inquiry after the person producing such property; or,

(c) promises or offers in any such public advertisement to return to any pawnbroker or other person who advanced money by way of loan on, or has bought, any property stolen or lost, the money so advanced or paid, or any other sum of money for the return of such property; or,
(d) prints or publishes any such advertisement. 55-56 V., c. 29, s. 157.

184. Every one is guilty of an indictable offence and liable to two years' imprisonment, who knowingly and wilfully signs a false certificate or declaration, when a certificate or declaration is required, with respect to the execution of judgment of death on any prisoner. 55-56 V., c. 29, s. 158.

**Escapes and Rescues.**

185. Every one is guilty of an indictable offence and liable to two years' imprisonment who, having been sentenced to imprisonment, is afterwards, and before the expiration of the term for which he was sentenced, at large within Canada without some lawful cause, the proof whereof shall lie on him. 55-56 V., c. 29, s. 159.

186. Every one is guilty of an indictable offence and liable to five years' imprisonment who knowingly and wilfully,—

(a) assists any alien enemy of His Majesty, being a prisoner of war in Canada, to escape from any place in which he may be detained; or,

(b) assists any such prisoner as aforesaid, suffered to be at large on his parole in Canada or in any part thereof, to escape from the place where he is at large on his parole. 55-56 V., c. 29, s. 160.

187. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, by force or violence, breaks any prison with intent to set at liberty himself or any person confined therein on any criminal charge. 55-56 V., c. 29, s. 161.

188. Every one is guilty of an indictable offence and liable who forcibly breaks out of his cell or makes any breach therein with intent to escape therefrom. 55-56 V., c. 29, s. 162.

189. Every one is guilty of an indictable offence and liable to two years' imprisonment who,—

(a) having been convicted of any offence, escapes from any lawful custody in which he may be under such conviction; or,

(b) whether convicted or not, escapes from any prison in which he is lawfully confined on any criminal charge. 55-56 V., c. 29, s. 163.

190. Every one is guilty of an indictable offence and liable to two years' imprisonment who being in lawful custody other than R.S., 1906.
than as aforesaid on any criminal charge, escapes from such custody. 55-56 V., c. 29, s. 164.

Penalty.

191. Every one is guilty of an indictable offence and liable to seven years' imprisonment who,—

(a) rescues any person or assists any person in escaping, or attempting to escape, from lawful custody, whether in prison or not, under sentence of death or imprisonment for life, or after conviction of, and before sentence for, or while in such custody upon a charge of any crime punishable with death or imprisonment for life; or,

(b) being a peace officer and having any such person in his lawful custody, or being an officer of any prison in which any such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom. 55-56 V., c. 29, s. 165.

Penalty.

192. Every one is guilty of an indictable offence and liable to five years' imprisonment who,—

(a) rescues any person, or assists any person in escaping, or attempting to escape, from lawful custody, whether in prison or not, under a sentence of imprisonment for any term less than life, or after conviction of, and before sentence for, or while in such custody upon a charge of any crime punishable with imprisonment for a term less than life; or,

(b) being a peace officer having any such person in his lawful custody, or being an officer of any prison in which such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom. 55-56 V., c. 29, s. 166.

Penalty.

193. Every one is guilty of an indictable offence and liable to one years' imprisonment, who, by failing to perform any legal duty, permits a person in his lawful custody on a criminal charge to escape therefrom. 63-64 V., c. 46, s. 3.

194. Every one is guilty of an indictable offence and liable to two years' imprisonment who with intent to facilitate the escape of any prisoner lawfully imprisoned conveys, or causes to be conveyed, any thing into any prison. 55-56 V., c. 29, s. 167.

195. Every one is guilty of an indictable offence and liable to two years' imprisonment who knowingly and unlawfully, under colour of any pretended authority, directs or procures the discharge of any prisoner not entitled to be so discharged, and the person so discharged shall be held to have escaped. 55-56 V., c. 29, s. 168.

196. Every one who escapes from custody, shall, on being retaken, serve, in the prison to which he was sentenced, a term equivalent to the full term to be served.
equivalent to the remainder of his term unexpired at the time when re-
of his escape, in addition to the punishment which is awarded for such escape.

2. Any imprisonment so awarded may be to the penitentiary Place of ad-
or prison from which the escape was made. 55-56 V., c. 29, s. 169.

PART V.
OFFENCES AGAINST RELIGION, MORALS AND PUBLIC CONVENIENCE.

Interpretation.

197. In this Part, unless the context otherwise requires,— Definitions.
(a) 'theatre' includes any place open to the public, gratui-
tously or otherwise, where dramatic, musical, acrobatic or other entertainments or representations are presented or given;
(b) 'guardian' includes any person who has in law or in fact the custody or control of any girl or child referred to;
(c) 'public place' includes any open place to which the public have or are permitted to have access and any place of public resort. 57-58 V., c. 57, s. 1; 63-64 V., c. 46, s. 3; 3 E. VII., c. 13, s. 2.

Offences Against Religion.

198. Every one is guilty of an indictable offence and liable to one year's imprisonment who publishes any blasphemous libels.

2. Whether any particular published matter is a blasphe-

mous libel or not is a question of fact: Provided that no one is guilty of a blasphemous libel for expressing in good faith and in decent language, or attempting to establish by arguments used in good faith and conveyed in decent language, any opinion whatever upon any religious subject. 55-56 V., c. 29, s. 170.

199. Every one is guilty of an indictable offence and liable to two years' imprisonment who, by threats or force, unlaw-
fully obstructs or prevents, or endeavours to obstruct or prevent, any clergyman or other minister in or from celebrating divine service, or otherwise officiating in any church, chapel, meeting-

house, school-house or other place for divine worship, or in or from the performance of his duty in the lawful burial of the dead in any churchyard or other burial place. 55-56 V., c. 29, s. 171.

200. Every one is guilty of an indictable offence and liable to two years' imprisonment who strikes or offers any violence to, officiating clergyman.

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to, or arrests upon any civil process or under the pretense of executing any civil process, any clergyman or other minister who is engaged in or, to the knowledge of the offender, is about to engage in, any of the rites or duties in the last preceding section mentioned, or who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof. 55-56 V., c. 29, s. 172.

201. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars and costs, and in default of payment to one month's imprisonment, who wilfully disturbs, interrupts or disquiets any assemblage of persons met for religious worship, or for any moral, social or benevolent purpose, by profane discourse, by rude or indecent behaviour, or by making a noise, either within the place of such meeting or so near it as to disturb the order or solemnity of the meeting. 55-56 V., c. 29, s. 173.

Offences Against Morality.

202. Every one is guilty of an indictable offence and liable to imprisonment for life who commits buggery, either with a human being or with any other living creature. 55-56 V., c. 29, s. 174.

203. Every one is guilty of an indictable offence and liable to ten years' imprisonment who attempts to commit the offence mentioned in the last preceding section. 55-56 V., c. 29, s. 175.

204. Every parent and child, every brother and sister, and every grandparent and grandchild, who cohabit or have sexual intercourse with each other, shall each of them, if aware of their consanguinity, be deemed to have committed incest, and be guilty of an indictable offence and liable to fourteen years' imprisonment, and the male person shall also be liable to be whipped: Provided that, if the court or judge is of opinion that the female accused is a party to such intercourse only by reason of the restraint, fear or duress of the other party, the court or judge shall not be bound to impose any punishment on such person under this section. 55-56 V., c. 29, s. 176.

205. Every one is guilty of an offence and liable, on summary conviction before two justices, to a fine of fifty dollars or to six months' imprisonment with or without hard labour, or to both fine and imprisonment, who wilfully,—

(a) in the presence of one or more persons does any indecent act in any place to which the public have or are permitted to have access; or,

(b) does any indecent act in any place intending thereby to insult or offend any person. 53 V., c. 37, s. 6; 55-56 V., c. 29, s. 177.
206. Every male person is guilty of an indictable offence and liable to five years’ imprisonment and to be whipped who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person. 55-56 V., c. 29, s. 178.

207. Every one is guilty of an indictable offence and liable to two years’ imprisonment who knowingly, without lawful justification or excuse,—

(a) manufactures, or sells, or exposes for sale or to public view, or distributes or circulates, or causes to be distributed or circulated, any obscene book, or other printed, typewritten or otherwise written matter, or any picture, photograph, model or other object tending to corrupt morals; or,

(b) publicly exhibits any disgusting object or any indecent show; or,

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

2. No one shall be convicted of any offence in this section mentioned if he proves that the public good was served by the acts alleged to have been done, and that there was no excess in the acts alleged beyond what the public good required.

3. It shall be a question for the court or judge whether the occasion of the manufacture, sale, exposing for sale, publishing, or exhibition is such as might be for the public good, and whether there is evidence of excess beyond what the public good required in the manner, extent or circumstances in, to or under which the manufacture, sale, exposing for sale, publishing or exhibition is made; but it shall be a question for the jury whether there is or is not such excess.

4. The motives of the manufacturer, seller, exposér, publisher or exhibitor shall in all cases be irrelevant. 63-64 V., c. 46, s. 3.

208. Every person who, being the lessee, agent or person in charge or manager of a theatre, presents or gives or allows to be presented or given therein any immoral, indecent or obscene play, opera, concert, acrobatic, variety, or vaudeville performance, or other entertainment or representation, is guilty of an offence punishable on indictment or on summary conviction, and liable, if convicted upon indictment, to one year’s imprisonment with or without hard labour, or to a fine of five hundred dollars, or to both, and, on summary conviction, to six months’ imprisonment, or to a fine of fifty dollars, or to both.

2. Every person who takes part or appears as an actor, performer, or assistant in any capacity, in any such immoral, indecent...
indecent or obscene play, opera, concert performance, or other entertainment or representation, is guilty of an offence and liable, on summary conviction, to three months' imprisonment, or to a fine not exceeding twenty dollars, or to both.

3. Every person who so takes part or appears in an indecent costume is guilty of an offence and liable, on summary conviction, to six months' imprisonment, or to a fine of fifty dollars, or to both. 3 E. VII., c. 13, s. 2.

209. Every one is guilty of an indictable offence and liable to two years' imprisonment who posts for transmission or delivery by or through the post,—

(a) any obscene or immoral book, pamphlet, newspaper, picture, print, engraving, lithograph, photograph or any publication, matter or thing of an indecent, immoral, or scurrilous character; or,

(b) any letter upon the outside or envelope of which, or any post card or post band or wrapper upon which, there are words, devices, matters or things of the character aforesaid; or,

(c) any letter or circular concerning schemes devised or intended to deceive and defraud the public, or for the purpose of obtaining money under false pretenses. 63-64 V., c. 46, s. 3.

210. The burden of proof of previous unchastity on the part of the girl or woman under the three next succeeding sections shall be upon the accused. 63-64 V., c. 46, s. 3.

211. Every one is guilty of an indictable offence and liable to two years' imprisonment who seduces or has illicit connection with any girl of previously chaste character, of or above the age of fourteen years and under the age of sixteen years. 55-56 V., c. 29, s. 181; 56 V., c. 32, s. 1.

212. Every one, above the age of twenty-one years, is guilty of an indictable offence and liable to two years' imprisonment who, under promise of marriage, seduces and has illicit connection with any unmarried female of previously chaste character and under twenty-one years of age. 55-56 V., c. 29, s. 182.

213. Every one is guilty of an indictable offence and liable to two years' imprisonment,—

(a) who, being a guardian, seduces or has illicit connection with his ward; or,

(b) who seduces or has illicit connection with any woman or girl previously chaste and under the age of twenty-one years who is in his employment in a factory, mill, work-shop, 2474.
shop, shop or store, or who, being in a common, but not necessarily similar, employment with him in such factory, mill, workshop, shop or store, is, in respect of her employment or work in such factory, mill, workshop, shop or store, under or in any way subject to his control or direction, or receives her wages or salary directly or indirectly from him. 63-64 V., c. 46, s. 3.

214. Every one is guilty of an indictable offence and liable to a fine of four hundred dollars or to one year's imprisonment, who, being the master or other officer or a seaman or other person employed on board of any vessel, while such vessel is in any water within the jurisdiction of the Parliament of Canada, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger.

2. The subsequent internmarriage of the seducer and the seduced is, if pleaded, a good defence to any indictment for any offence against this or either of the two last preceding sections, except in the case of a guardian seducing his ward. 55-56 V., c. 29, s. 184.

215. Every one who, being the parent or guardian of any girl or woman,—

(a) procures such girl or woman to have carnal connection with any man other than the procurer; or

(b) orders, is party to, permits or knowingly receives the avails of, the defilement, seduction or prostitution of such girl or woman;

is guilty of an indictable offence, and liable to fourteen years' imprisonment, if such girl or woman is under the age of fourteen years, and if such girl or woman is of or above the age of fourteen years, to five years' imprisonment. 55-56 V., c. 29, s. 186.

216. Every one is guilty of an indictable offence and liable to two years' imprisonment with hard labour, who,—

(a) procures, or attempts to procure, any girl or woman under twenty-one years of age, not being a common prostitute or of known immoral character, to have unlawful carnal connection, either within or without Canada, with any other person or persons; or,

(b) inveigles or entices any such woman or girl to a house of ill-fame or assignation for the purpose of illicit intercourse or prostitution, or knowingly conceals in such house any such woman or girl so inveigled or enticed; or,

(c) procures, or attempts to procure, any woman or girl to become, either within or without Canada, a common prostitute; or,
(d) procures, or attempts to procure, any woman or girl to leave Canada with intent that she may become an inmate of a brothel elsewhere; or,

(e) procures any woman or girl to come to Canada from abroad with intent that she may become an inmate of a brothel in Canada; or,

(f) procures, or attempts to procure, any woman or girl to leave her usual place of abode in Canada, such place not being a brothel, with intent that she may become an inmate of a brothel, within or without Canada; or,

(g) by threats or intimidation procures, or attempts to procure, any woman or girl to have any unlawful carnal connection, either within or without Canada; or,

(h) by false pretenses or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection, either within or without Canada; or,

(i) applies, administers to, or causes to be taken by any woman or girl any drug, intoxicating liquor, matter, or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl. 55-56 V., c. 29, s. 185.

217. Every one who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any girl under the age of eighteen years to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally, is guilty of an indictable offence, and is liable,—

(a) to ten years' imprisonment if such girl is under the age of fourteen years;

(b) to two years' imprisonment if such girl is of or above the age of fourteen years. 63-64 V., c. 46, s. 3.

218. Every one is guilty of an indictable offence and liable to two years' imprisonment who conspires with any other person by false pretenses, or false representations or other fraudulent means to induce any woman to commit adultery or fornication. 55-56 V., c. 29, s. 188.

219. Every one is guilty of an indictable offence and liable to four years' imprisonment who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any female idiot or imbecile, insane or deaf and dumb woman or girl, under circumstances which do not amount to rape but where the offender knew or had good reason to believe, at the time of the offence, that the woman or girl was an idiot, or imbecile, or insane or deaf and dumb. 63-64 V., c. 46, s. 3.
220. Every one is guilty of an indictable offence and liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or six months' imprisonment.—

(a) who, being the keeper of any house, tent or wigwam, allows or suffers any unenfranchised Indian woman to be or remain in such house, tent or wigwam, knowing or having probable cause for believing that such Indian woman is in or remains in such house, tent or wigwam with the intention of prostituting herself therein; or,

(b) who, being an Indian woman, prostitutes herself therein; or,

(c) who, being an unenfranchised Indian woman, keeps frequents or is found in a disorderly house, tent or wigwam used for any such purpose.

2. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management, of any house, tent or wigwam in which any such Indian woman is or remains for the purpose of prostituting herself therein, is deemed to be the keeper thereof, notwithstanding he or she is not in fact the real keeper thereof. 55-56 V., c. 29, s. 190.

Nuisances.

221. A common nuisance is an unlawful act or omission to discharge a legal duty, which act or omission endangers the lives, safety, health, property or comfort of the public, or by which the public are obstructed in the exercise or enjoyment of any right common to all His Majesty's subjects. 55-56 V., c. 29, s. 191.

222. Every one is guilty of an indictable offence and liable to one year's imprisonment or a fine who commits any common nuisance which endangers the lives, safety or health of the public, or which occasions injury to the person of any individual. 55-56 V., c. 29, s. 192.

223. Any one convicted upon any indictment or information for any common nuisance other than those mentioned in the last preceding section, shall not be deemed to have committed a criminal offence; but all such proceedings or judgments may be taken and had as heretofore to abate or remedy the mischief done by such nuisance to the public right. 55-56 V., c. 29, s. 193.

224. Every one is guilty of an indictable offence and liable to one year's imprisonment who knowingly and wilfully exposes for sale, or has in his possession with intent to sell, for human food articles which he knows to be unfit for human food.

2. Every one who is convicted of this offence after a previous conviction for the same crime shall be liable to two years' imprisonment. 55-56 V., c. 29, s. 194.

225. R.S., 1906.
225. A common bawdy-house is a house, room, set of rooms or place of any kind kept for purposes of prostitution. 55-56 V., c. 29, s. 195.

226. A common gaming-house is,—

(a) a house, room or place kept by any person for gain, to which persons resort for the purpose of playing at any game of chance, or at any mixed game of chance and skill; or,

(b) a house, room or place kept or used for playing therein at any game of chance, or any mixed game of chance and skill, in which

(i) a bank is kept by one or more of the players exclusively of the others; or,

(ii) any game is played the chances of which are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the game is managed, or against whom the other players stake, play or bet.

2. Any such house, room or place shall be a common gaming-house, although part only of such game is played there and any other part thereof is played at some other place, either in Canada or elsewhere, and although the stake played for, or any money, valuables, or property depending on such game, is in some other place, either in Canada or elsewhere. 55-56 V., c. 29, s. 196; 58-59 V., c. 40, s. 1.

227. A common betting-house is a house, office, room or other place,—

(a) opened, kept or used for the purpose of betting between persons resorting thereto and

(i) the owner, occupier or keeper thereof,

(ii) any person using the same,

(iii) any person procured or employed by, or acting for or on behalf of any such person,

(iv) any person having the care or management, or in any manner conducting the business thereof; or,

(b) opened, kept or used for the purpose of any money or valuable thing being received by or on behalf of any such person as aforesaid, as or for the consideration

(i) for any assurance or undertaking, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race or other race, fight, game or sport, or

(ii) for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency; or,

(c) opened, or kept for the purpose of recording or registering bets upon any contingency or event, horse race or other race,
race, fight, game or sport, or for the purpose of receiving money or other things of value to be transmitted for the purpose of being wagered upon any such contingency or event, horse race or other race, fight, game or sport, whether any such bet is recorded or registered there, or any money or other thing of value is there received to be so transmitted or not; or

(d) opened, kept or used for the purpose of facilitating or encouraging or assisting in the making of bets upon any contingency or event, horse race or other race, fight, game or sport, by announcing the betting upon, or announcing or displaying the results of, horse races or other races, fights, games or sports, or in any other manner, whether such contingency or event, horse race or other race, fight, game or sport occurs or takes place in Canada or elsewhere. 55-56 V., c. 29, s. 197; 58-59 V., c. 40, s. 1.

228. Every one is guilty of an indictable offence and liable to one year's imprisonment who keeps any disorderly house, that is to say, any common bawdy-house, common gaming-house or common betting-house, as hereinbefore defined.

2. Any one who appears, acts or behaves as master or mistress, or as the person having the care, government or management, of any disorderly house, shall be deemed to be the keeper thereof, and shall be liable to be prosecuted and punished as such, although in fact he or she is not the real owner or keeper thereof. 55-56 V., c. 29, s. 198.

229. Every one who plays or looks on while any other person is playing in a common gaming-house is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding one hundred dollars and not less than twenty dollars, and in default of payment to two months' imprisonment. 55-56 V., c. 29, s. 199.

230. Every one is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding one hundred dollars, and to six months' imprisonment with or without hard labour who,—

(a) wilfully prevents any constable or other officer duly authorized to enter any disorderly house, from entering the same or any part thereof; or,

(b) obstructs or delays any such constable or officer in entering; or,

(c) by any bolt, chain or other contrivance secures any external or internal door of, or means of access to, any common gaming-house so authorized to be entered; or,

(d) uses any means or contrivance whatsoever for the purpose of preventing, obstructing or delaying the entry of any constable or officer, authorized as aforesaid, into any such gaming-house.

R.S., 1906.
such disorderly house or any part thereof. 55-56 V., c. 29, s. 200.

231. Every one is guilty of an indictable offence and liable to five years' imprisonment, and to a fine of five hundred dollars, who, with the intent to make gain or profit by the rise or fall in price of any stock of any incorporated or unincorporated company or undertaking, either in Canada or elsewhere, or of any goods, wares or merchandise,—

(a) without the bonâ fide intention of acquiring any such shares, goods, wares or merchandise, or of selling the same, as the case may be, makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any shares of stock, goods, wares or merchandise; or,

(b) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any such shares of stock, goods, wares or merchandise in respect of which no delivery of the thing sold or purchased is made or received, and without the bonâ fide intention to make or receive such delivery.

2. It is not an offence under this section if the broker of the purchaser receives delivery, on his behalf, of the articles sold, notwithstanding that such broker retains or pledges the same as security for the advance of the purchase money or any part thereof. 55-56 V., c. 29, s. 201.

232. Every office or place of business wherein is carried on the business of making or signing, or procuring to be made or signed, or negotiating or bargaining for the making or signing of contracts of sale or purchase prohibited by the last preceding section is a common gaming-house, and every one who as principal or agent occupies, uses, manages or maintains the same is the keeper of a common gaming-house. 55-56 V., c. 29, s. 201.

233. Every one is guilty of an indictable offence and liable to one year's imprisonment who habitually frequents any office or place wherein the making or signing or procuring to be made or signed, or the negotiating or bargaining for the making or signing, of such prohibited contracts of sale or purchase is carried on. 55-56 V., c. 29, s. 202.

234. Every one is guilty of an indictable offence and liable to one year's imprisonment who,—

(a) in any railway car or steamboat, used as a public conveyance for passengers, by means of any game of cards, dice or other instrument of gambling, or by any device of like character, obtains from any other person any money, chattel, valuable security or property; or,

(b)
(b) attempts to commit such offence by actually engaging Attempting, any person in any such game with intent to obtain money or other valuable thing from him.

2. Every conductor, master or superior officer in charge of, Arrest of every clerk or employee when authorized by the conductor, offender. master or superior officer in charge of, any railway train or steamboat, station or landing place in or at which any such offence, as aforesaid, is committed or attempted, shall, with or without warrant, arrest any person whom he has good reason to believe to have committed or attempted to commit any such offence, and take him before a justice, and make complaint of such offence on oath, in writing.

3. Every conductor, master or superior officer in charge of any such railway car or steamboat, who makes default in the discharge of any such duty is liable, on summary conviction, to a penalty not exceeding one hundred dollars and not less than twenty dollars.

4. It shall be the duty of every person who owns or works Posting up any such railway car or steamboat to keep a copy of this section posted up in some conspicuous part of such railway car or steamboat.

5. Every person who makes default in the discharge of such Penalty, duty is liable to a penalty not exceeding one hundred dollars and not less than twenty dollars. 55-56 V., c. 29, s. 203.

235. Every one is guilty of an indictable offence and liable Betting and to one year’s imprisonment, and to a fine not exceeding one pool-selling. thousand dollars, who,—

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

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

(c) becomes the custodian or depository of any money, property or valuable thing staked, wagered or pledged; or,

(d) records or registers any bet or wager, or sells any pool, upon the result

(i) of any political or municipal election,

(ii) of any race,

(iii) of any contest or trial of skill or endurance of man or beast.

2. The provisions of this section shall not extend to any person by reason of his becoming the custodian or depository of any money, property or valuable thing staked, to be paid to the winner of any lawful race, sport, game or exercise, or to the owner of any horse engaged in any lawful race, or to bets between individuals or made on the race course of an incorporated association during the actual progress of a race meeting. 55-56 V., c. 29, s. 204.

236. Saving.

R.S., 1906.
236. Every one is guilty of an indictable offence and liable to two years' imprisonment and to a fine not exceeding two thousand dollars who,—

(a) makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property, by lots, cards, tickets, or any mode of chance whatsoever; or,

(b) sells, barters, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever; or,

(c) conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining who, or the holders of what lots, tickets, numbers or chances, are the winners of any property so proposed to be advanced, loaned, given, sold or disposed of.

2. Every one is guilty of an offence and liable on summary conviction to a penalty of twenty dollars, who buys, takes or receives any such lot, ticket or other device as aforesaid.

3. Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending upon or to be determined by chance or lot, is void, and all property so sold, lent, given, bartered or exchanged, is liable to be forfeited to any person who sues for the same by action or information in any court of competent jurisdiction.

4. No such forfeiture shall affect any right or title to such property acquired by any bona fide purchaser for valuable consideration without notice.

5. This section includes the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery.

6. This section does not apply to,—

(a) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests (droits indivis) in any such property; or,

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

(c) the Art Union of London, Great Britain, or the Art Union of Ireland. 55-56 V., c. 29, s. 205; 58-59 V., etc. c. 40, s. 1; 1 E. VII., c. 42, s. 2; 6 E. VII., c. 6, s. 1.

237. Every one is guilty of an indictable offence and liable to five years' imprisonment who,—

(a) without lawful excuse, neglects to perform any duty either imposed upon him by law or undertaken by him with reference to the burial of any dead human body or human remains; or,

(b) improperly or indecently interferes with or offers any indignity to any dead human body or human remains, whether buried or not. 55-56 V., c. 29, s. 206.

Vagrancy.

238. Every one is a loose, idle or disorderly person or vagrant who,—

(a) not having any visible means of subsistence, is found wandering abroad or lodging in any barn or outhouse, or in any deserted or unoccupied building, or in any cart or wagon, or in any railway carriage or freight car, or in any railway building, and not giving a good account of himself, or who, not having any visible means of maintaining himself, lives without employment;

(b) being able to work and thereby or by other means to maintain himself and family, wilfully refuses or neglects to do so;

(c) openly exposes or exhibits in any street, road, highway or public place, any indecent exhibition;

(d) without a certificate signed, within six months, by a priest, clergyman or minister of the Gospel, or two justices, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wanders about and begs, or goes about from door to door, or places himself or herself in any street, highway, passage or public place to beg or receive alms;

(e) loiters on any street, road, highway or public place, and obstructs passengers by standing across the footpath, or by using insulting language, or in any other way;

(f) causes a disturbance in or near any street, road, highway or public place, by screaming, swearing or singing, or by being drunk, or by impeding or inconveniencing peaceable passengers;

(g) by discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly disturbs the peace and quiet of the inmates of any dwelling-house near such street or highway;

(h) R.S., 1906.
(h) tears down or defaces signs, breaks windows, or doors or door plates, or the walls of houses, roads or gardens, or destroys fences;

(i) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;

(j) is a keeper or inmate of a disorderly house, bawdy-house or house of ill-fame, or house for the resort of prostitutes;

(k) is in the habit of frequenting such houses and does not give a satisfactory account of himself or herself; or,

(l) having no peaceable profession or calling to maintain himself by, for the most part supports himself by gaming or crime, or by the avails of prostitution. 55-56 V., c. 29, s. 207; 63-64 V., c. 46, s. 3.

239. Every loose, idle or disorderly person or vagrant is liable, on summary conviction, to a fine not exceeding fifty dollars or to imprisonment, with or without hard labour, for any term not exceeding six months, or to both: Provided that no aged or infirm person shall be convicted for any reason within paragraph (a) of the last preceding section, as a loose, idle or disorderly person or vagrant in the county of which he has for the two years immediately preceding been a resident. 55-56 V., c. 29, s. 208; 57-58 V., c. 57, s. 1; 63-64 V., c. 46, s. 3.

PART VI.

OFFENCES AGAINST THE PERSON AND REPUTATION.

Interpretation.

240. In this Part, unless the context otherwise requires,—

(a) 'form of marriage' includes any form either recognized as a valid form by the law of the place where it is gone through, or which, though not so recognized, is such that a marriage celebrated there in that form is recognized as binding by the law of the place where the offender is tried;

(b) 'guardian' includes any person who has in law or in fact the custody or control of any child referred to;

(c) 'abandon' or 'expose' includes a wilful omission to take charge of any child referred to on the part of a person legally bound to take charge of such child, as well as any mode of dealing with it calculated to leave it exposed to risk without protection. 55-56 V., c. 29, ss. 216 and 276; 63-64 V., c. 46, s. 3.

DUTIES TENDING TO THE PRESERVATION OF LIFE.

241. Every one who has charge of any other person unable by reason either of detention, age, sickness, insanity or any other
other cause, to withdraw himself from such charge, and unable to provide himself with the necessaries of life, is, whether such charge is undertaken by him under any contract, or is imposed upon him by law, or by reason of his unlawful act, under a legal duty to supply that person with the necessaries of life, and is criminally responsible for omitting, without lawful excuse, to perform such duty if the death of such person is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission. 55-56 V., c. 29, s. 209.

242. Every one who as parent, guardian or head of a family is under a legal duty to provide necessaries for any child under the age of sixteen years is criminally responsible for omitting, without lawful excuse, to do so while such child remains a member of his or her household, whether such child is helpless or not, if the death of such child is caused, or if his life is endangered, or his health is or is likely to be permanently injured, by such omission.

2. Every one who is under a legal duty to provide necessaries for his wife, is criminally responsible for omitting, without lawful excuse so to do, if the death of his wife is caused, or if her life is endangered, or her health is or is likely to be permanently injured, by such omission. 55-56 V., c. 29, s. 210.

243. Every one who, as master or mistress, has contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years is under a legal duty to provide the same, and is criminally responsible for omitting, without lawful excuse, to perform such duty, if the death of such servant or apprentice is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission. 55-56 V., c. 29, s. 211.

244. Every one is guilty of an indictable offence and liable to three years' imprisonment who, being bound to perform any duty specified in the three last preceding sections, without lawful excuse neglects or refuses to do so, unless the offence amounts to culpable homicide. 55-56 V., c. 29, s. 215; 56 V., Penalty. c. 32, s. 1.

245. Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully abandons or exposes any child under the age of two years, whereby its life is endangered or its health is permanently injured. 55-56 V., c. 29, s. 216.

246. Every one who undertakes, except in cases of necessity, to administer surgical or medical treatment, or to do any other lawful act the doing of which is or may be dangerous to life,
dangerous
to life.

Duty of persons in charge of dangerous things.

Duty to avoid omissions dangerous to life.

Causing bodily harm to apprentices or servants.

is under a legal duty to have and to use reasonable knowledge, skill and care in doing any such act, and is criminally responsible for omitting, without lawful excuse, to discharge that duty if death is caused by such omission. 55-56 V., c. 29, s. 212.

247. Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes or maintains anything whatever which, in the absence of precaution or care, may endanger human life, is under a legal duty to take reasonable precautions against, and use reasonable care to avoid, such danger, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform such duty. 55-56 V., c. 29, s. 213.

248. Every one who undertakes to do any act, the omission to do which is or may be dangerous to life, is under a legal duty to do that act, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform that duty. 55-56 V., c. 29, s. 214.

249. Every one is guilty of an indictable offence and liable to three years’ imprisonment who, being legally liable as master or mistress to provide for any apprentice or servant, unlawfully does, or causes to be done, any bodily harm to any such apprentice or servant so that the life of such apprentice or servant is endangered or the health of such apprentice or servant has been, or is likely to be, permanently injured. 55-56 V., c. 29, s. 217.

Homicide.

250. Homicide is the killing of a human being by another, directly or indirectly, by any means whatsoever. 55-56 V., c. 29, s. 218.

251. A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother, whether it has breathed or not, whether it has an independent circulation or not, and whether the navel string is severed or not.

2. The killing of such child is homicide when it dies in consequence of injuries received before, during or after birth. 55-56 V., c. 29, s. 219.

252. Homicide may be either culpable or not culpable.

2. Homicide is culpable when it consists in the killing of any person, either by an unlawful act or by an omission, without lawful excuse, to perform or observe any legal duty, or by both combined, or by causing a person, by threats or fear of violence, or by deception, to do an act which causes that person’s death, or by wilfully frightening a child or sick person.
3. Culpable homicide is either murder or manslaughter.
4. Homicide which is not culpable is not an offence. 55-56 V., c. 29, s. 220.

253. Procuring by false evidence the conviction and death of any person by the sentence of the law shall not be deemed to be homicide. 55-56 V., c. 29, s. 221.

254. No one is criminally responsible for the killing of another unless the death takes place within a year and a day of the cause of death.
1. The period of a year and a day shall be reckoned inclusive of the day on which the last unlawful act contributing to the cause of death took place.
2. Where the cause of death is an omission to fulfil a legal duty the period shall be reckoned inclusive of the day on which such omission ceased.
3. When death is in part caused by an unlawful act and in part by an omission, the period shall be reckoned inclusive of the day on which the last unlawful act took place or the omission ceased, whichever happened last. 55-56 V., c. 29, s. 222.

255. No one is criminally responsible for the killing of another by any influence on the mind alone, nor for the killing of another by any disorder or disease arising from such influence, save in either case by wilfully frightening a child or sick person. 55-56 V., c. 29, s. 223.

256. Every one who, by any act or omission, causes the death of another, kills that person, although the effect of the bodily injury caused to such other person be merely to accelerate his death while labouring under some disorder or disease arising from some other cause. 55-56 V., c. 29, s. 224.

257. Every one who, by any act or omission, causes the death of another, kills that person, although death from that cause might have been prevented by resorting to proper means. 55-56 V., c. 29, s. 225.

258. Every one who causes a bodily injury, which is of itself of a dangerous nature to any person, from which death results, kills that person, although the immediate cause of death be treatment proper or improper applied in good faith. 55-56 V., c. 29, s. 226.

Murder and Manslaughter.

259. Culpable homicide is murder,—
(a) if the offender means to cause the death of the person killed;

(b) R.S., 1906.
(b) if the offender means to cause to the person killed any bodily injury which is known to the offender to be likely to cause death, and is reckless whether death ensues or not;
(c) if the offender means to cause death, or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to one person, and by accident or mistake kills another person, though he does not mean to hurt the person killed;
(d) if the offender, for any unlawful object, does an act which he knows or ought to have known to be likely to cause death, and thereby kills any person, though he may have desired that his object should be effected without hurting any one. 55-56 V., c. 29, s. 227.

260. In case of treason and the other offences against the King's authority and person mentioned in Part II., piracy and offences deemed to be piracy, escape or rescue from prison or lawful custody, resisting lawful apprehension, murder, rape, forcible abduction, robbery, burglary or arson, culpable homicide is also murder, whether the offender means or not death to ensue, or knows or not that death is likely to ensue,—

(a) if he means to inflict grievous bodily injury for the purpose of facilitating the commission of any of the offences in this section mentioned, or the flight of the offender upon the commission or attempted commission thereof, and death ensues from such injury; or,
(b) if he administers any stupefying or overpowering thing for either of the purposes aforesaid, and death ensues from the effects thereof; or,
(c) if he by any means wilfully stops the breath of any person for either of the purposes aforesaid, and death ensues from such stopping of the breath. 55-56 V., c. 29, s. 228.

261. Culpable homicide, which would otherwise be murder, may be reduced to manslaughter if the person who causes death does so in the heat of passion caused by sudden provocation.

2. Any wrongful act or insult, of such a nature as to be sufficient to deprive an ordinary person of the power of self-control, may be provocation if the offender acts upon it on the sudden, and before there has been time for his passion to cool.

3. Whether or not any particular wrongful act or insult amounts to provocation, and whether or not the person provoked was actually deprived of the power of self-control by the provocation which he received, shall be questions of fact: Provided that no one shall be held to give provocation to another by doing that which he had a legal right to do, or by doing anything which the offender incited him to do in order to provide the offender with an excuse for killing or doing bodily harm to any person.

4. The illegality of an arrest shall not necessarily reduce an offence of culpable homicide from murder to manslaughter, but if
if the illegality was known to the offender it may be evidence of provocation. 55-56 V., c. 29, s. 229.

262. Culpable homicide, not amounting to murder, is manslaughter. 55-56 V., c. 29, s. 230.

263. Every one who commits murder is guilty of an indictable offence and shall, on conviction thereof, be sentenced for murder to death. 55-56 V., c. 29, s. 231.

264. Every one is guilty of an indictable offence and liable to imprisonment for life, who, with intent to commit murder,—
(a) administers any poison or other destructive thing to any person, or causes any poison or destructive thing to be so administered or taken, or attempts to administer it, or attempts to cause it to be so administered or taken; or,
(b) by any means whatever wounds or causes any grievous bodily harm to any person; or,
(c) shoots at any person, or, by drawing a trigger or in any manner, attempts to discharge at any person any kind of loaded arms; or,
(d) attempts to drown, suffocate, or strangle any person; or, Drowning.
(e) destroys or damages any building by the explosion of any explosive substance: or,
(f) sets fire to any ship or vessel or any part thereof, or Burning ships.
any goods or chattels being therein; or,
(g) casts away or destroys any vessel; or,
(h) by any other means attempts to commit murder. 55-56 V., c. 29, s. 232.

265. Every one is guilty of an indictable offence and liable to ten years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person. 55-56 V., c. 29, s. 233.

266. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who,—
(a) conspires or agrees with any person to murder or to cause to be murdered any other person, whether the person intended to be murdered is a subject of His Majesty or not, or is within His Majesty's dominions or not; or,
(b) counsels or attempts to procure any person to murder Counselling murder.
such other person anywhere, although such person is not murdered in consequence of such counselling or attempted procurement. 55-56 V., c. 29, s. 234.

267. Every one is guilty of an indictable offence and liable to imprisonment for life, who is an accessory after the fact to murder. 55-56 V., c. 29, s. 235.
268. Every one who commits manslaughter is guilty of an indictable offence and liable to imprisonment for life. 55-56 V., c. 29, s. 236.

Suicide.

269. Every one is guilty of an indictable offence and liable to imprisonment for life who counsels or procures any person to commit suicide, actually committed in consequence of such counselling or procurement, or who aids or abets any person in the commission of suicide. 55-56 V., c. 29, s. 237.

270. Every one who attempts to commit suicide is guilty of an indictable offence and liable to two years' imprisonment. 55-56 V., c. 29, s. 238.

Neglect in Childbirth and Concealing Dead Body.

271. Every woman is guilty of an indictable offence who, with either of the intents in this section mentioned, being with child and being about to be delivered, neglects to provide reasonable assistance in her delivery, if the child is permanently injured thereby, or dies, either just before, or during, or shortly after birth, unless she proves that such death or permanent injury was not caused by such neglect, or by any wrongful act to which she was a party, and is liable,—

(a) if the intent of such neglect be that the child shall not live, to imprisonment for life;

(b) if the intent of such neglect be to conceal the fact of her having had a child, to imprisonment for seven years. 55-56 V., c. 29, s. 239.

272. Every one is guilty of an indictable offence and liable to two years' imprisonment, who disposes of the dead body of any child in any manner, with intent to conceal the fact that its mother was delivered of it, whether the child died before, or during, or after birth. 55-56 V., c. 29, s. 240.

Bodily Injuries and Acts and Omissions Causing Danger to the Person.

273. Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, unlawfully by any means wounds or causes any grievous bodily harm to any person, or shoots at any person, or by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person. 55-56 V., c. 29, s. 241.

274.
274. Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully wounds or inflicts any grievous bodily harm upon any other person, either with bodily harm or without any weapon or instrument. 55-56 V., c. 29, s. 242.

275. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully—

(a) shoots at any vessel belonging to His Majesty or in the service of Canada; or,

(b) maims or wounds any public officer engaged in the execution of his duty or any person acting in aid of such officer. 55-56 V., c. 29, s. 243.

276. Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped, who with intent thereby to enable himself or any other person to commit, or Offence. with intent thereby to assist any other person in committing, any indictable offence,—

(a) by any means whatsoever, attempts to choke, suffocate or strangle any other person, or by any means calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious or incapable of resistance; or,

(b) unlawfully applies or administers to, or causes to be By narcotic, taken by, or attempts to apply or administer to, or attempts or causes to be administered to or taken by, any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing. 55-56 V., c. 29, s. 244.

277. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who unlawfully administers to, or causes to be administered to or taken by any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm. 55-56 V., c. 29, s. 245.

278. Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing, with intent to injure, aggrieve or annoy such person. 55-56 V., c. 29, s. 246.

279. Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully and by the explosion of an explosive substance burns, maims, disfigures, disables or does any grievous bodily harm to any person. 55-56 V., c. 29, s. 247.

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280. Every one who unlawfully,—

(a) with intent to burn, maim, disfigure or disable any person, or to do some grievous bodily harm to any person, whether any bodily harm is effected or not,

(i) causes any explosive substance to explode,

(ii) sends or delivers to, or causes to be taken or received by, any person any explosive substance, or any other dangerous or noxious thing,

(iii) puts or lays at any place, or casts or throws at or upon, or otherwise applies to, any person any corrosive fluid, or any destructive or explosive substance; or

(b) places or throws in, into, upon, against or near any building, ship or vessel an explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place and whether or not any bodily injury is effected;

is guilty of an indictable offence and liable, in cases within paragraph (a) of this section, to imprisonment for life, and in cases within paragraph (b) of this section to fourteen years' imprisonment. 55-56 V., c. 29, s. 248.

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

2. Every one who knowingly and wilfully permits any such spring-gun, man-trap or other engine which has been set or placed by some other person, in any place which is in, or afterwards comes into, his possession or occupation, to continue so set or placed shall be deemed to have set or placed such gun, trap or engine with such intent as aforesaid.

3. This section does not extend to any gin or trap usually set or placed with the intent of destroying vermin or noxious animals. 55-56 V., c. 29, s. 249.

282. Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully,—

(a) with intent to injure or to endanger the safety of any person travelling or being upon any railway,

(i) puts or throws upon or across such railway any wood, stone, or other matter or thing,

(ii) takes up, removes or displaces any rail, railway switch, sleeper or other matter or thing belonging to such railway, or injures or destroys any track, bridge or fence of such railway, or any portion thereof,

(iii) turns, moves or diverts any point or other machinery belonging to such railway,

(iv) makes or shows, hides or removes any signal or light upon or near to such railway,\n
(v) does or causes to be done any other matter or thing with such intent; or,

(b) throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used and in motion upon any railway, any wood, stone or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train of which such first mentioned engine, tender, carriage or truck forms part. 55-56 V., c. 29, s. 250.

283. Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by any wilful omission or neglect of duty, endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein. 55-56 V., c. 29, s. 251.

284. Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily injury to any other person. 55-56 V., c. 29, s. 252.

285. Every one is guilty of an indictable offence and liable to two years' imprisonment who, having the charge of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person. 55-56 V., c. 29, s. 253.

286. Every one is guilty of an indictable offence and liable to seven years' imprisonment,—

(a) who prevents or impedes, or endeavours to prevent or impede, any shipwrecked person in his endeavour to save his life; or,

(b) who without reasonable cause prevents or impedes, or endeavours to prevent or impede, any person in his endeavour to save the life of any shipwrecked person. 55-56 V., c. 29, s. 254: 56 V., c. 32, s. 1.

287. Every one is guilty of an offence and liable, on summary conviction, to a fine or imprisonment with or without hard labour, or both, who,—

(a) cuts or makes, or causes to be cut or made, any hole, opening, aperture or place, of sufficient size or area to endanger human life, through the ice on any navigable or other water open to or frequented by the public, and leaves such R.S., 1906.
such hole, aperture or place, while it is in a state dangerous to human life, whether the same is frozen over or not, uninclosed by bushes or trees or unguarded by a guard or fence, of sufficient height and strength to prevent any person from accidentally riding, driving, walking, skating or falling therein; or,

(b) being the owner, manager or superintendent of any abandoned or unused mine or quarry or property upon or in which there is any excavation of a sufficient area and depth to endanger human life, leaves the same unguarded and uninclosed by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking or falling therein: or,

(c) omits within five days after conviction of any such offence to so guard or inclose the same or to construct around or over such exposed opening or excavation a guard or fence of such height and strength.

2. Every one whose duty it is to guard such hole, opening, aperture or place is guilty of manslaughter if any person loses his life by accidentally falling therein while the same is so unguarded or uninclosed. 55-56 V., c. 29, s. 255.

288. Every one is guilty of an indictable offence and liable to five years' imprisonment who sends, or attempts to send, or is a party to sending, a ship registered in Canada to sea, or on a voyage on any of the inland waters of Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place on the inland waters of the United States to any port or place on the inland waters of Canada in such an unseaworthy state, by reason of overloading or underloading or improper loading, or by reason of being insufficiently manned, or from any other cause, that the life of any person is likely to be endangered thereby, unless he proves that he used all reasonable means to ensure her being sent to sea or on such voyage in a seaworthy state, or that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. 55-56 V., c. 29, s. 256; 56 V., c. 32, s. 1.

289. Every one is guilty of an indictable offence and liable to five years' imprisonment who, being the master of a ship registered in Canada, knowingly takes such ship to sea, or on a voyage on any of the inland waters of Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place in the United States to any port or place on the inland waters of Canada, in such an unseaworthy state, by reason of overloading or underloading or improper driving, or being insufficiently manned, or from any other cause, that the life of any person is likely to be endangered thereby, unless he proves that he used all reasonable means to ensure her being sent to sea or on such voyage in a seaworthy state, or that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. 55-56 V., c. 29, s. 256; 56 V., c. 32, s. 1.

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improper loading, or by reason of being insufficiently manned, or from any other cause, that the life of any person is likely to be endangered thereby, unless he proves that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. 55-56 V., c. 29, s. 257.

Assaults.

290. An assault is the act of intentionally applying force Definition. to the person of another, directly or indirectly, or attempting or threatening, by any act or gesture, to apply force to the person of another, if the person making the threat has, or causes the other to believe, upon reasonable grounds, that he has present ability to effect his purpose, and in either case, without the consent of the other or with such consent, if it is obtained by fraud. 55-56 V., c. 29, s. 258.

291. Every one who commits a common assault is guilty Common assaults. of an indictable offence and liable, if convicted upon an indictment, to one year's imprisonment, or to a fine not exceeding one hundred dollars, and on summary conviction to a fine not exceeding twenty dollars and costs, or to two months' imprisonment, with or without hard labour. 55-56 V., c. 29, s. 265.

292. Every one is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped, who,—

(a) indecently assaults any female; or,
(b) does anything to any female by her consent which but for such consent would be an indecent assault, if such consent is obtained by false and fraudulent representations as to the nature and quality of the act. 55-56 V., c. 29, s. 259.

293. Every one is guilty of an indictable offence and liable to ten years' imprisonment, and to be whipped, who assaults any person with intent to commit sodomy or who, being a male, indecently assauts any other male person. 55-56 V., c. 29, s. 260; 56 V., c. 32, s. 1.

294. It is no defence to a charge or indictment for any Child under fourteen Consent of indecent assault on a young person under the age of fourteen years to prove that he or she consented to the act of indecency. 55-56 V., c. 29, s. 261.

295. Every one who commits any assault which occasions Assault with actual bodily harm is guilty of an indictable offence and liable to three years' imprisonment. 55-56 V., c. 29, s. 262.

296. Every one is guilty of an indictable offence and liable to two years' imprisonment who,—

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(a) assaults any person with intent to commit any indictable offence; or,
(b) assaults any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer; or,
(c) assaults any person with intent to resist or prevent the lawful apprehension or detainer of himself, or of any other person, for any offence; or,
(d) assaults any person in the lawful execution of any process against any lands or goods, or in making any lawful distress or seizure, or with intent to rescue any goods taken under such process, distress or seizure; or,
(e) on any day whereon any poll for an election, parliamentary or municipal, is being proceeded with, within the distance of two miles from the place where such poll is taken or held, assaults or beats any person. 55-56 V., c. 29, s. 263; 57-58 V., c. 57, s. 1.

297. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, without lawful authority,—

(a) kidnap[s] any other person with intent

(i) to cause such other person to be secretly confined or imprisoned in Canada against his will, or
(ii) to cause such other person to be unlawfully sent or transported out of Canada against his will, or
(iii) to cause such other person to be sold or captured as a slave, or in any way held to service against his will; or,

(b) forcibly seizes or confines or imprisons any other person within Canada.

2. Upon the trial of any offence under this section the non-resistance of a person so unlawfully kidnapped or confined shall not be a defence unless it appears that it was not caused by threats, duress or force, or exhibition of force. 63-64 V., c. 46, s. 3.

Unlawful Carnal Knowledge.

298. Rape is the act of a man having carnal knowledge of a woman who is not his wife without her consent, or with consent which has been extorted by threats or fear of bodily harm, or obtained by personating the woman's husband, or by false and fraudulent representations as to the nature and quality of the act.

2. No one under the age of fourteen years can commit this offence. 55-56 V., c. 29, s. 266.

299. Every one who commits rape is guilty of an indictable offence and liable to suffer death or to imprisonment for life. 55-56 V., c. 29, s. 267.
300. Every one is guilty of an indictable offence and liable to seven years' imprisonment who attempts to commit rape. 55-56 V., c. 29, s. 268.

301. Every one is guilty of an indictable offence and liable to imprisonment for life, and to be whipped, who carnally knowing any girl under the age of fourteen years, not being his wife, whether he believes her to be of or above that age or not. 55-56 V., c. 29, s. 269.

302. Every one who attempts to have unlawful carnal knowledge of any girl under the age of fourteen years is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped. 55-56 V., c. 29, s. 270.

Abortion.

303. Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any drug or other noxious thing, or unlawfully uses on her any instrument or other means whatsoever with the like intent. 55-56 V., c. 29, s. 272.

304. Every woman is guilty of an indictable offence and liable to seven years' imprisonment who, whether with child or not, unlawfully administers to herself or permits to be administered to her any drug or other noxious thing, or unlawfully uses on herself or permits to be used on her any instrument or other means whatsoever with intent to procure miscarriage. 55-56 V., c. 29, s. 273.

305. Every one is guilty of an indictable offence and liable to two years' imprisonment who unlawfully supplies or procures any drug or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child. 55-56 V., c. 29, s. 274.

306. Every one is guilty of an indictable offence and liable to imprisonment for life who causes the death of any child which has not become a human being, in such a manner that he would have been guilty of murder if such child had been born.

2. No one is guilty of any offence who, by means which he in good faith considers necessary for the preservation of the life of the mother of the child, causes the death of any such child before or during its birth. 55-56 V., c. 29, s. 271.
Offences against Conjugal Rights.

307. Bigamy is,—
(a) the act of a person who, being married, goes through a form of marriage with any other person in any part of the world; or,
(b) the act of a person who goes through a form of marriage in any part of the world with any person whom he or she knows to be married; or,
(c) the act of a person who goes through a form of marriage with more than one person simultaneously, or on the same day.

2. The fact that the parties would, if unmarried, have been incompetent to contract marriage shall be no defence upon a prosecution for bigamy.

3. No one commits bigamy by going through a form of marriage,—
(a) if he or she in good faith and on reasonable grounds believes his wife or her husband to be dead; or,
(b) if his wife or her husband has been continually absent for seven years then last past and he or she is not proved to have known that his wife or her husband was alive at any time during those seven years; or,
(c) if he or she has been divorced from the bond of the first marriage; or,
(d) if the former marriage has been declared void by a court of competent jurisdiction.

4. No person shall be liable to be convicted of bigamy in respect of having gone through a form of marriage in a place not in Canada, unless such person, being a British subject resident in Canada, leaves Canada with intent to go through such form of marriage.

5. Every form of marriage shall for the purpose of this section be valid, notwithstanding any act or default of the person charged with bigamy, if it is otherwise a valid form. 55-56 V., c. 29, s. 275.

308. Every one who commits bigamy is guilty of an indictable offence and liable to seven years' imprisonment.

2. Every one who commits this offence after a previous conviction for a like offence shall be liable to fourteen years' imprisonment. 55-56 V., c. 29, s. 276.

309. Every one is guilty of an indictable offence and liable to seven years' imprisonment who procures a feigned or pretended marriage between himself and any woman, or who knowingly aids and assists in procuring such feigned or pretended marriage. 55-56 V., c. 29, s. 277.

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310. Every one is guilty of an indictable offence and liable to imprisonment for five years, and to a fine of five hundred dollars,—

(a) who practises, or, by the rites, ceremonies, forms, rules, or customs of any denomination, sect or society, religious or secular, or by any form of contract, or by mere mutual consent, or by any other method whatsoever, and whether in a manner recognized by law as a binding form of marriage or not, agrees or consents to practise or enter into

(i) any form of polygamy,
(ii) any kind of conjugal union with more than one person at the same time, or
(iii) what among the persons commonly called Mormons is known as spiritual or plural marriage; or,

(b) who lives, cohabits, or agrees or consents to live or cohabit in any kind of conjugal union with a person who is married to another or with a person who lives or cohabits with another or others in any kind of conjugal union; or,

(c) celebrates, is a party to, or assists in any rite or ceremony which purports to make binding or to sanction any of the sexual relationships mentioned in paragraph (a) of this section; or,

(d) procures, enforces, enables, is a party to, or assists in, the compliance with, or carrying out of, any form, rule or custom which so purports; or,

(e) procures, enforces, enables, is a party to, or assists in the execution of, any form of contract which so purports, or the giving of any consent which so purports.

63-64 V., c. 46, s. 3.

Unlawful Solemnization of Marriage.

311. Every one is guilty of an indictable offence and liable to a fine, or to two years' imprisonment, or to both, who,—

(a) without lawful authority, the proof of which shall lie Without authority.

or,

(b) procures any person to solemnize any marriage knowing that such person is not lawfully authorized to solemnize such marriage, or knowingly aids or abets such person in performing such ceremony. 55-56 V., c. 29, s. 279.

312. Every one is guilty of an indictable offence and liable to a fine, or to one year's imprisonment, who, being lawfully authorized, knowingly and willfully solemnizes any marriage in violation of the laws of the province in which the marriage is solemnized. 55-56 V., c. 29, s. 280.

157 \frac{1}{2} 2499 Abduction.

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Abduction of a woman. 313. Every one is guilty of an indictable offence and liable to fourteen years’ imprisonment who, with intent to marry or carnally know any woman, whether married or not, or with intent to cause any woman to be married to or carnally known by any other person, takes away or detains any woman of any age against her will. 55-56 V., c. 29, s. 281.

Offence. 314. Every one is guilty of an indictable offence and liable to fourteen years’ imprisonment who, with intent to marry or carnally know any woman, or with intent to cause any woman to be married or carnally known by any person,—

(a) from motives of lucre takes away or detains against her will any woman of any age who has any interest, whether legal or equitable, present or future, absolute, conditional or contingent, in any real or personal estate, or who is a presumptive heiress or co-heiress or presumptive next of kin to any one having such interest; or,

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

Effect of conviction on property. 2. Every one convicted of any offence defined in this section is incapable of taking any estate or interest, legal or equitable, in any real or personal property of such woman, or in which she has any interest, or which comes to her as such heiress, co-heiress or next of kin; and if any such marriage takes place such property shall, upon such conviction, be settled in such manner as any court of competent jurisdiction, upon any information at the instance of the Attorney General, appoints. 55-56 V., c. 29, s. 282.

Abduction of girl under sixteen. 315. Every one is guilty of an indictable offence and liable to five years’ imprisonment who unlawfully takes or causes to be taken any unmarried girl, who is under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her.

Consent immaterial. 2. It is immaterial whether the girl is taken with her own consent or at her own suggestion or not.

Belief of offender. 3. It is immaterial whether or not the offender believed the girl to be of or above the age of sixteen. 55-56 V., c. 29, s. 283.

Penalty. 316. Every one is guilty of an indictable offence and liable to seven years’ imprisonment who, with intent to deprive any parent or guardian of any child under the age of fourteen years, of the possession of such child, or with intent to steal any article about or on the person of such child, unlawfully,—

(a) takes or entices away or detains any child; or,

(b)
(b) receives or harbours any such child, knowing it to have been unlawfully taken, enticed away or detained with intent aforesaid.

2. Nothing in this section shall extend to any one who gets possession of any child, claiming in good faith a right to the possession of the child. 63-64 V., c. 46, s. 3.

Defamatory Libel.

317. A defamatory libel is matter published, without legal justification or excuse, likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or designed to insult the person of or concerning whom it is published.

2. Such matter may be expressed either in words legibly marked upon any substance whatever, or by any object signifying such matter otherwise than by words, and may be expressed either directly or by insinuation or irony. 55-56 V., c. 29, s. 285; 63-64 V., c. 46, s. 3.

318. Publishing a libel is exhibiting it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by the person defamed or by any other person. 55-56 V., c. 29, s. 286.

319. No one commits an offence by publishing defamatory matter on the invitation or challenge of the person defamed thereby, nor if it is necessary to publish such defamatory matter in order to refute some other defamatory statement published by that person concerning the alleged offender, if such defamatory matter is believed to be true, and is relevant to the invitation, challenge or required refutation, and the publishing does not in manner or extent exceed what is reasonably sufficient for the occasion. 55-56 V., c. 29, s. 287.

320. No one commits an offence by publishing any defamatory matter, in any proceeding held before or under the authority of any court exercising judicial authority, or in any inquiry made under the authority of any statute or by order of His Majesty, or of any of the departments of government, Dominion or provincial. 55-56 V., c. 29, s. 288.

321. No one commits an offence by publishing to either the Senate, or House of Commons, or to any Legislative Council, Legislative Assembly or House of Assembly, defamatory matter contained in a petition to the Senate, or House of Commons, or to any such Council or Assembly, or by publishing by order or under the authority of the Senate, or House of Commons, or of any such Council or Assembly, any paper containing defamatory matter or by publishing, in good faith, Good faith.

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and without ill-will to the person defamed, any extract from or abstract of any such paper. 55-56 V., c. 29, s. 289.

322. No one commits an offence by publishing in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons, or any committee thereof, or of any Council or Assembly aforesaid, or any committee thereof, or of the public proceedings preliminary or final heard before any court exercising judicial authority, nor by publishing, in good faith, any fair comment upon any such proceedings. 55-56 V., c. 29, s. 290.

323. No one commits an offence by publishing in good faith, in a newspaper, a fair report of the proceedings of any public meeting if the meeting is lawfully convened for a lawful purpose and open to the public, and if such report is fair and accurate, and if the publication of the matter complained of is for the public benefit, and if the defendant does not refuse to insert in a conspicuous place in the newspaper in which the report appeared a reasonable letter or document of explanation or contradiction by or on behalf of the prosecutor. 55-56 V., c. 29, s. 291.

324. No one commits an offence by publishing any defamatory matter which he, on reasonable grounds, believes to be true, and which is relevant to any subject of public interest, the public discussion of which is for the public benefit. 55-56 V., c. 29, s. 292.

325. No one commits an offence by publishing fair comments upon the public conduct of a person who takes part in public affairs.

2. No one commits an offence by publishing fair comments on any published book or other literary production, or on any composition or work of art or performance publicly exhibited, or on any other communication made to the public on any subject, if such comments are confined to criticism on such book or literary production, composition, work of art, performance or communication. 55-56 V., c. 29, s. 293.

326. No one commits an offence by publishing defamatory matter for the purpose, in good faith, of seeking remedy or redress for any private or public wrong or grievance from a person who has, or is reasonably believed by the person publishing to have, the right or to be under obligation to remedy or redress such wrong or grievance, if the defamatory matter is believed by the person publishing the same to be true, and is relevant to the remedy or redress sought, and such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion. 55-56 V., c. 29, s. 294.

327.
327. No one commits an offence by publishing, in answer to inquiries made of him, defamatory matter relating to some subject as to which the person by whom, or on whose behalf, the inquiry is made has, or on reasonable grounds is believed by the person publishing to have, an interest in knowing the truth, if such matter is published for the purpose, in good faith, of giving information in respect thereof to that person, and if such defamatory matter is believed to be true, and is relevant to the inquiries made, and also if such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion. 55-56 V., c. 29, s. 295.

328. No one commits an offence by publishing to another person defamatory matter for the purpose of giving information to that person with respect to some subject as to which he has, or is, on reasonable grounds, believed to have, such an interest in knowing the truth as to make the conduct of the person giving the information reasonable under the circumstances, if such defamatory matter is relevant to such subject, and is either true, or is made without ill-will to the person defamed, and in the belief, on reasonable grounds, that it is true. 55-56 V., c. 29, s. 296.

329. Every proprietor of any newspaper is presumed to be criminally responsible for defamatory matter inserted and published therein, but such presumption may be rebutted by proof that the particular defamatory matter was inserted in such newspaper without such proprietor's cognizance, and without negligence on his part.

2. General authority given to the person actually inserting such defamatory matter to manage or conduct, as editor or otherwise, such newspaper, and to insert therein what he in his discretion thinks fit, shall not be negligence within this section unless it be proved that the proprietor, when originally giving such general authority, meant that it should extend to inserting and publishing defamatory matter, or continued such general authority knowing that it had been exercised by inserting defamatory matter in any number or part of such newspaper.

3. No one is guilty of an offence by selling any number or part of such a newspaper, unless he knew either that such number or part contained defamatory matter, or that defamatory matter was habitually contained in such newspaper. 55-56 V., c. 29, s. 297.

330. No one commits an offence by selling any book, magazine, pamphlet or other thing, whether forming part of any periodical or not, although the same contains defamatory matter, if, at the time of such sale, he did not know that such defamatory

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defamatory matter was contained in such book, magazine, pamphlet or other thing.

2. The sale by a servant of any book, magazine, pamphlet or other thing, whether periodical or not, shall not make his employer criminally responsible in respect of defamatory matter contained therein unless it be proved that such employer authorized such sale knowing that such book, magazine, pamphlet or other thing contained defamatory matter, or, in case of a number or part of a periodical, that defamatory matter was habitually contained in such periodical. 55-56 V., c. 29, s. 298.

331. It shall be a defence to an indictment or information for a defamatory libel that the publishing of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published, and that the matter itself was true. 55-56 V., c. 29, s. 299.

332. Every one is guilty of an indictable offence and liable to two years' imprisonment, or to a fine not exceeding six hundred dollars, or to both, who publishes or threatens to publish, or offers to abstain from publishing, or offers to prevent the publishing of, a defamatory libel with intent to extort any money, or to induce any person to confer upon or procure for any person any appointment or office of profit or trust, or in consequence of any person having been refused any such money, appointment or office. 55-56 V., c. 29, s. 300.

333. Every one is guilty of an indictable offence and liable to two years' imprisonment, or to a fine not exceeding four hundred dollars, or to both, who publishes any defamatory libel knowing the same to be false. 55-56 V., c. 29, s. 301.

334. Every one is guilty of an indictable offence and liable to one year's imprisonment, or to a fine not exceeding two hundred dollars, or to both, who publishes any defamatory libel. 55-56 V., c. 29, s. 302.

PART VII.

OFFENCES AGAINST RIGHTS OF PROPERTY AND RIGHTS ARISING OUT OF CONTRACTS, AND OFFENCES CONNECTED WITH TRADE.

Interpretation.

335. In this Part, unless the context otherwise requires,—

(a) 'act,' for the purposes of the sections relating to offences connected with trade and breaches of contract, includes a default, breach or omission:

(b) 2504

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(b) 'Admiralty' means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral;

(c) 'break' means to break any part, internal or external, of a building, or to open by any means whatever (including lifting, in the case of things kept in their places by their own weight), any door, window, shutter, cellar-flap or other thing intended to cover openings to a building, or to give passage from one part of it to another;

(d) 'covering' includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper; and 'label' includes any band or ticket;

(e) 'dwelling-house' means a permanent building, the whole or any part of which is kept by the owner or occupier for the residence therein of himself, his family or servants, or any of them, although it may at intervals be unoccupied;

(f) 'document' means any paper, parchment or other material used for writing or printing, marked with matter capable of being read, but does not include trade marks on articles of commerce, or inscriptions on stone or metal or other like material;

(g) 'every one,' 'vendor,' 'purchaser,' 'merchant,' 'agent,' 'person,' for the purposes of the sections relating to trading stamps, includes any partnership, or company, or body corporate;

(h) 'exchequer bill' includes exchequer bonds, notes, debentures and other securities issued under the authority of the Parliament of Canada, or under the authority of the legislature of any province forming part of Canada, whether before or after such province so became a part of Canada;

(i) 'exchequer bill paper' means any paper provided by the proper authority for the purpose of being used as exchequer bills, exchequer bonds, notes, debentures or other securities issued under the authority of the Parliament of Canada, or under the authority of the legislature of any province forming part of Canada, whether before or after such province became a part of Canada;

(j) 'false document' means

(i) a document, the whole or some material part of which purports to be made by or on behalf of any person who did not make or authorize the making thereof, or which, though made by, or by the authority of, the person who purports to make it, is falsely dated as to time or place of making, where either is material, or

(ii) a document, the whole or some material part of which purports to be made by or on behalf of some person who did not in fact exist, or

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(iii) a document which is made in the name of an existing person, either by that person or by his authority, with the fraudulent intention that the document should pass as being made by some person, real or fictitious, other than the person who makes or authorizes it;

(k) ‘false name or initials’ means, as applied to any goods, any name or initials of a person which

(i) are not a trade mark, or part of a trade mark,

(ii) are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials,

(iii) are either those of a fictitious person or of some person not bonâ fide carrying on business in connection with such goods;

(l) ‘false trade description’ means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description false in a material respect; and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being a false trade description within the meaning of this Part;

(m) ‘goods,’ for the purposes of the sections relating to forgery of trade marks and fraudulent marking of merchandise, means anything which is merchandise or the subject of trade or manufacture;

(n) ‘name’ includes any abbreviation of a name;

(o) ‘person,’ ‘manufacturer,’ ‘dealer’ or ‘trader’ and ‘proprietor,’ for the purposes of the sections relating to forgery of trade marks and fraudulent marking of merchandise, include any body of persons, corporate or not corporate;

(p) ‘revenue paper’ means any paper provided by the proper authority for the purpose of being used for stamps, licenses or permits, or for any other purpose connected with the public revenue;

(q) ‘seaman’ means every person, not being a commissioned, warrant or subordinate officer, who is in or belongs to His Majesty’s navy, and is borne on the books of any one of His Majesty’s ships in commission, and every person, not being an officer as aforesaid, who, being borne on the books of any hired vessels in His Majesty’s service, is by virtue of any Act of Parliament of the United Kingdom for the time being in force for the discipline of the navy, subject to the provisions of such Act;

(r) ‘seaman’s property’ means any clothes, slops, medals, necessaries or articles usually deemed to be necessaries for sailors on board ship, which belong to any seaman;
(s) 'trade mark' means a trade mark or industrial design registered in accordance with the Trade Mark and Design Act, and the registration whereof is in force under the provisions of the said Act, and includes any trade mark which, either with or without registration, is protected by law in any British possession or foreign state to which the provisions of section one hundred and three of the Act of the United Kingdom, known as The Patents, Designs and Trade Marks Act, 1883, are, in accordance with the provisions of the said Act, for the time being applicable;

(t) 'trade description' means any description, statement or indication, direct or indirect,

(i) as to the number, quantity, measure, gauge or weight of any goods,

(ii) as to the place or country in which any goods are made or produced,

(iii) as to the mode of manufacturing or producing any goods,

(iv) as to the material of which any goods are composed,

(v) as to any goods being the subject of an existing patent, privilege or copyright;

(u) '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 his employee or agent, and to represent a discount on the price of such goods or a premium to the purchaser thereof, which is redeemable either

(i) by any person other than the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, or

(ii) by the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, in cash or goods not his property, or not his exclusive property, or

(iii) by the vendor elsewhere than in the premises where such goods are purchased;

or which does not show upon its face the place of its delivery and the merchantable value thereof, or is not redeemable at any time;

(v) 'watch,' for the purposes of the next succeeding section, 'Watch,' means all that portion of a watch which is not the watch case.

2. An offer, printed or marked by the manufacturer upon any wrapper, box or receptacle, in which goods are sold, of a premium or reward for the return of such wrapper, box or receptacle, is not a trading stamp within the meaning of this Part. 55-56 V., c. 29, ss. 383, 392, 407, 419, 420, 421, 433, 443, 444 and 519; 4-5 E. VII., c. 9, s. 1.

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336. Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no such description, those words or marks shall prima facie be deemed to be a description of that country within the meaning of this Part, and the provisions of this Part with respect to goods to which a false description has been applied, and with respect to selling or exposing, or having in possession, for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly. 55-56 V., c. 29, s. 444.

337. The use of any figure, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the matters hereinbefore referred to in the interpretation of the expression 'trade description,' is a trade description within the meaning of this Part. 55-56 V., c. 29, s. 443.

338. To constitute a false document it is not necessary that the fraudulent intention should appear on the face of the document, but it may be proved by external evidence. 55-56 V., c. 29, s. 421.

339. A building occupied with, and within the same curtilage with, any dwelling-house shall be deemed to be part of the said dwelling-house if there is between such building and dwelling-house a communication, either immediate or by means of a covered and inclosed passage, leading from the one to the other, but not otherwise. 55-56 V., c. 29, s. 407.

340. An entrance into a building is made as soon as any part of the body of the person making the entrance, or any part of any instrument used by him, is within the building.

2. Every one who obtains entrance into any building by any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any chimney or other aperture of the building permanently left open for any necessary purpose, shall be deemed to have broken and entered that building. 55-56 V., c. 29, s. 407.

Application of Part.

341. The provisions of this Part respecting the application of a false trade description to goods extend to the application to goods of any such figures, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.
2. The provisions of this Part respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description. 55-56 V., c. 29, s. 443.

342. The provisions of this Part with respect to false trade descriptions do not apply to any trade description which, on the twenty-second day of May, in the year one thousand eight hundred and eighty-eight, was lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods: Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, such provisions shall apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there. 55-56 V., c. 29, s. 455.

343. The provision of this Part with respect to trading stamps shall not apply to any trading stamp issued by a manufacturer or vendor before the first day of November, one thousand nine hundred and five. 4-5 E. VII., c. 9, s. 2.

Theft Defined.

344. Every inanimate thing whatever which is the property of any person, and which either is or may be made movable, is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it: Provided that nothing growing out of the earth of a value not exceeding twenty-five cents shall, except in cases hereinafter provided, be deemed capable of being stolen. 55-56 V., c. 29, s. 303.

345. All tame living creatures, whether tame by nature or wild by nature and tamed, shall be capable of being stolen: Provided that tame pigeons shall be capable of being stolen so long only as they are in a dovecot or on their owner's land.

2. All living creatures wild by nature, such as are not commonly found in a condition of natural liberty in Canada, shall, if kept in a state of confinement, be capable of being stolen, 2509 but

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not only while they are so confined but after they have escaped from confinement.

3. All other living creatures wild by nature shall, if kept in a state of confinement, be capable of being stolen so long as they remain in confinement or are being actually pursued after escaping therefrom, but no longer.

4. A wild living creature shall be deemed to be in a state of confinement so long as it is in a den, cage or small inclosure, sty or tank, or is otherwise so situated that it cannot escape and that its owner can take possession of it at pleasure.

5. Wild creatures in the enjoyment of their natural liberty shall not be capable of being stolen, nor shall the taking of their dead bodies by, or by the orders of, the person who killed them before they are reduced into actual possession by the owner of the land on which they died, be deemed to be theft.

6. Everything produced by or forming part of any living creature capable of being stolen, shall be capable of being stolen. 55-56 V., c. 29, s. 304.

Oysters. 346. Oysters and oyster brood shall be capable of being stolen when in oyster beds, layings, or fisheries which are the property of any person, and sufficiently marked out or known as such property. 55-56 V., c. 29, s. 304.

Theft defined. 347. Theft or stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent,—

(a) to deprive the owner, or any person having any special property or interest therein, temporarily or absolutely of such thing or of such property or interest; or,
(b) to pledge the same or deposit it as security; or,
(c) to part with it under a condition as to its return which the person parting with it may be unable to perform; or,
(d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time of such taking and conversion.

2. Theft is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it.

Secrecy. 3. The taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment.

Purpose of taking. 4. It is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was, at the time of the conversion, in the lawful possession of the person converting. 55-56 V., c. 29, s. 305.

Agent pledging goods not theft when. 348. No factor or agent shall be guilty of theft by pledging or giving a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise, for any sum
sum of money not greater than the amount due to him from his principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange accepted by him for or on account of his principal.

2. Any servant, contrary to the orders of his master, taking from his possession any food for the purpose of giving the same or having the same given to any horse or other animal belonging to or in the possession of his master, shall not, by reason thereof, be guilty of theft. 55-56 V., c. 29, s. 305.

349. Every one commits theft and steals the thing taken or carried away who, whether pretending to be the owner or not, secretly or openly, takes or carries away, or causes to be taken or carried away, without lawful authority, any property under lawful seizure and detention by any peace officer or public officer in his official capacity. 63-64 V., c. 46, s. 3.

350. Every one commits theft and steals the creature killed who kills any living creature capable of being stolen with intent to steal the carcass, skin, plumage or any part of such creature. 55-56 V., c. 29, s. 307.

351. Every one commits theft who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity. 57-58 V., c. 39, s. 10.

352. Theft may be committed by the owner of anything capable of being stolen against a person having a special property or interest therein, or by a person having a special property or interest therein against the owner thereof, or by a lessee against his reversioner, or by one of several joint owners, tenants in common, or partners of or in any such thing against the other persons interested therein, or by the directors, public officers or members of a public company, or body corporate, or of an unincorporated body or society associated together for any lawful purpose, against such public company or body corporate or unincorporated body or society. 55-56 V., c. 29, s. 311.

353. Every one commits theft who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any mining claim, or in any share or interest in any such claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim. 55-56 V., c. 29, s. 312.

354. No husband shall be convicted of stealing during cohabitation, the property of his wife, and no wife shall be convicted of stealing, during cohabitation, the property of her husband; but while they are living apart from each other either shall be guilty of theft if he or she fraudulently takes or converts Theft while living apart.

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355. Every one commits theft who, having received any money or valuable security or other thing whatsoever, on terms requiring him to account for or pay the same, or the proceeds thereof, or any part of such proceeds, to any other person, though not requiring him to deliver over in specie the identical money, valuable security or other thing received, fraudulently converts the same to his own use, or fraudulently omits to account for or pay the same or any part thereof, or to account for or pay such proceeds or any part thereof, which he was required to account for or pay as aforesaid.

2. If it be part of the said terms that the money or other thing received, or the proceeds thereof, shall form an item in a debtor and creditor account between the person receiving the same and the person to whom he is to account for or pay the same, and that such last mentioned person shall rely only on the personal liability of the other as his debtor in respect thereof, the proper entry of such money or proceeds or any part thereof, in such account, shall be a sufficient accounting for the money or proceeds, or part thereof, so entered.

3. In such case no fraudulent conversion of the amount accounted for shall be deemed to have taken place. 55-56 V., c. 29, s. 308.

356. Every one commits theft who, being entrusted, either solely or jointly with any other person, with any power of attorney for the sale, mortgage, pledge or other disposition of any property, real or personal, whether capable of being stolen or not, fraudulently sells, mortgages, pledges or otherwise disposes of the same or any part thereof, or fraudulently converts the proceeds of any sale, mortgage, pledge or other disposition of such property, or any part of such proceeds, to some purpose other than that for which he was entrusted with such power of attorney. 55-56 V., c. 29, s. 309.

357. Every one commits theft who, having received, either solely or jointly with any other person, any money or valuable security or any power of attorney for the sale of any property, real or personal, with a direction that such money, or any part thereof, or the proceeds, or any part of the proceeds of such security,
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security, or such property, shall be applied to any purpose or paid to any person specified in such direction, in violation of good faith and contrary to such direction, fraudulently applies to any other purpose or pays to any other person such money or proceeds, or any part thereof.

2. When the person receiving such money, security or power of attorney, and the person from whom he receives it, deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, this section shall not apply, unless such direction is in writing. 55-56 V., c. 29, s. 310.

Punishment of Theft.

358. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything by any act or omission amounting to theft under the provisions of the three last preceding sections. 55-56 V., c. 29, s. 320.

359. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,

(a) being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals anything belonging to or in the possession of his master or employer; or,

(b) being a cashier, assistant cashier, manager, officer, clerk or servant of any bank, or savings bank, steals any bond, obligation, bill obligatory or of credit, or other bill or note, or any security for money, or any money or effects of such bank, or lodged or deposited with any such bank; or,

(c) being employed in the service of His Majesty, or of the Government of Canada or the government of any province of Canada, or of any municipality, steals anything in his possession by virtue of his employment. 55-56 V., c. 29, s. 319; 57-58 V., c. 57, s. 1.

360. Every one who steals any chattel or fixture let to be used by him in or with any house or lodging is guilty of an indictable offence and liable to two years' imprisonment, and, if the value of such chattel or fixture exceeds the sum of twenty-five dollars, to four years' imprisonment. 55-56 V., c. 29, s. 322.

361. Every one is guilty of an indictable offence and liable to imprisonment for life who, either during the life of the testator or after his death, steals the whole or any part of a testamentary instrument, whether the same relates to real or personal property, or to both. 55-56 V., c. 29, s. 323.

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362. Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any document of title to lands or goods. 55-56 V., c. 29, s. 324.

363. Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any record, writ, return, affirmation, recognizance, cognovit actionem, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever of or belonging to any court of justice, or relating to any cause or matter begun, depending or terminated in any such court, or of any original document in any wise relating to the business of any office or employment under His Majesty, and being or remaining in any office appertaining to any court of justice, or in any government or public office. 55-56 V., c. 29, s. 325.

Penalty.

364. Every one is guilty of an indictable offence and liable to imprisonment for life, or for any term not less than three years, who steals,—

Post letters, etc.

(a) a post letter bag; or,
(b) a post letter from a post letter bag or from any post office, or from any officer or person employed in any business of the post office of Canada, or from a mail; or,
(c) a post letter containing any chattel, money or valuable security; or,
(d) any chattel, money or valuable security from or out of a post letter. 55-56 V., c. 29, s. 326.

Penalty.

365. Every one is guilty of an indictable offence and liable to imprisonment for any term not exceeding seven years, and not less than three years, who steals,—

Idem.

(a) any post letter, other than post letters referred to in the last preceding section;
(b) any parcel sent by parcel post, or any article contained in any such parcel; or,
(c) any key suited to any lock adopted for use by the Post Office Department, and in use on any Canada mail or mail bag. 55-56 V., c. 29, s. 327.

366. Every one is guilty of an indictable offence and liable to five years' imprisonment who steals any printed vote or proceeding, newspaper, printed paper or book, packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any post card or other mailable matter, other than a post letter, sent by mail. 55-56 V., c. 29, s. 328.

367. Every one is guilty of an indictable offence and liable to a fine in the discretion of the court, or to seven years' imprisonment,
imprisonment, or to both fine and imprisonment, who steals, or unlawfully takes from any person having the lawful custody thereof, or from its lawful place of deposit for the time being, any writ of election, or any return to a writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report, ballot, or any document or paper made, prepared or drawn out according to or for the requirements of any law in regard to Dominion, provincial, municipal or civic elections. 55-56 V., c. 29, s. 329.

368. Every one is guilty of an indictable offence and liable to two years' imprisonment who steals any tramway railway or steamboat ticket, or any order or receipt for a passage on any railway or in any steamboat or other vessel. 55-56 V., c. 29, s. 330.

369. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any cattle. 55-56 V., c. 29, s. 331.

370. Every one who steals any dog, or any bird, beast or other animal ordinarily kept in a state of confinement or for any domestic purpose, or for any lawful purpose of profit or advantage, is, if the value of the property stolen exceeds twenty dollars, guilty of an indictable offence and liable to a penalty not exceeding fifty dollars over and above the value of the property stolen, or to two years' imprisonment, or to both, and if the value of the property stolen does not exceed twenty dollars, is guilty of an offence and liable upon summary conviction to a penalty not exceeding twenty dollars over and above such value, or to one month's imprisonment with hard labour.

2. Every one who, having been previously convicted of an offence under this section, is summarily convicted of another offence thereunder, is liable to three months' imprisonment with hard labour. 63-64 V., c. 46, s. 3.

371. Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals oysters or oyster brood.

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

3. Nothing in this section applies to any person fishing for saving or catching any swimming fish within the limits of any oyster fishery.

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372. Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land, being private property, for a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground. 55-56 V., c. 29, s. 335.

373. Every one is guilty of an indictable offence and liable to two years' imprisonment who steals the whole or any part of any tree, sapling or shrub, or any underwood, the thing stolen being of the value of twenty-five dollars, or of the value of five dollars if the thing stolen grows in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house. 55-56 V., c. 29, s. 336.

374. Every one who steals the whole or any part of any tree, sapling or shrub, or any underwood, the value of the article stolen, or the amount of the damage done, being twenty-five cents at the least, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars over and above the value of the article stolen or the amount of the injury done.

1. Every one who, having been convicted of any such offence, afterwards commits any such offence, is liable, on summary conviction, to three months' imprisonment with hard labour.

2. Every one who, having been twice convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to five years' imprisonment. 55-56 V., c. 29, s. 337.

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

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to three years' imprisonment. 55-56 V., c. 29, s. 341.
376. Every one who steals any cultivated root or plant used
for the food of man or beast, or for medicine, or for distilling,
or for dyeing, or for or in the course of any manufacture, and
growing in any land, open or inclosed, not being a garden,
orchard, pleasure ground or nursery ground, is guilty of an
offence and liable, on summary conviction, to a penalty not
exceeding five dollars over and above the value of the article
so stolen or the amount of the injury done, or to one month's
imprisonment with hard labour.
2. Every one who, having been convicted of any such
offence, afterwards commits any such offence is liable to three
months' imprisonment with hard labour. 55-56 V., c. 29,
s. 342.

377. Every one who steals any part of any live or dead
fence, or any wooden post, pale, wire or rail set up or used as
a fence, or any stile or gate, or any part thereof respectively,
is guilty of an offence and liable, on summary conviction, to a
penalty not exceeding twenty dollars over and above the value
of the article or articles so stolen or the amount of the injury
done.
2. Every one who, having been convicted of any such
offence, afterwards commits any such offence is liable, on sum-
mary conviction, to three months' imprisonment with hard
labour. 55-56 V., c. 29, s. 339.

378. Every one is guilty of an indictable offence and liable
to two years' imprisonment who steals the ore of any metal, or
any quartz, lapis calaminaris, manganese, or muddic, or any
piece of gold, silver or other metal, or any wad, black eauk, or
black lead, or any coal, or cammel coal, or any marble, stone or
other mineral, from any mine, bed or vein thereof respectively.
2. It is not an offence to take, for the purposes of explora-
tion or scientific investigation, any specimen or specimens of
any ore or mineral from any piece of ground uninclosed and
not occupied or worked as a mine, quarry or digging. 55-56
V., c. 29, s. 343.

379. Every one is guilty of an indictable offence and liable
to fourteen years' imprisonment who steals any chattel, money
or valuable security from the person of another. 55-56 V.,
c. 29, s. 344.

380. Every one is guilty of an indictable offence and liable
to fourteen years' imprisonment who,—
(a) steals in any dwelling-house any chattel, money or valu-
able security to the value in the whole of twenty-five
dollars or more; or,
(b) steals any chattel, money or valuable security in any dwelling-house, and by any menace or threat puts any one or menaces
therein in bodily fear. 55-56 V., c. 29, s. 345.

381. R.S., 1906.
381. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, by means of any pick-lock, false key or other instrument steals anything from any receptacle for property locked or otherwise secured. 55-56 V., c. 29, s. 316.

Penalty.

382. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,—

(a) steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal; or,

(b) steals any goods or merchandise from any dock, wharf or quay adjacent to any such haven, port, river, canal, creek or basin. 55-56 V., c. 29, s. 349.

Wreck.

383. Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals any wreck. 55-56 V., c. 29, s. 350.

On railway.

384. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything in or from any railway station or building, or from any engine, tender or vehicle of any kind on any railway. 55-56 V., c. 29, s. 351.

Things deposited in Indian graves.

385. Every one who steals, or unlawfully injures or removes, any image, bones, article or thing deposited in or near any Indian grave, is guilty of an offence and liable, on summary conviction, for a first offence, to a penalty not exceeding one hundred dollars or to three months' imprisonment, and for a subsequent offence to the same penalty and to six months' imprisonment with hard labour. 55-56 V., c. 29, s. 352.

Things not otherwise provided for.

386. Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals anything for the stealing of which no punishment is otherwise provided or commits in respect thereof any offence for which he is liable to the same punishment as if he had stolen the same.

2. The offender is liable to ten years' imprisonment if he has been previously convicted of theft. 55-56 V., c. 29, s. 356.

Subsequent offence.

387. If the value of anything stolen, or in respect of which any offence is committed for which the offender is liable to the same punishment as if he had stolen it, exceeds the sum of two hundred dollars the offender is liable to two years' imprisonment, in addition to any punishment to which he is otherwise liable for such offence. 55-56 V., c. 29, s. 357.

Value of things stolen over $200.

388. Every one is guilty of an indictable offence and liable to five years' imprisonment who steals, to the value of two dollars,
dollars, any woollen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of such materials mixed with each other or mixed with any other material, while laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place. 55-56 V., c. 29, s. 347.

**Offences Resembling Theft.**

389. Every one is guilty of an indictable offence and liable to two years' imprisonment, when the offence is not within the last preceding section, who, having been entrusted with, for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make, any felt or hat, or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax or silk, or any such materials mixed with one another, or having been so entrusted, as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, fraudulently disposes of the same or any part thereof. 55-56 V., c. 29, s. 348.

390. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a trustee of any property for the use or benefit, either in whole or in part, of some other person, or for any public or charitable purpose, with intent to defraud, and in violation of his trust, converts anything of which he is trustee to any use not authorized by the trust. 55-56 V., c. 29, s. 363.

391. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, being employed in the service of His Majesty or of the Government of Canada or the Government of any province of Canada, or of any municipality, and entrusted by virtue of such employment with the keeping, receipt, custody, management or control of any chattel, money, valuable security, book, paper, account or document, refuses or fails to deliver up the same to any one authorized to demand it. 55-56 V., c. 29, s. 321.

392. Every one is guilty of an indictable offence and liable Penalty.
to three years' imprisonment who,—

(a) without the consent of the owner thereof fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells, or fraudulently causes or procures, or assists in the taking possession, concealing, appropriating, purchasing or selling of any cattle which are found astray; or,

(b) fraudulently refuses to deliver up any such cattle to the proper owner thereof, or to the person in charge thereof

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R.S., 1906.
on behalf of such owner, or authorized by such owner to receive such cattle; or,

(c) without the consent of the owner, fraudulently, wholly or partially obliterates, or alters or defaces, or causes or procures to be obliterated, altered or defaced, any brand or mark on any cattle, or makes or causes or procures to be made any false or counterfeit brand or mark on any cattle. 1 E.VII., c. 42, s. 2.

393. Every one who unlawfully and wilfully kills, wounds or takes any house-dove or pigeon, under such circumstances as do not amount to theft, is guilty of an offence and liable, upon complaint of the owner thereof, on summary conviction, to a penalty not exceeding ten dollars over and above the value of the bird. 55-56 V., c. 29, s. 333.

394. Every one is guilty of an indictable offence and liable to three years' imprisonment who,—

(a) without the consent of the owner thereof,

(i) fraudulently takes, holds, keeps in his possession, collects, conceals, receives, appropriates, purchases, sells or causes or procures or assists to be taken possession of, collected, concealed, received, appropriated, purchased or sold, any timber, mast, spar, saw-log or other description of lumber which is found adrift in, or cast ashore on the bank or beach of, any river, stream or lake, or

(ii) wholly or partially defaces or adds or causes or procures to be defaced or added, any mark or number on any such timber, mast, spar, saw-log or other description of lumber, or makes or causes or procures to be made any false or counterfeit mark on any such timber, mast, spar, saw-log or other description of lumber; or,

(b) refuses to deliver up to the proper owner thereof, or to the person in charge thereof, on behalf of such owner, or authorized by such owner to receive the same, any such timber, mast, spar, saw-log or other description of lumber. 55-56 V., c. 29, s. 338.

395. Every one who, having in his possession, or on his premises with his knowledge, the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile or gate, or any part thereof, of the value of twenty-five cents at the least, is taken or summoned before a justice of the peace, and does not satisfy such justice that he came lawfully by the same, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding ten dollars over and above the value of the article so in his possession or on his premises. 55-56 V., c. 29, s. 340.
396. Every one who destroys, cancels, conceals or obliterates any document of title to goods or lands, or any valuable security, testamentary instrument, or judicial, official or other document, for any fraudulent purpose, is guilty of an indictable offence and liable to the same punishment as if he had stolen such document, security or instrument. 55-56 V., c. 29, s. 353.

397. Every one is guilty of an indictable offence and liable to two years' imprisonment who, for any fraudulent purpose, takes, obtains, removes or conceals anything capable of being stolen. 55-56 V., c. 29, s. 354.

398. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, having obtained elsewhere than in Canada any property by any act which if done in Canada would have amounted to theft, brings such property into or has the same in Canada. 55-56 V., c. 29, s. 355.

Receiving Stolen Goods.

399. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who receives or retains in his possession anything obtained by any offence punishable on indictment, or by any acts wheresoever committed, which, if committed in Canada would have constituted an offence punishable upon indictment, knowing such thing to have been so obtained. 55-56 V., c. 29, s. 314.

400. Every one is guilty of an indictable offence and liable to five years' imprisonment who receives or retains in his possession, any post letter or post letter bag, or any chattel, money or valuable security, parcel or other thing, the stealing whereof is hereby declared to be an indictable offence, knowing the same to have been stolen. 55-56 V., c. 29, s. 315.

401. Every one who receives or retains in his possession anything, knowing the same to have been unlawfully obtained, the stealing of which is punishable on summary conviction, either for every offence, or for the first and second offence only, is guilty of an offence and liable on summary conviction, for every first, second or subsequent offence of receiving, to the same punishment as if he were guilty of a first, second or subsequent offence of stealing the same. 55-56 V., c. 29, s. 316.

402. The act of receiving anything unlawfully obtained is complete as soon as the offender has, either exclusively or jointly with the thief or any other person, possession of or control over such thing, or aids in concealing or disposing of it. 55-56 V., c. 29, s. 317.

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403. R.S., 1906.
403. When the thing unlawfully obtained has been restored to the owner, or when a legal title to the thing so obtained has been acquired by any person, a subsequent receiving thereof shall not be an offence although the receiver may know that the thing had been previously unlawfully obtained. 55-56 V., c. 29, s. 318.

False Pretenses.

404. A false pretense is a representation, either by words or otherwise, of a matter of fact either present or past, which representation is known to the person making it to be false, and which is made with a fraudulent intent to induce the person to whom it is made to act upon such representation.

2. Exaggerated commendation or depreciation of the quality of any thing is not a false pretense, unless it is carried to such an extent as to amount to a fraudulent misrepresentation of fact.

3. It is a question of fact whether such commendation or depreciation does or does not amount to a fraudulent misrepresentation of fact. 55-56 V., c. 29, s. 358.

405. Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud, by any false pretense, either directly or through the medium of any contract obtained by such false pretense, obtains anything capable of being stolen, or procures anything capable of being stolen to be delivered to any other person than himself. 55-56 V., c. 29, s. 359.

406. Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud or injure any person by any false pretense, causes or induces any person to execute, make, accept, endorse or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security. 55-56 V., c. 29, s. 360.

407. Every one is guilty of an indictable offence and liable to three years' imprisonment who, wrongfully and with wilful falsehood, pretends or alleges that he inclosed and sent, or caused to be inclosed and sent, in any post letter any money, valuable security or chattel, which in fact he did not so inclose and send or cause to be inclosed and sent therein. 55-56 V., c. 29, s. 361.

Personation.

408. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who, with intent fraudulently to obtain any property, personates any person, living or dead, or
or the administrator, wife, widow, next of kin or relation of any person. 55-56 V., c. 29, s. 456.

409. Every one is guilty of an indictable offence, and liable, on indictment or summary conviction, to one year's imprisonment, or to a fine of one hundred dollars, who falsely, with intent to gain some advantage for himself or some other person, personates a candidate at any competitive or qualifying examination, held under the authority of any law or statute, or in connection with any university or college, or who procures himself or any other person to be personated at any such examination, or who knowingly avails himself of the results of such personation. 55-56 V., c. 29, s. 457.

410. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who falsely and deceitfully personates,—

(a) any owner of any share or interest of or in any stock, annuity or other public fund transferable in any book of account kept by the Government of Canada or of any province thereof, or by any bank for any such Government; or,

(b) any owner of any share or interest of or in the debt of any public body, or of or in the debt or capital stock of any body corporate, company, or society; or,

(c) any owner of any dividend, coupon, certificate or money payable in respect of any such share or interest as aforesaid; or,

(d) any owner of any share or interest in any claim for a grant of land from the Crown, or for any scrip or other payment or allowance in lieu of such grant of land; or,

(e) any person duly authorized by any power of attorney to transfer any such share or interest, or to receive any dividend, coupon, certificate or money on behalf of the person entitled thereto;

and thereby transfers or endeavours to transfer any share or interest belonging to such owner, or thereby obtains or endeavours to obtain, as if he were the true and lawful owner or were the person so authorized by such power of attorney, any money due to any such owner or payable to the person so authorized, or any certificate, coupon or share warrant, grant of land, or scrip, or allowance in lieu thereof, or other document which, by any law in force, or any usage existing at the time, is deliverable to the owner of any such stock or fund, or to the person authorized by any such power of attorney. 55-56 V., c. 29, s. 458.

411. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, without lawful authority or excuse, the proof of which shall lie on him, acknowledges, in the Acknowledging instrument in false name. R.S., 1906.
the name of any other person, before any court, judge or other person lawfully authorized in that behalf, any recognizance of bail, or any cognorit actionem, or consent for judgment, or judgment, or any deed or other instrument. 55-56 V., c. 29, s. 459.

Fraud and Fraudulent Dealing with Property.

412. Every one is guilty of an indictable offence and liable to six months' imprisonment who, by means of any false ticket or order, or of any other ticket or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any carriage, tramway or railway, or in any steam or other vessel. 55-56 V., c. 29, s. 362.

413. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a director, manager, public officer or member of any body corporate or public company, with intent to defraud, —

(a) destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or public company; or
(b) makes, or concurs in making, any false entry, or omits or concurs in omitting to enter any material particular, in any book of account or other document. 55-56 V., c. 29, s. 364.

414. Every one is guilty of an indictable offence and liable to five years' imprisonment who, being a promoter, director, public officer or manager of any body corporate or public company, either existing or intended to be formed, makes, circulates, or publishes, or concurs in making, circulating or publishing any prospectus, statement or account which he knows to be false in any material particular, with intent to induce persons whether ascertained or not to become shareholders or partners, or with intent to deceive or defraud the members, shareholders or creditors, or any of them, whether ascertained or not, of such body corporate or public company, or with intent to induce any person to entrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof. 55-56 V., c. 29, s. 365.

415. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being or acting in the capacity of an officer, clerk, or servant, with intent to defraud, —

(a) destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or document which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or concurs in the same being done; or

(b)
(b) makes, or concurs in making, any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from or in, any such book, paper, writing, valuable security or document. 55-56 V., c. 29, s. 366.

416. Every one is guilty of an indictable offence and liable to five years' imprisonment, and to a fine not exceeding five hundred dollars, who, being an officer, collector or receiver, entrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes any false statement or return of any sum of money collected by him or entrusted to his care, or of any balance of money in his hands or under his control. 55-56 V., c. 29, s. 367.

417. Every one is guilty of an indictable offence and liable to a fine of eight hundred dollars and to one year's imprisonment who,—

(a) with intent to defraud his creditors, or any of them, (i) makes, or causes to be made any gift, conveyance, assignment, sale, transfer or delivery of his property, or (ii) removes, conceals or disposes of any of his property; or,

(b) with the intent that any one shall so defraud his creditors, or any one of them, receives any such property; or,

(c) being a trader and indebted to an amount exceeding one thousand dollars, is unable to pay his creditors in full and has not, for five years next before such inability, kept such books of account as, according to the usual course of any trade or business in which he may have been engaged, are necessary to exhibit or explain his transactions, unless he be able to account for his losses to the satisfaction of the court or judge and to show that the absence of such books was not intended to defraud his creditors. 55-56 V., c. 29, s. 368; 4 E. VII., c. 7, s. 1.

418. Every one is guilty of an indictable offence and liable to ten years' imprisonment who, with intent to defraud his creditors or any of them, destroys, alters, mutilates or falsifies any of his books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any book of account or other document. 55-56 V., c. 29, s. 309.

419. Every one is guilty of an indictable offence and liable to a fine, or to two years' imprisonment, or to both, who, being a seller or mortgagor of land, or of any chattel, real or personal, or chose in action, or the solicitor or agent of any such seller or mortgagor (and having been served with a written demand of an abstract of title by or on behalf of the purchaser or mort-
gagéé before the completion of the purchase or mortgage) conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from such purchaser or mortgagee, or falsifies any pedigree upon which the title depends, with intent to defraud and in order to induce such purchaser or mortgagee to accept the title offered or produced to him. 55-56 V., c. 29, s. 370.

420. Every one is guilty of an indictable offence and liable to three years' imprisonment who, acting either as principal or agent, in any proceeding to obtain the registration of any title to land or otherwise, or in any transaction relating to land which is, or is proposed to be, put on the register, knowingly and with intent to deceive makes or assists or joins in, or is privy to the making of, any material false statement or representation, or suppresses, conceals, assists or joins in, or is privy to the suppression, withholding or concealing from, any judge or registrar, or any person employed by or assisting the registrar, any material document, fact or matter of information. 55-56 V., c. 29, s. 371.

421. Every one is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding two thousand dollars, who, knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or encumbrance of or upon any real property, fraudulently makes any subsequent sale of the same, or of any part thereof. 55-56 V., c. 29, s. 372.

422. Every one who pretends to hypothecate, mortgage, or otherwise charge any real property to which he knows he has no legal or equitable title is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding one hundred dollars.

2. The proof of the ownership of the real estate rests with the person so pretending to deal with the same. 55-56 V., c. 29, s. 373.

423. Every one is guilty of an indictable offence and liable to one year's imprisonment who, in the province of Quebec, wilfully causes or procures to be seized and taken in execution any lands and tenements, or other real property, not being at the time of such seizure, to the knowledge of the person causing the same to be taken in execution, the bona fide property of the person or persons against whom, or whose estate, the execution is issued. 55-56 V., c. 29, s. 374.

Penalty.

424. Every one is guilty of an indictable offence and liable to two years' imprisonment, who,—

(a) being the holder of any lease or license issued under the provisions of any Act relating to gold or silver mining, 2526

or

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or by any persons owning land supposed to contain any
gold or silver, by fraudulent device or contrivance,
defrauds or attempts to defraud His Majesty, or any
person, of any gold, silver or money payable or reserved
by such lease, or, with such intent as aforesaid, conceals
or makes a false statement as to the amount of gold or
silver procured by him; or,
(b) not being the owner or agent of the owners of mining
claims then being worked, and not being thereunto author-
ized in writing by the proper officer in that behalf named
in any Act relating to mines in force in any province of
Canada, sells or purchases, except to or from such owner
or authorized person, any quartz containing gold, or any
smelted gold or silver, at or within three miles of any
gold district or mining district, or gold mining division;
or,
(c) purchases any gold in quartz, or any unsmelted or
smelted gold or silver, or otherwise unmanufactured gold
or silver, of the value of one dollar or upwards, except from
such owner or authorized person, and does not, at the
same time, execute in triplicate an instrument in writing,
stating the place and time of purchase, and the quantity,
quality and value of gold or silver so purchased, and the
name or names of the person or persons from whom the
same was purchased, and file the same with such proper
officer within twenty days next after the date of such
purchase. 55-56 V., c. 29, s. 375.

425. Every one is guilty of an indictable offence and liable
to three years' imprisonment, who,—
(a) being the keeper of any warehouse, or a forwarder,
miller, master of a vessel, wharfinger, keeper of a cove,
yard, harbour or other place for storing timber, deals,
staves, boards, or lumber, curer or packer of pork, or dealer
in wool, carrier, factor, agent or other person, or a clerk
or other person in his employ, knowingly and wilfully
gives to any person a writing purporting to be a receipt
for, or an acknowledgment of, any goods or other property
as having been received into his warehouse, vessel, cove,
wharf, or other place, or in any such place about which
he is employed, or in any other manner received by him,
or by the person in or about whose business he is employed,
before the goods or other property named in such receipt,
acknowledgment or writing have been actually delivered
to or received by him as aforesaid, with intent to mislead,
decieve, injure or defraud any person, although such
person is then unknown to him; or,
(b) knowingly and wilfully accepts, transmits or uses any
such false receipt or acknowledgment or writing. 55-56
V., c. 29, s. 376.

426. Accepting, etc., false receipt.

R.S., 1906.
Penalty.

Fraudulent disposal of merchandise as to which money has been advanced or security given by consignee.

426. Every one is guilty of an indictable offence and liable to three years' imprisonment, who,—

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

(b) knowingly and willfully aids and assists in making such disposition for the purpose of deceiving, defrauding or injuring such consignee.

2. No person commits an offence under this section who, before making such disposition of such merchandise, pays or tenders to the consignee the full amount of any advance made thereon. 55-56 V., c. 29, s. 377.

Penalty.

Fraudulent receipts under the Bank Act.

Fraudulently alienating property covered by receipt.

427. Every one is guilty of an indictable offence and liable to three years' imprisonment who,—

(a) willfully makes any false statement in any receipt, certificate or acknowledgment for grain, timber or other goods or property which can be used for any of the purposes mentioned in the Bank Act; or,

(b) having given, or after any clerk or person in his employ has, to his knowledge, given, as having been received by him in any mill, warehouse, vessel, cove or other place, any such receipt, certificate or acknowledgment for any such grain, timber or other goods or property, or having obtained any such receipt, certificate or acknowledgment, and after having endorsed or assigned it to any bank or person, afterwards, and without the consent of the holder or endorsee in writing, or the production and delivery of the receipt, certificate or acknowledgment, willfully alienates or parts with, or does not deliver to such holder or owner of such receipt, certificate or acknowledgment, the grain, timber, goods or other property therein mentioned. 55-56 V., c. 29, s. 378.

428. If any offence mentioned in any of the three sections last preceding is committed by the doing of anything in the name of any firm, company or copartnership of persons, the person by whom such thing is actually done, or who connives at the doing thereof, is alone guilty of the offence. 55-56 V., c. 29, s. 379.

Innocent partners.

Selling vessel or wreck

429. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, not having lawful title thereto,
thereto, sells any vessel or wreck found within the limits of Canada. 55-56 V., c. 29, s. 380.

430. Every one who,—

(a) secretes any wreck, or defaces or obliterates the marks Secreting thereon, or uses means to disguise the fact that it is wreck, or in any manner conceals the character thereof, or the fact that the same is wreck, from any person entitled to inquire into the same; or,

(b) receives any wreck, knowing the same to be wreck, from Receiving any person other than the owner thereof or the receiver of wrecks, and does not within forty-eight hours inform the receiver thereof; or,

(c) offers for sale or otherwise deals with any wreck, know-

ing it to be wreck, not having a lawful title to sell or deal with the same; or,

(d) keeps in his possession any wreck, knowing it to be wreck, without a lawful title so to keep the same, for any time longer than the time reasonably necessary for the delivery of the same to the receiver; or,

(e) boards any vessel which is wrecked, stranded or in dis-

tress against the will of the master, unless the person so boarding is, or acts by command of the receiver; is guilty of an offence punishable on indictment with two years' imprisonment, and on summary conviction before two justices with a penalty of four hundred dollars or six months' imprisonment with or without hard labour. 55-56 V., c. 29, s. 381.

431. Every person dealing in old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead or other marine stores, who, by himself or his agent, purchases any old marine stores from any person under the age of sixteen years, is guilty of an offence and liable, on summary conviction, to a penalty of four dollars for the first offence and of six dollars for every subsequent offence.

2. Every such person who, by himself or his agent, pur-

chases or receives any old marine stores into his shop, premises or place of deposit, except in the daytime between sunrise and sunset, is guilty of an offence and liable, on summary conviction, to a penalty of five dollars for the first offence and of seven dollars for every subsequent offence.

3. Every person, purporting to be a dealer in old marine Having in stores, on whose premises any such stores which have been stolen, are found secreted, is guilty of an indictable offence and liable to five years' imprisonment. 55-56 V., c. 29, s. 382.

432. The marks specified in this section in that behalf may be applied in or on any public stores to denote His Majesty's property in such stores.

Marks

R.S., 1906.
Marks appropriated for His Majesty's use in or on Naval, Military, Ordnance, Barrack, Hospital and Victualling Stores.

<table>
<thead>
<tr>
<th>Stores</th>
<th>Marks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hempen cordage and wire rope</td>
<td>White, black or coloured threads laid up with the yarns and the wire, respectively.</td>
</tr>
<tr>
<td>Canvas, farnought, hammocks and seamen's bags</td>
<td>A blue line in a serpentine form.</td>
</tr>
<tr>
<td>Bunting</td>
<td>A double tape in the warp.</td>
</tr>
<tr>
<td>Candles</td>
<td>Blue or red cotton threads in each wick, or wicks of red cotton.</td>
</tr>
<tr>
<td>Timber, metal and other stores not before enumerated.</td>
<td>The broad arrow, with or without the letters W.D.</td>
</tr>
</tbody>
</table>

Marks appropriated for use on stores, the property of His Majesty in the right of his Government of Canada.

<table>
<thead>
<tr>
<th>Stores</th>
<th>Marks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public stores</td>
<td>The name of any public department, or the word 'Canada,' either alone or in combination with a Crown or the Royal Arms.</td>
</tr>
</tbody>
</table>

Application by officer.

2. It shall be lawful for any public department, and the contractors, officers and workmen of such department, to apply such marks, or any of them, in or on any such stores. 55-56 V., c. 29, s. 384.

Unlawfully applying marks.

433. Every one is guilty of an indictable offence and liable to two years' imprisonment, who, without lawful authority the proof of which shall lie on him, applies any of the said marks in or on any public stores. 55-56 V., c. 29, s. 385.

Obliterating marks from public stores.

434. Every one is guilty of an indictable offence and liable to two years' imprisonment, who, with intent to conceal His Majesty's property in any public stores, takes out, destroys or obliterates, wholly or in part, any of the said marks. 55-56 V., c. 29, s. 386.

Unlawful possession, sale, etc. of public stores.

435. Every one who, without lawful authority the proof of which lies on him, receives, possesses, keeps, sells or delivers any public stores bearing any such mark as aforesaid, knowing them to bear such mark, is guilty of an offence punishable on indictment or on summary conviction, and liable, on conviction on indictment, to one year's imprisonment, and, if the value thereof does not exceed twenty-five dollars, on summary conviction before two justices, to a fine of one hundred dollars or to six months imprisonment with or without hard labour. 55-56 V., c. 29, s. 387.

436. Every one, not being in His Majesty's service, or a dealer in marine stores or a dealer in old metals, in whose possession any public stores bearing any such mark are found who, when taken or summoned before two justices, does not satisfy such justices that he came lawfully by such stores,

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stores, is guilty of an offence and liable, on summary conviction, to a fine of twenty-five dollars.

2. If any such person satisfies such justices that he came lawfully by the stores so found, the justices, in their discretion, as the evidence given or the circumstances of the case require, may summon before them every person through whose hands such stores appear to have passed.

3. Every one who has had possession thereof, who does not satisfy such justices that he came lawfully by the same, is liable, on summary conviction, of having had possession thereof, to a fine of twenty-five dollars, and in default of payment to three months' imprisonment with or without hard labour. 55-56 V., c. 29, s. 388.

437. Every one who, without permission in writing from the Admiralty, or from some person authorized by the Admiralty in that behalf, creeps, sweeps, dredges, or otherwise searches for stores in the sea, or any tidal or inland water, within one hundred yards from any vessel belonging to His Majesty or in His Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any mooring belonging to His Majesty, or from any of His Majesty's wharfs or docks, or victualling or steam factory yards, is guilty of an offence and liable, on summary conviction before two justices, to a fine of twenty-five dollars, or to three months' imprisonment, with or without hard labour. 55-56 V., c. 29, s. 389.

438. Every one who,—

(a) buys, exchanges or detains, or otherwise receives from any soldier, militiaman or deserter any arms, clothing or furniture belonging to His Majesty, or any such articles belonging to any soldier, militiaman or deserter as are generally deemed regimental necessaries according to the custom of the army; or,

(b) causes the colour of such clothing or articles to be changed; or,

(c) exchanges, buys or receives from any soldier or militiaman, any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier belongs; is guilty of an offence punishable on indictment or on summary conviction, and liable on conviction on indictment to five years' imprisonment, and on summary conviction before two justices to a penalty not exceeding forty dollars, and not less than twenty dollars and costs, and, in default of payment, to six months' imprisonment with or without hard labour. 55-56 V., c. 29, s. 390.

439. 159½ 2531 R.S., 1906.
439. Every one who buys, exchanges, or detains, or otherwise receives from any seaman or marine, upon any account whatsoever, or has in his possession any arms or clothing, or any articles, belonging to any seaman, marine or deserter, as are generally deemed necessaries according to the custom of the navy, is guilty of an offence punishable on indictment or on summary conviction and liable on conviction on indictment to five years' imprisonment, and on summary conviction before two justices to a penalty not exceeding one hundred and twenty dollars, and not less than twenty dollars and costs, and in default of payment to six months' imprisonment. 55-56 V., c. 29, s. 391.

440. Every one who detains, buys, exchanges, takes on pawn or receives, from any seaman or any person acting for a seaman, any seaman's property, or solicits or entices any seaman, or is employed by any seaman to sell, exchange or pawn any seaman's property, unless he acts in ignorance of the same being a seaman's property, or of the person with whom he deals being or acting for a seaman, or unless the same is sold by the order of the Admiralty or commander in chief, is guilty of an offence punishable on indictment or on summary conviction and liable on conviction on indictment to five years' imprisonment, and on summary conviction for a first offence to a penalty not exceeding one hundred dollars; and on summary conviction for a second offence, to the same penalty, or in the discretion of the justice, six months' imprisonment, with or without hard labour. 55-56 V., c. 29, s. 392.

441. Every one in whose possession any seaman's property is found who does not satisfy the justice before whom he is taken or summoned that he came by such property lawfully is liable, on summary conviction, to a fine of twenty-five dollars. 55-56 V., c. 29, s. 393.

442. Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud any person, cheats in playing at any game or in holding the stakes, or in betting on any event. 55-56 V., c. 29, s. 395.

443. Every one is guilty of an indictable offence and liable to one year's imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found. 55-56 V., c. 29, s. 396.

444. Every one is guilty of an indictable offence and liable to seven years' imprisonment who conspires with any other person,
person, by deceit or falsehood or other fraudulent means, to defraud the public or any person, ascertained or unascertained, or to affect the public market price of stocks, shares, merchandise, or anything else publicly sold, whether such deceit or falsehood or other fraudulent means would or would not amount to a false pretense as hereinbefore defined. 55-56 V., c. 29, s. 394.

Robbery and Extortion.

445. Robbery is theft accompanied with violence or threats of violence to any person or property used to extort the property stolen, or to prevent or overcome resistance to its being stolen. 55-56 V., c. 29, s. 397.

446. Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped who,—
(a) robs any person and at the time of, or immediately before or immediately after, such robbery, wounds, beats, strikes, or uses any personal violence to, such person; or,
(b) being together with any other person or persons robs, or assaults with intent to rob, any person; or,
(c) being armed with an offensive weapon or instrument, robs, or assaults with intent to rob, any person. 55-56 V., c. 29, s. 398.

447. Every one who commits robbery is guilty of an indictable offence and liable to fourteen years' imprisonment. 55-56 V., c. 29, s. 399.

448. Every one who assaults any person with intent to rob him is guilty of an indictable offence and liable to three years' imprisonment. 55-56 V., c. 29, s. 400.

449. Every one is guilty of an indictable offence and liable to imprisonment for life, or for any term not less than five years, who stops a mail with intent to rob or search the same. 55-56 V., c. 29, s. 401.

450. Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to defraud or injure, by unlawful violence to, or restraint of the person of another, or by the threat that either the offender or any other person will employ such violence or restraint, unlawfully compels any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security. 55-56 V., c. 29, s. 402.

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451. Every one is guilty of an indictable offence and liable
to fourteen years' imprisonment who sends, delivers or utters,
or directly or indirectly causes to be received, knowing the con-
tents thereof, any letter or writing demanding of any person
with menaces, and without any reasonable or probable cause,
any property, chattel, money, valuable security or other valu-
able thing. 55-56 V., c. 29, s. 403.

452. Every one is guilty of an indictable offence and liable
to two years' imprisonment who, with menaces, demands from
any person, either for himself or for any other person, any-
thing capable of being stolen with intent to steal it. 55-56 V.,
c. 29, s. 404.

453. Every one is guilty of an indictable offence and liable
to fourteen years' imprisonment who, with intent to extort or
gain anything from any person,—
(a) accuses or threatens to accuse either that person or any
other person, whether the person accused or threatened
with accusation is guilty or not, of
(i) any offence punishable by law with death or imprison-
ment for seven years or more,
(ii) any assault with intent to commit a rape, or any
attempt or endeavour to commit a rape, or any indecent
assault,
(iii) carnally knowing or attempting to know any child
so as to be punishable under this Act,
(iv) any infamous offence, that is to say, buggery, an
attempt or assault with intent to commit buggery, or
any unnatural practice, or incest,
(v) counselling or procuring any person to commit any
such infamous offence; or,
(b) threatens that any person shall be so accused by any
other person; or,
(c) causes any person to receive a document containing such
accusation or threat, knowing the contents thereof;
or who by any of the means aforesaid compels or attempts to
compel any person to execute, make, accept, endorse, alter or
destroy the whole or any part of any valuable security, or to
write, impress or affix any name or seal upon or to any paper
or parchment, in order that it may be afterwards made or con-
verted into or used or dealt with as a valuable security. 55-56
V., c. 29, s. 405.

454. Every one is guilty of an indictable offence and liable
to imprisonment for seven years who,—
(a) with intent to extort or gain anything from any person
accuses or threatens to accuse either that person or any
other person of any offence other than those specified in
the last section, whether the person accused or threatened
with accusation is guilty or not of that offence; or,

(b)
(b) with such intent as aforesaid, threatens that any person shall be so accused by any person; or.

(c) causes any person to receive a document containing such accusation or threat, knowing the contents thereof; or who by any of the means aforesaid, compels or attempts to compel any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into, or used or dealt with as a valuable security. 55-56 V., c. 29, s. 406.

Burglary and Housebreaking.

455. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who breaks and enters any place of public worship and commits any indictable offence therein, or who, having committed any indictable offence therein, breaks out of such place. 55-56 V., c. 29, s. 408.

456. Every one is guilty of an indictable offence and liable to seven years' imprisonment who breaks and enters any place of public worship, with intent to commit any indictable offence therein. 55-56 V., c. 29, s. 409.

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

(a) breaks and enters a dwelling-house by night with intent to commit any indictable offence therein; or,

(b) breaks out of any dwelling-house by night, either after committing an indictable offence therein, or after having entered such dwelling-house, either by day or by night, with intent to commit an indictable offence therein.

2. Every one convicted of an offence under this section who when arrested, or when he committed such offence, had upon his person any offensive weapon, shall, in addition to the imprisonment above prescribed, be liable to be whipped. 63-64 V., c. 46, s. 3.

458. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,—

(a) breaks and enters any dwelling-house by day and commits any indictable offence therein; or,

(b) breaks out of any dwelling-house by day after having committed any indictable offence therein. 55-56 V., c. 29, s. 411.

459. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, by day, breaks and enters any dwelling-house with intent to commit any indictable offence therein. 55-56 V., c. 29, s. 412.

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460. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, either by day or night, breaks and enters and commits any indictable offence in a school-house, shop, warehouse or counting-house, or any building within the curtilage of a dwelling-house, but not so connected therewith as to form part of it under the provisions hereinafter contained 55-56 V., c. 29, s. 413.

461. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, either by day or night, breaks and enters any of the buildings mentioned in the last preceding section with intent to commit any indictable offence therein. 55-56 V., c. 29, s. 414.

462. Every one is guilty of an indictable offence and liable to seven years' imprisonment who unlawfully enters, or is in, any dwelling-house by night with intent to commit any indictable offence therein. 55-56 V., c. 29, s. 415.

463. Every one is guilty of an indictable offence and liable to seven years' imprisonment who is found,—
(a) armed with any dangerous or offensive weapon or instrument by day, with intent to break or enter into any dwelling-house, and to commit any indictable offence therein; or,
(b) armed as aforesaid by night, with intent to break into any building and to commit any indictable offence therein. 55-56 V., c. 29, s. 416.

464. Every one is guilty of an indictable offence and liable to five years' imprisonment who is found,—
(a) having in his possession by night, without lawful excuse, the proof of which shall lie upon him, any instrument of housebreaking; or,
(b) having in his possession by day any such instrument with intent to commit any indictable offence; or,
(c) having his face masked or blackened, or being otherwise disguised, by night, without lawful excuse, the proof whereof shall lie on him; or,
(d) having his face masked or blackened, or being otherwise disguised by day, with intent to commit any indictable offence. 55-56 V., c. 29, s. 417.

465. Every one who, after a previous conviction for any indictable offence, is convicted of an indictable offence specified in this Part for which the punishment on a first conviction is less than fourteen years' imprisonment is liable to fourteen years' imprisonment. 55-56 V., c. 29, s. 418.

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Forgery and Preparation Therefor.

466. Forgery is the making of a false document, knowing Definition. it to be false, with the intention that it shall in any way be used or acted upon as genuine, to the prejudice of any one whether within Canada or not, or that some person should be induced by the belief that it is genuine, to do or refrain from doing anything, whether within Canada or not.

2. Making a false document includes altering a genuine Making false document in any material part, or making any material addition to it or adding to it any false date, attestation, seal or thing which is material, or making any material alteration in it, either by erasure, obliteration, removal or otherwise.

3. Forgery is complete as soon as the document is made with such knowledge and intent as aforesaid, though the offender may not have intended that any particular person should use or act upon it as genuine, or be induced, by the belief that it is genuine, to do or refrain from doing anything.

4. Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would be binding in law, if it be so made and is such as to indicate that it was intended to be acted on as genuine. 55-56 V., c. 29, s. 422.

467. Every one is guilty of an indictable offence who, knowing a document to be forged, uses, deals with, or acts upon it, or attempts to use, deal with, or act upon it, or causes or attempts to cause any person to use, deal with, or act upon it, as if it were genuine, and is liable to the same punishment as if he had forged the document.

2. It is immaterial where the document was forged. 55-56 Wherever V., c. 29, s. 424.

468. Every one who commits forgery of,—

(a) any document having impressed thereon or affixed thereto any public seal of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty; or,

(b) any document bearing the signature of the Governor Signature of General, or of any administrator, or of any deputy of the Governor, or of any lieutenant governor or any one at any time administering the government of any province of Canada; or,

(c) any document containing evidence of, or forming the Documentary title of any part of the title, or to any interest in or to any charge upon any land or hereditament, or evidence of the creation, transfer or extinction of any such interest or charge; or,

(d) any entry in any register or book, or any memorial or Entry in other document made, issued, kept or lodged under any register. Act for or relating to the registering of deeds or other instruments.
instruments respecting or concerning the title to or any claim upon any land or the recording or declaring of titles to land; or,

(e) any document required for the purpose of procuring the registering of any such deed or instrument or the recording or declaring of any such title; or,

(f) any document which is made, under any Act, evidence of the registering or recording or declaring of any such deed, instrument or title; or,

(g) any document which is made by any Act evidence affecting the title to land; or,

(h) any notarial act or document or authenticated copy, or any procès-verbal of a surveyor or authenticated copy thereof; or,

(i) any register of births, baptisms, marriages, deaths or burials authorized or required by law to be kept, or any certified copy of any entry in or extract from any such register; or,

(j) any copy of any such register required by law to be transmitted by or to any registrar or other officer; or,

(k) any will, codicil or other testamentary document, either of a dead or living person, or any probate or letters of administration, whether with or without the will annexed; or,

(l) any transfer or assignment of any share or interest in any stock, annuity or public fund of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty, or of any foreign state or country, or receipt or certificate for interest accruing thereon; or,

(m) any transfer or assignment of any share or interest in the debt of any public body, company or society, British, Canadian or foreign, or of any share or interest in the capital stock of any such company or society, or receipt or certificate for interest accruing thereon; or,

(n) any transfer or assignment of any share or interest in any claim to a grant of land from the Crown, or to any scrip or other payment or allowance in lieu of any such grant of land; or,

(o) any power of attorney or other authority to transfer any interest or share hereinbefore mentioned, or to receive any dividend or money payable in respect of any such share or interest; or,

(p) any entry in any book or register, or any certificate, coupon, share, warrant or other document which by any law or any recognized practice is evidence of the title of any person to any such stock, interest or share, or to any dividend or interest payable in respect thereof; or,

(q) any exchequer bill or endorsement thereof or receipt or certificate for interest accruing thereon; or,
(r) any bank note or bill of exchange, promissory note or cheque, or any acceptance, endorsement or assignment thereof; or,

(s) any scrip in lieu of land; or,

(t) any document which is evidence of title to any portion of the debt of any dominion, colony or possession of His Majesty, or of any foreign state, or any transfer or assignment thereof; or,

(u) any deed, bond, debenture, or writing obligatory, or any warrant, order, or other security for money or payment of money, whether negotiable or not, or endorsement or assignment thereof; or,

(v) any accountable receipt or acknowledgment of the deposit, receipt, or delivery of money or goods, or endorsement or assignment thereof; or,

(w) any bill of lading, charter-party, policy of insurance, or any shipping document accompanying a bill of lading, or any endorsement or assignment thereof; or,

(x) any warehouse receipt, dock warrant, dock-keeper's certificate, delivery order, or warrant for the delivery of goods, or of any valuable thing, or any endorsement or assignment thereof; or,

(y) any other document used in the ordinary course of business as proof of the possession or control of goods, or as authorizing, either on endorsement or delivery, the possessor of such document to transfer or receive any goods; is guilty of an indictable offence and liable to imprisonment for life if the document forged purports to be, or was intended by the offender to be understood to be or to be used as genuine. 55-56 V., c. 29, s. 423.

469. Every one who commits forgery of,—

(a) any entry or document made, issued, kept or lodged under any Act for or relating to the registry of any instrument respecting or concerning the title to, or any claim upon, any personal property; or,

(b) any public register or book not hereinbefore mentioned appointed by law to be made or kept, or any entry therein; is guilty of an indictable offence and liable to fourteen years' imprisonment if the document forged purports to be, or was intended by the offender to be understood to be, or to be used as genuine. 55-56 V., c. 29, s. 423.

470. Every one who commits forgery of,—

(a) any record of any court of justice, or any document whatever belonging to or issuing from any court of justice, or being or forming part of any proceeding therein; or,

(b) any certificate, office copy, or certified copy or other documentary document which, by any statute in force for the time being, is admissible in evidence: or.

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Document issued by court.

(c) any document made or issued by any judge, officer or clerk of any court of justice, or any document upon which, by the law or usage at the time in force, any court of justice or any officer might act; or,

Magistrate, process.

(d) any document which any magistrate is authorized or required by law to make or issue; or,

Entry in register.

(e) any entry in any register or book kept, under the provisions of any law, in or under the authority of any court of justice or magistrate acting as such; or,

Letters patent.

(f) any copy of any letters patent, or of the enrolment or enregistration of letters patent, or of any certificates thereof; or,

License. Contract.

(g) any license or certificate for or of marriage; or,

(h) any contract or document which, either by itself or with others, amounts to a contract, or is evidence of a contract; or,

Power of attorney. Orders for money or goods.

(i) any power or letter of attorney or mandate; or,

(j) any authority or request for the payment of money, or for the delivery of goods, or of any note, bill or valuable security; or,

Receipt or discharge.

(k) any acquittance or discharge, or any voucher of having received any goods, money, note, bill or valuable security, or any instrument which is evidence of any such receipt; or,

Documentary evidence.

(l) any document to be given in evidence as a genuine document in any judicial proceeding; or,

Railway ticket.

(m) any ticket or order for a free or paid passage on any carriage, tramway or railway, or any steam or other vessel; or,

Other documents. Penalty.

(n) any document not mentioned in this or the two last preceding sections;

is guilty of an indictable offence and liable to seven years' imprisonment if the document forged purports to be, or was intended by the offender to be understood to be, or to be used as genuine. 55-56 V., c. 29, s. 423.

Penalty. Machinery for exchequer bill paper.

(a) makes, begins to make, uses or knowingly has in his possession, any machinery or instrument or material for making exchequer bill paper, revenue paper or paper intended to resemble the bill paper of any firm or body corporate, or person carrying on the business of banking; or,

(b) engraves or makes upon any plate or material anything purporting to be, or apparently intended to resemble, the whole or any part of any exchequer bill or bank note; or,

(c) uses any such plate or material for printing any part of any such exchequer bill or bank note; or,

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471. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, without lawful authority or excuse, the proof whereof shall lie on him,—
(d) knowingly has in his possession any such plate or material as aforesaid; or,

(e) makes, uses or knowingly has in his possession any exchequer bill paper, revenue paper, or any paper intended to resemble any bill paper of any firm, body corporate, company or person, carrying on the business of banking, or any paper upon which is written or printed the whole or any part of any exchequer bill, or any bank note; or,

(f) engraves or makes upon any plate or material anything intended to resemble the whole or any distinguishing part of any bond or undertaking for the payment of money used by any dominion, colony or possession of His Majesty, or by any foreign prince or state, or by any body corporate, or other body of the like nature, whether within His Majesty's dominions or without; or,

(g) uses any such plate or other material for printing the whole or any part of such bond or undertaking; or,

(h) knowingly offers, disposes of or has in his possession any paper upon which such bond or undertaking, or any part thereof, has been printed. 55-56 V., c. 29, s. 434.

**Offences Resembling Forgery.**

472. Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully makes or who counterfeits any public seal of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty, or the impression of any such seal, or uses any such seal or impression, knowing the same to be so unlawfully made or counterfeited. 55-56 V., c. 29, s. 425.

473. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who unlawfully makes or who counterfeits any seal of a court of justice, or any seal of or belonging to any registry office or burial board, or the impression of any such seal, or uses any such seal or impression knowing the same to be so unlawfully made or counterfeited. 55-56 V., c. 29, s. 426.

474. Every one is guilty of an indictable offence and liable to seven years' imprisonment who prints any proclamation, order, regulation or appointment, or notice thereof, and causes the same falsely to purport to have been printed by the King's Printer for Canada, or the Government printer for any province of Canada, as the case may be, or tenders in evidence any copy of any proclamation, order, regulation or appointment which falsely purports to have been printed as aforesaid, knowing that the same was not so printed. 55-56 V., c. 29, s. 427.
475. Every one is guilty of an indictable offence who, with intent to defraud, causes or procures any telegram to be sent or delivered as being sent by the authority of any person knowing that it is not sent by such authority, with intent that such telegram should be acted on as being sent by that person's authority, and is liable, upon conviction thereof, to the same punishment as if he had forged a document to the same effect as that of the telegram. 55-56 V., c. 29, s. 428.

476. Every one is guilty of an indictable offence and liable to two years' imprisonment who, with intent to injure or alarm any person, sends, causes, or procures to be sent any telegram or letter or other message containing matter which he knows to be false. 55-56 V., c. 29, s. 429.

477. Every one is guilty of an indictable offence who, with intent to defraud and without lawful authority or excuse, makes or executes, draws, signs, accepts or endorses, in the name or on the account of another person, by procuration or otherwise, any document, or makes use of or utters any such document knowing it to be so made, executed, signed, accepted or endorsed, and is liable to the same punishment as if he had forged such document. 55-56 V., c. 29, s. 431.

478. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who—

(a) demands, receives, or obtains anything, or causes or procures anything to be delivered or paid to any person, under, upon, or by virtue of any forged instrument knowing the same to be forged, or under, upon, or by virtue of any probate or letters of administration, knowing the will, codicil or testamentary writing on which such probate or letters of administration were obtained to be forged, or knowing the probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit; or,

(b) attempts to do any such thing as aforesaid. 55-56 V., c. 29, s. 432.

479. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,—

(a) fraudulently counterfeits any stamp, whether impressed or adhesive, used for the purposes of revenue by the Government of the United Kingdom or of Canada, or by the government of any province of Canada, or of any possession or colony of His Majesty, or by any foreign prince or state; or,

(b) knowingly sells or exposes for sale, or utters or uses any such counterfeit stamp; or,

(c) without lawful excuse, the proof whereof shall lie on him, makes, or has knowingly in his possession, any die or instrument R.S., 1906.
instrument capable of making the impression of any such stamp as aforesaid, or any part thereof; or,

(d) fraudulently cuts, tears or in any way removes from any material any such stamp, with intent that any use should be made of such stamp or of any part thereof; or,

(e) fraudulently mutilates any such stamp with intent that any use should be made of any part of such stamp; or,

(f) fraudulently fixes or places upon any material, or upon any stamp aforesaid, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any other way removed from any other material or out of or from any other stamp; or,

(g) fraudulently erases, or otherwise, either really or apparently, removes, from any stamped material any name, sum, date, or other matter or thing thereon written, with the intent that any use should be made of the stamp upon such material; or,

(h) knowingly and without lawful excuse the proof whereof shall lie upon him has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise, either really or apparently, removed; or,

(i) without lawful authority makes or counterfeits any mark or brand used by the Government of the United Kingdom of Great Britain and Ireland, the Government of Canada, or the Government of any province of Canada, or by any department or officer of any such Government for any purpose in connection with the service or business of such Government, or the impression of any such mark or brand, or sells or exposes for sale or has in his possession any goods having thereon a counterfeit of any such mark or brand knowing the same to be a counterfeit, or affixes any such mark or brand to any goods required by law to be marked or branded other than those to which such mark or brand was originally affixed. 55-56 V., c. 29, s. 435.

480. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,—

(a) unlawfully destroys, defaces or injures any register of births, baptisms, marriages, deaths or burials required or authorized by law to be kept in Canada, or any part thereof, or any copy of such register, or any part thereof required by law to be transmitted to any registrar or other officer; or,

(b) unlawfully inserts in any such register, or any such copy thereof, any entry, known by him to be false, of any matter relating to any birth, baptism, marriage, death or burial.

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burial, or erases from any such register or document any material part thereof. 55-56 V., c. 29, s. 436.

Penalty.

481. Every one is guilty of an indictable offence and liable to ten years' imprisonment who,—

(a) being a person authorized or required by law to give any certified copy of any entry in any register in the last preceding section mentioned, certifies any writing to be a true copy or extract, knowing it to be false, or knowingly utters any such certificate; or,

(b) unlawfully and for any fraudulent purpose takes any such register or certified copy from its place of deposit or conceals it; or,

(c) being a person having the custody of any such register or certified copy, permits it to be so taken or concealed. 55-56 V., c. 29, s. 437.

Penalty.

482. Every one is guilty of an indictable offence and liable to seven years' imprisonment who,—

(a) being by law required to certify that any entry has been made in any such register makes such certificate knowing that such entry has not been made; or,

(b) being by law required to make a certificate or declaration concerning any particular required for the purpose of making entries in such register, knowingly makes such certificate or declaration containing a falsehood; or,

(c) being an officer having custody of the records of any court, or being the deputy of any such officer, wilfully utters a false copy or certificate of any record; or,

(d) not being such officer or deputy fraudulently signs or certifies any copy of certificate of any record, or any copy of any certificate, as if he were such officer or deputy. 55-56 V., c. 29, s. 438.

Penalty.

483. Every one is guilty of an indictable offence and liable to two years' imprisonment who,—

(a) being an officer required or authorized by law to make or issue any certified copy of any document or of any extract from any document, wilfully certifies, as a true copy of any document or of any extract from any such document, any writing which he knows to be untrue in any material particular; or,

(b) not being such officer as aforesaid fraudulently signs or certifies any copy of any document, or of any extract from any document, as if he were such officer. 55-56 V., c. 29, s. 439.

Penalty.

484. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to defraud,—

(a) makes any untrue entry or any alteration in any book of account kept by the Government of Canada, or of any province

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province of Canada, or by any bank for any such Government, in which books are kept the accounts of the owners of any stock, annuity or other public fund transferable for the time being in any such books, or who, in any manner, wilfully falsifies any of the said books; or, (b) makes any transfer of any share or interest of or in any stock, annuity or public fund, transferable for the time being at any of the said banks, in the name of any person other than the owner of such share or interest. 55-56 V., c. 29, s. 440.

485. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being in the employment of the Government of Canada, or of any province of Canada, or of any bank in which any books of account mentioned in the last preceding section are kept, with intent to defraud, makes out or delivers any dividend warrant, or any warrant for the payment of any annuity, interest or money payable at any of the said banks, for an amount greater or less than that to which the person on whose account such warrant is made out is entitled. 55-56 V., c. 29, s. 441.

Forgery of Trade Marks and Fraudulent Marking of Merchandise.

486. Every one is deemed to forge a trade mark who either,—

(a) without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling it as to be calculated to deceive; or,
(b) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise.

2. Any trade mark or mark so made or falsified is, in this Part, referred to as a forged trade mark. 55-56 V., c. 29, s. 445.

487. Every one is deemed to apply a trade mark, or mark, or trade description to goods who,—

(a) applies it to the goods themselves; or,
(b) applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade or manufacture; or,
(c) places, incloses or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade or manufacture in, with or to any covering, label, reel, or other thing to which a trade mark or mark or trade description has been applied; or,
(d) uses a trade mark or mark or trade description in any manner calculated to lead to the belief that the goods in connection

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connection with which it is used are designated or described by that trade mark or mark or trade description.

2. A trade mark or mark or trade description is deemed to be applied whether it is woven, impressed or otherwise worked into, or annexed or affixed to, the goods, or to any covering, label, reel, or other thing.

3. Every one is deemed to falsely apply to goods a trade mark or mark who, without the assent of the proprietor of the trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive. 55-56 V., c. 29, s. 446.

Forging, etc., trade marks. 488. Every one is guilty of an indictable offence who, with intent to defraud,—

(a) forges any trade mark; or,

(b) falsely applies to any goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive; or,

(c) makes any die, block, machine or other instrument, for the purpose of forging, or being used for forging, a trade mark; or,

(d) applies any false trade description to goods; or,

(e) disposes of, or has in his possession, any die, block, machine, or other instrument, for the purpose of forging a trade mark; or,

(f) causes any of such things to be done.

2. On any prosecution for forging a trade mark the burden of proof of the assent of the proprietor shall lie on the defendant. 55-56 V., c. 29, ss. 447 and 710.

Selling goods falsely marked. 489. Every one is guilty of an indictable offence who sells or exposes, or has in his possession, for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, unless he proves,—

(a) that having taken all reasonable precaution against committing such an offence he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and,

(b) that on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things; and,

(c) that otherwise he had acted innocently. 55-56 V., c. 29, s. 448.

Defacing trade mark. 490. Every one is guilty of an indictable offence who,—

(a) wilfully defaces, conceals or removes the trade mark duly registered, or name of another person upon any cask, keg, bottle, siphon, vessel, can, case, or other package, unless such cask, keg, bottle, siphon, vessel, can, case or other
other package has been purchased from such other person, if the same shall have been so defaced, concealed or removed without the consent of, and with intention to defraud such other person;

(b) being a manufacturer, dealer or trader, or bottler, Using trade marks, or traffics in any bottle or siphon which has upon it the trade mark duly registered or name of another person, without the written consent of such other person, or without such consent fills such bottle or siphon with any beverage for the purpose of sale or traffic.

2. The using by any manufacturer, dealer or trader or bottler, other than such other person, of any bottle or siphon for the sale therein of any beverage, or the having by any such manufacturer, dealer, trader or bottler upon any bottle or siphon such trade mark or name of such other person, or the buying, selling or trafficking in any such bottle or siphon without such written consent of such other person, or the fact that any junkdealer has in his possession any bottle or siphon having upon it such a trade mark or name without such written consent, shall be prima facie evidence of trading or trafficking within the meaning of paragraph (b) of this section. 63-64 V., c. 46, s. 3.

491. Every one guilty of an offence defined in this Part in respect to trade marks or names, or in respect to trade descriptions or false trade descriptions for which no penalty is in this Part otherwise provided, is liable,—

(a) on conviction on indictment, to two years' imprisonment, with or without hard labour, or to a fine, or to both imprisonment and fine; and, On indictment.

(b) on summary conviction, to four months' imprisonment, with or without hard labour, or to a fine not exceeding one hundred dollars; and, in case of a second or subsequent conviction, to six months' imprisonment, with or without hard labour, or to a fine not exceeding two hundred and fifty dollars. On summary conviction.

2. In any case every chattel, article, instrument or thing, by means of, or in relation to which, the offence has been committed shall be forfeited. 55-56 V., c. 29, s. 450.

492. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars, who falsely represents that any goods are made by a person holding a royal warrant, or for the service of His Majesty or any of the royal family, or any government department of the United Kingdom or of Canada. 55-56 V., c. 29, s. 451.

493. Every one is guilty of an offence and liable, on summary conviction, to a penalty of not more than five hundred dollars nor less than two hundred dollars who imports or attempts Unlawful importation of goods liable to forfeiture.

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494. Any one who is charged with making any die, block, machine or other instrument for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark, or any mark, so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves,—

(a) that in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines or other instruments for making or being used in making trade marks, or, as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in Canada, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and,

(b) that he took reasonable precaution against committing the offence charged; and,

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and,

(d) that he gave to the prosecutor all the information in his power with respect to the person by or on whose behalf the trade mark, mark or description was applied;

shall be discharged from the prosecution but is liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence. 55-56 V., c. 29, s. 453.

495. No servant of a master, resident in Canada, who bona fide acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, gives full information as to his master, is liable to any prosecution or punishment for any offence defined in this Part. 55-56 V., c. 29, s. 454.

**Offences connected with Trade and Breaches of Contract.**

496. A conspiracy in restraint of trade is an agreement between two or more persons to do or procure to be done any unlawful act in restraint of trade. 55-56 V., c. 29, s. 516.

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497. The purposes of a trade union are not, by reason merely that they are in restraint of trade, unlawful within the meaning of the last preceding section. 55-56 V., c. 29, s. 517.

498. Every one is guilty of an indictable offence and liable to a penalty not exceeding four thousand dollars and not less than two hundred dollars, or to two years' imprisonment, or, if a corporation, is liable to a penalty not exceeding ten thousand dollars, and not less than one thousand dollars, who conspires, combines, agrees or arranges with any other person, or with any railway, steamship, steamboat or transportation company,—

(a) to unduly limit the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce; or,

(b) to restrain or injure trade or commerce in relation to any such article or commodity; or,

(c) to unduly prevent, limit, or lessen the manufacture or production of any such article or commodity, or to unreasonably enhance the price thereof; or,

(d) to unduly prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity, or in the price of insurance upon person or property.

2. Nothing in this section shall be construed to apply to combinations of workmen or employees for their own reasonable protection as such workmen or employees. 63-64 V., c. 46, s. 3.

499. Every one is guilty of an offence punishable on indictment on summary conviction before two justices and liable on conviction to a penalty not exceeding one hundred dollars or to three months' imprisonment, with or without hard labour, who,—

(a) wilfully breaks any contract made by him knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or to cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury; or,

(b) being bound, agreeing or assuming, under any contract made by him with any municipal corporation or authority, or with any company, to supply any city or any other place, or any part thereof, with electric light or power, gas or water, wilfully breaks such contract knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city or place, or part thereof, wholly or to a great extent, of their supply of power, light, gas or water; or,

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Wilfully breaking contract with railway under agreement to carry mails, (c) being bound, agreeing or assuming, under any contract made by him with a railway company, or with His Majesty, or any one on behalf of His Majesty, in connection with a government railway on which His Majesty's mails, or passengers or freight are carried, to carry His Majesty's mails, or to carry passengers or freight, wilfully breaks such contract knowing, or having reason to believe that the probable consequences of his so doing, either alone or in combination with others, will be to delay or prevent the running of any locomotive engine, or tender, or freight or passenger train or car, on the railway.

Municipality or company supplying light, power, gas or water wilfully breaking contract.

2. Every municipal corporation or authority or company, bound, agreeing or assuming to supply any city, or any other place, or any part thereof, with electric light or power, gas or water, which wilfully breaks any contract made by such municipal corporation, authority, or company, knowing or having reason to believe that the probable consequences of its so doing will be to deprive the inhabitants of that city or place or part thereof wholly, or to a great extent, of their supply of electric light or power, gas or water, is liable to a penalty not exceeding one thousand dollars.

Railway company breaking contract.

3. Every railway company, bound, agreeing or assuming to carry His Majesty's mails, or to carry passengers or freight, which wilfully breaks any contract made by such railway company, knowing or having reason to believe that the probable consequences of so doing will be to delay or prevent the running of any locomotive engine or tender, or freight or passenger train or car on the railway, is liable to a penalty not exceeding one hundred dollars.

Malice not an element.

4. It is not material whether any offence defined in this section is committed from malice conceived against the person, corporation, authority or company with which the contract is made or otherwise. 55-56 V., c. 29, s. 521.

500. Every such municipal corporation, authority, or company, shall cause to be posted up at the electrical works, gas works, or water-works, or railway stations, as the case may be, belonging to such corporation, authority or company, a printed copy of this and the preceding section in some conspicuous place, where the same may be conveniently read by the public; and as often as such copy becomes defaced, obliterated or destroyed shall cause it to be renewed with all reasonable despatch.

Penalty for default.

2. Every such municipal corporation, authority or company which makes default in complying with such duty is liable to a penalty not exceeding twenty dollars for every day during which such default continues.

Defacing same.

3. Every person unlawfully injuring, defacing or covering up any such copy so posted up is liable on summary conviction.

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tion to a penalty not exceeding ten dollars. 55-56 V., c. 29, s. 522.

501. Every one is guilty of an offence punishable, at the option of the accused, on indictment or on summary conviction before two justices and liable on conviction to a fine not exceeding one hundred dollars, or to three months' imprisonment with or without hard labour, who, wrongfully and without lawful authority, with a view to compel any other person to abstain from doing anything which he has a lawful right to do, or to do anything from which he has a lawful right to abstain,—

(a) uses violence to such other person, or his wife or By violence, children, or injures his property; or,

(b) intimidates such other person, or his wife or children, by threats of using violence to him, her or any of them, or of injuring his property; or,

(c) persistently follows such other person about from place to place; or,

(d) hides any tools, clothes or other property owned or used by such other person, or deprives him of, or hinders him in, the use thereof; or,

(e) with one or more other persons, follows such other person, in a disorderly manner, in or through any street or road; or,

(f) besets or watches the house or other place where such other person resides or works, or carries on business or happens to be. 55-56 V., c. 29, s. 523; 4-5 E. VII., c. 9, s. 3.

502. Every one is guilty of an indictable offence and liable to two years' imprisonment who, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with intent to hinder him from working or being employed at such trade, business or manufacture. 55-56 V., c. 29, s. 524.

503. Every one is guilty of an offence punishable on indictment, or on summary conviction before two justices, and liable on conviction to a fine not exceeding one hundred dollars, or to three months' imprisonment with or without hard labour, who,—

(a) beats or uses any violence or threat of violence to any person with intent to deter or hinder him from buying, selling or otherwise disposing of any wheat or other grain, flour, meal, malt or potatoes, or other produce or goods, in any market or other place; or,

2551 (b)

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To prevent conveyance of same.

By violence hinders seamen, etc., exercising lawful calling.

Using violence with intent to hinder.

(b) beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, while on the way to or from any city, market, town or other place with intent to stop the conveyance of the same; or,

(c) by force or threats of violence, or by any form of intimidation whatsoever, hinders or prevents, or attempts to hinder or prevent any seaman, stevedore, ship carpenter, ship labourer or other person employed to work at or on board any ship or vessel, or to do any work connected with the loading or unloading thereof, from working at or exercising any lawful trade, business, calling or occupation in or for which he is so employed; or with intent so to hinder or prevent, besets or watches such ship, vessel or employee; or,

(d) beats or uses any violence to, or makes any threat of violence against, any such person with intent to hinder or prevent him from working at or exercising such trade, business, calling or occupation or on account of his having worked at or exercised the same. 55-56 V., c. 29, s. 525.

504. Every person is guilty of an indictable offence and liable to a fine not exceeding four hundred dollars, or to two years' imprisonment, or to both, who, before or at the time of the public sale of any Indian lands, or public lands of Canada, or of any province of Canada, by intimidation, or illegal combination, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale. 55-56 V., c. 29, s. 526.

Trading Stamps.

505. Every one is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding five hundred dollars, who, by himself or his employee or agent, directly or indirectly, issues, gives, sells or otherwise disposes of, or offers to issue, give, sell or otherwise dispose of trading stamps to a merchant or dealer in goods for use in his business. 4-5 E. VII., c. 9, s. 1.

506. Every one is guilty of an indictable offence and liable to six months' imprisonment, and to a fine not exceeding two hundred dollars, who, being a merchant or dealer in goods, by himself or his employee or agent, directly or indirectly, gives or in any way disposes of, or offers to give or in any way dispose of, trading stamps to a purchaser from him of any such goods. 4-5 E. VII., c. 9, s. 1.

507. Any executive officer of a corporation or company guilty of an offence under the two last preceding sections who

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in any way aids or abets in or counsels or procures the commission of such offence, is guilty of an indictable offence and liable to the punishment stated in the said sections respectively. 4-5 E. VII., c. 9, s. 1.

508. Every one is guilty of an offence and liable, on summary conviction, to a fine not exceeding twenty dollars, who being a purchaser of goods from a merchant or dealer in goods, directly or indirectly receives or takes trading stamps from the vendor of such goods or his employee or agent. 4-5 E. VII., c. 9, s. 1.

PART VIII.

WILFUL AND FORBIDDEN ACTS IN RESPECT OF CERTAIN PROPERTY.

Interpretation.

509. Every one who causes any event by an act which he knew would probably cause it, being reckless whether such event happens or not, is deemed for the purposes of this Part to have caused it wilfully. 55-56 V., c. 29, s. 181.

Mischief.

510. Every one is guilty of the indictable offence of mischief who wilfully destroys or damages any of the property in this section mentioned, and is liable to the punishment in this section specified, that is to say:—

(A) To imprisonment for life if the object damaged is,—

(a) a dwelling-house, ship or boat, and the damage is caused by an explosion, and any person is in such dwelling-house, ship or boat; and the damage causes actual danger to life; or,

(b) a bank, dyke or wall of the sea, or of any inland water, natural or artificial, or any work in, on, or belonging to any port, harbour, dock or inland water, natural or artificial, and the damage causes actual danger of inundation; or,

(c) any bridge, whether over any stream of water or not, or any viaduct, or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway or canal passes, and the damage is done with intent to render and does render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable; or,

(d) —

2553 (d) R.S., 1906.
Railway. 

Penalty. 

Damage to ship.

To cattle.

Penalty.

Damage to ship.

Signal.

Bank, dyke or wall.

River or canal.

Flood gate or sluice.

Private fishery.

Flood gate.

Goods.

Machines.

Hop bind.

Penalty.

Damaging tree or shrub.

Letter bag, etc.

Letter box, etc.

Mailable matter.

(d) a railway damaged with the intent of rendering and so as to render such railway dangerous or impassable;

(B) To fourteen years' imprisonment if the object damaged is—

(a) a ship in distress or wrecked, or any goods, merchandise or articles belonging thereto; or,

(b) any cattle or the young thereof, and the damage is caused by killing, maiming, poisoning or wounding;

(C) To seven years' imprisonment if the object damaged is,—

(a) a ship damaged with intent to destroy or render useless such ship; or,

(b) a signal or mark used for purposes of navigation; or,

(c) a bank, dyke or wall of the sea or of any inland water or canal, or any materials fixed in the ground for securing the same, or any work belonging to any port, harbour, dock, or inland water or canal; or,

(d) a navigable river or canal damaged by interference with the flood gates or sluices thereof or otherwise, with intent and so as to obstruct the navigation thereof; or,

(e) the flood gate or sluice of any private water with intent to take or destroy, or so as to cause the loss or destruction of, the fish therein; or,

(f) a private fishery or salmon river damaged by lime or other noxious material put into the water thereof with intent to destroy fish therein or to be put therein; or,

(g) the flood gate of any mill-pond, reservoir or pool cut through or destroyed; or,

(h) goods in process of manufacture damaged with intent to render them useless; or,

(i) agricultural or manufacturing machines, or manufacturing implements, damaged with intent to render them useless; or,

(j) a hop bind growing in a plantation of hops, or a grape vine growing in a vineyard;

(D) To five years' imprisonment if the object damaged is,—

(a) a tree, shrub or underwood growing in a park, pleasure ground or garden, or in any land adjoining or belonging to a dwelling-house, injured to an extent exceeding in value five dollars; or,

(b) a post letter bag or post letter; or,

(c) any street letter box, pillar, box or other receptacle established by authority of the Postmaster General for the deposit of letters or other mailable matter; or,

(d) any parcel sent by parcel post, any packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, seedlings or grafts, or any printed vote or proceeding, newspaper, printed paper or book
book or other mailable matter, not being a post letter, sent by mail; or.

(e) any property, real or personal, corporeal or incorporeal, for damage to which no special punishment is prescribed, damaged by night to the value of twenty dollars;

(E) To two years' imprisonment if the object damaged is any property, real or personal, corporeal or incorporeal, for damage to which no special punishment is prescribed, damaged to the value of twenty dollars. 55-56 V., c. 29, s. 499.

Arson.

511. Every one is guilty of the indictable offence of arson and liable to imprisonment for life who wilfully sets fire to any building or structure, whether such building or structure is completed or not, or to any stack of vegetable produce or of mineral or vegetable fuel, or to any mine or well of oil or other combustible substance, or to any ship or vessel, whether completed or not, or to any timber or materials placed in any shipyard for building or repairing or fitting out any ship, or to any of His Majesty's stores or munitions of war. 55-56 V., c. 29, s. 482.

512. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully attempts to set fire to anything mentioned in the last preceding section, or who wilfully sets fire to any substance so situated that he knows that any thing mentioned in the last preceding section is likely to catch fire therefrom. 55-56 V., c. 29, s. 483.

Setting Other Fires.

513. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully sets fire to—

(a) any crop, whether standing or cut down, or any wood, forest, coppice or plantation, or any heath, gorse, furze or fern; or,

(b) any tree, lumber, timber, logs, or floats, boom, dam or slide, and thereby injures or destroys the same. 55-56 V., c. 29, s. 484.

514. Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully attempts to set fire to anything mentioned in the last preceding section, or who wilfully sets fire to any substance so situated that he knows that any thing mentioned in the last preceding section is likely to catch fire therefrom. 55-56 V., c. 29, s. 485.

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Recklessly setting fire to forests.

515. Every one is guilty of an indictable offence and liable to two years' imprisonment, who, by such negligence as shows him to be reckless or wantonly regardless of consequences, or in violation of a provincial or municipal law of the locality, sets fire to any forest, tree, manufactured lumber, square timber, logs or floats, boom, dam or slide, on the Crown domain, or on land leased or lawfully held for the purpose of cutting timber, or on private property on any creek or river, or rollway, beach or wharf, so that the same is injured or destroyed.

2. The magistrate investigating any such charge may, in his discretion, if the consequences have not been serious, dispose of the matter summarily, without sending the offender for trial, by imposing a fine not exceeding fifty dollars, and in default of payment by the committal of the offender to prison for any term not exceeding six months, with or without hard labour. 55-56 V., c. 29, s. 486.

Threats to burn.

516. Every one is guilty of an indictable offence and liable to ten years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any building, or any rick or stack of grain, hay or straw or other agricultural produce, or any grain, hay or straw or other agricultural produce in or under any building, or any ship or vessel. 55-56 V., c. 29, s. 487.

Injuries affecting railways, likely to endanger property.

517. Every one is guilty of an indictable offence and liable to five years' imprisonment who, in manner likely to cause danger to valuable property, without endangering life or person,—

(a) places any obstruction upon any railway, or takes up, removes, displaces, breaks or injures any rail, sleeper or other matter or thing belonging to any railway; or,
(b) shoots or throws anything at an engine or other railway vehicle; or,
(c) interferes without authority with the points, signals or other appliances upon any railway; or,
(d) makes any false signal on or near any railway; or,
(e) wilfully omits to do any act which it is his duty to do; or,
(f) does any other unlawful act.

With intent.

2. Every one who does any of the acts in this section mentioned with intent to cause such danger is liable to imprisonment for life. 55-56 V., c. 29, s. 489.

Obstructing railways.

518. Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any act or wilful omission, obstructs or interrupts, or causes to be obstructed or interrupted,
rupted, the construction, maintenance or free use of any railway or any part thereof, or any matter or thing appertaining thereto or connected therewith. 55-56 V., c. 29, s. 490.

519. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the goods or liquors so destroyed or damaged or to one month’s imprisonment with or without hard labour, or to both, who,—

(a) wilfully destroys or damages anything containing any goods or liquors in or about any railway station or building or any vehicle of any kind on any railway, or in any warehouse, ship or vessel, with intent to steal or otherwise unlawfully to obtain or to injure the contents, or any part thereof; or,

(b) unlawfully drinks or wilfully spills or allows to run to waste any such liquors, or any part thereof. 55-56 V., c. 29, s. 491.

520. Every one is guilty of an indictable offence and liable to seven years’ imprisonment who, with intent to injure a mine or oil well, or obstruct the working thereof,—

(a) causes any water, earth, rubbish or other substance to be conveyed into the mine or oil well or any subterranean channel communicating with such mine or well; or,

(b) damages any shaft or any passage of the mine or well; or,

(c) damages, with intent to render useless, any apparatus, building, erection, bridge or road belonging to the mine or well, whether the object damaged be complete or not; or,

(d) hinders the working of any such apparatus; or,

(e) damages or unfastens, with intent to render useless, any rope, chain or tackle used in any mine or well or upon any way or work connected therewith. 55-56 V., c. 29, s. 498.

521. Every one is guilty of an indictable offence and liable to two years’ imprisonment who wilfully,—

(a) destroys, removes or damages anything which forms part of, or is used or employed in or about any electric or magnetic telegraph, electric light, telephone or fire-alarm, or in the working thereof, or for the transmission of electricity for other lawful purposes; or,

(b) prevents or obstructs the sending, conveyance or delivery of any communication by any such telegraph, telephone or fire-alarm, or the transmission of electricity for any such electric light, or for any such purpose as aforesaid.

2. Every one who wilfully, by any overt act, attempts to commit any such offence is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars. 55-56 V., c. 29, s. 492.
522. Every one is guilty of an indictable offence and liable to imprisonment for life who wilfully,—
(a) casts away or destroys any ship, whether complete or unfinished; or,
(b) does any act tending to the immediate loss or destruction of any ship in distress; or,
(c) interferes with any marine signal, or exhibits any false signal, with intent to bring a ship or boat into danger. 55-56 V., c. 29, s. 493.

523. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who attempts to cast away or destroy any ship, whether complete or unfinished. 55-56 V., c. 29, s. 494.

524. Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully prevents or impedes, or endeavours to prevent or impede,—
(a) the saving of any vessel that is wrecked, stranded, abandoned or in distress; or,
(b) any person in his endeavour to save such vessel.

2. Every one who wilfully prevents or impedes, or endeavours to prevent or impede, the saving of any wreck is guilty of an offence punishable on indictment or on summary conviction and liable, on conviction on indictment, to two years' imprisonment, and, on summary conviction before two justices, to a fine of four hundred dollars or six months' imprisonment with or without hard labour. 55-56 V., c. 29, s. 496.

525. Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully,—
(a) breaks, injures, cuts, loosens, removes or destroys, in whole or in part, any dam, pier, slide, boom or other such work, or any chain or other fastening attached thereto, or any raft, crib of timber or saw-logs; or,
(b) impedes or blocks up any channel or passage intended for the transmission of timber. 55-56 V., c. 29, s. 497.

Public Property.

526. Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully alters, removes or conceals, or attempts to alter, remove or conceal, any signal, buoy or other sea mark used for the purposes of navigation.

2. Every one who makes fast any vessel or boat to any such signal, buoy, or sea mark is liable, on summary conviction, to a penalty not exceeding ten dollars, and in default of payment to one month's imprisonment. 55-56 V., c. 29, s. 495.

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527. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars, who wilfully and without the permission of the Minister of Marine and Fisheries, the burden of proving which permission shall lie on the accused, removes any stone, wood, earth or other material forming a natural bar necessary for the existence of a public harbour, or forming a natural protection to such bar. 56 V., c. 32, s. 1.

528. Every one is guilty of an indictable offence and liable Penalty. to seven years' imprisonment who wilfully,—
(a) destroys, injures or obliterates, or causes to be destroyed, Injuring, injured or obliterated; or,
(b) makes or causes to be made any erasure, addition of names or interlineation of names in or upon; any writ of election, or any return to a writ of election, or any Election documents. indenture, poll-book, voters' list, certificate, affidavit or report, or any document, ballot or paper made, prepared or drawn out according to any law in regard to Dominion, provincial, municipal or civic elections. 55-56 V., c. 29, s. 503.

Buildings, Fences and Land Marks.

529. Every one is guilty of an indictable offence and liable Penalty. to five years' imprisonment who, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, which is built on lands subject to a mortgage or which is held for any term of years or other less term, or at will, or held over after the termination of any tenancy, wilfully and to the prejudice of the mortgagee or owner,—
(a) pulls down or demolishes, or begins to pull down or Injuring or removing building. demolish the same or any part thereof, or removes or begins to remove the same or any part thereof from the premises on which it is erected; or,
(b) pulls down or severs from the freehold any fixture fixed Fixture. in or to such dwelling-house or building, or part of such dwelling-house or building. 55-56 V., c. 29, s. 504.

530. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the amount of the injury done, who wilfully destroys or damages any fence, or any wall, stile or gate, or any part thereof respectively, or any post or stake planted or set up on any land, marsh, swamp or land covered by water, on or as the boundary or part of the boundary line thereof, or in lieu of a fence thereto.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. 55-56 V., c. 29, s. 507.

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531. R.S., 1906.
531. Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected, planted or placed to mark or determine the boundaries of any province, county, city, town, township, parish or other municipal division. R.S., 55-56 V., c. 29, s. 505.

532. Every one is guilty of an indictable offence and liable to five years' imprisonment, who wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land.

2. It is not an offence for any land surveyor in his operations to take up such posts or other boundary marks when necessary, if he carefully replaces them as they were before. R.S., 55-56 V., c. 29, s. 506.

Trees, Vegetables, Roots and Plants.

533. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars over and above the amount of the injury done, or to two months' imprisonment with or without hard labour, who wilfully destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood, wheresoever the same is growing, the injury done being to the amount of twenty-five cents, at the least.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to a penalty not exceeding fifty dollars over and above the amount of the injury done, or to four months' imprisonment with hard labour.

3. Every one who, having been twice convicted of any such offence, afterwards commits any such offence, is guilty of an indictable offence and liable to two years' imprisonment. R.S., 55-56 V., c. 29, s. 508.

534. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the amount of the injury done, or to three months' imprisonment with or without hard labour, who wilfully destroys, or damages with intent to destroy, any vegetable production growing in any garden, orchard, nursery ground, house, hot-house, green-house or conservatory.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence, and liable to two years' imprisonment. R.S., 55-56 V., c. 29, s. 509.

535. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five dollars over and
and above the amount of the injury done, or to one month's imprisonment with or without hard labour, who wilfully destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard or nursery ground.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. 55-56 V., c. 29, s. 510.

Cattle and Other Animals.

536. Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully,—

(a) attempts to kill, maim, wound, poison or injure any cattle, or the young thereof; or,

(b) places poison in such a position as to be easily partaken of by any such animal. 55-56 V., c. 29, s. 500.

537. Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars over and above the amount of injury done, or to three months' imprisonment with or without hard labour, who wilfully kills, maims, wounds, poisons or injures any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or kept for any lawful purpose.

2. Every one who, having been convicted of any such offence, afterwards commits any offence under this section, is guilty of an indictable offence, and liable to a fine or imprisonment, or both, in the discretion of the court. 55-56 V., c. 29, s. 501.

538. Every one is guilty of an indictable offence and liable to two years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill, maim, wound, poison or injure any cattle. 55-56 V., c. 29, s. 502.

Cases not Specially Provided for.

539. Every one who wilfully commits any damage, injury or spoil to or upon any real or personal property, either corporeal or incorporeal, and either of a public or private nature, for which no punishment is hereinbefore provided, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars, and such further sum, not exceeding twenty dollars, as appears to the justice to be a reasonable compensation for the damage, injury or spoil so committed, to be paid in the case of private property to the person aggrieved. 161 2561 2. R.S., 1906.
2. If such sums of money, together with the costs, if ordered, are not paid either immediately after the conviction, or within such period as the justice, at the time of the conviction appoints, the justice may cause the offender to be imprisoned for any term not exceeding two months, with or without hard labour. 55-56 V., c. 29, s. 511.

Limitation.

540. Nothing in the last preceding section extends to,—

(a) any case where the person acted under a fair and reasonable supposition that he had a right to do the act complained of; or,

(b) any trespass, not being wilful and malicious, committed in hunting or fishing, or in the pursuit of game. 55-56 V., c. 29, s. 511.

541. Nothing shall be an offence under any of the foregoing provisions of this Part unless it is done without legal justification or excuse, and without colour of right.

2. Where the offence consists in an injury to anything in which the offender has an interest, the existence of such interest, if partial, shall not prevent his act being an offence, and if total, shall not prevent his act being an offence, if done with intent to defraud. 55-56 V., c. 29, s. 481.

Cruelty to Animals.

542. Every one is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars, or to three months’ imprisonment with or without hard labour, or to both, who,—

(a) wantonly, cruelly or unnecessarily beats, binds, ill-treats, abuses, overdrives or tortures any cattle, poultry, dog, domestic animal or bird, or any wild animal or bird in captivity; or,

(b) while driving any cattle or other animal is, by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal; or,

(c) in any manner encourages, aids or assists at the fighting or baiting of any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature. 55-56 V., c. 29, s. 512; 58-59 V., c. 40, s. 1.

543. Every one is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars, or to three months’ imprisonment, with or without hard labour, or to both, who builds, makes, maintains or keeps a cock-pit on premises belonging to or occupied

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occupied by him, or allows a cock-pit to be built, made, main-
tained or kept on premises belonging to or occupied by him.

2. All cocks found in any such cock-pit, or on the premises, wherein such cock-pit is, shall be confiscated and sold for the benefit of the municipality in which such cock-pit is situated. 55-56 V., c. 29, s. 513.

544. No railway company within Canada whose railway forms any part of a line of road over which cattle are conveyed from one province to another province, or from the United States to or through any province, or from any part of a province to another part of the same, and no owner or master of any vessel carrying or transporting cattle from one province to another province, or within any province, or from the United States to or through any province, shall confine the same in any car, or vessel of any description, for a longer period than twenty-eight hours without unloading the same for rest, water and feeding for a period of at least five consecutive hours, unless prevented from so unloading and furnishing water and food by storm or other unavoidable cause, or by necessary delay or detention in the crossing of trains.

2. In reckoning the period of confinement, the time during which the cattle have been confined without such rest, and without the furnishing of food and water, on any connecting railway or vessels from which they are received, whether in the United States or in Canada, shall be included.

3. The foregoing provisions as to cattle being unladen shall not apply when cattle are carried in any car or vessel in which they have proper space and opportunity for rest, and proper food and water.

4. Cattle so unloaded shall be properly fed and watered dur-
ing such rest by the owner or person having the custody thereof, or, in case of his default in so doing, by the railway company, or owner or master of the vessel transporting the same, at the expense of the owner or person in custody thereof; and such company, owner or master shall in such case have a lien upon such cattle for food, care and custody furnished and shall not be liable for any detention of such cattle.

5. Where cattle are unladen from cars for the purpose of receiving food, water and rest, the railway company then having charge of the cars in which they have been transported shall, except during a period of frost, clear the floors of such cars, and litter the same properly with clean sawdust or sand before reloading them with live stock.

6. Every railway company, or owner or master of a vessel, having cattle in transit, or the owner or person having the custody of such cattle, as aforesaid, who knowingly and wilfully fails to comply with the foregoing provisions of this section, is liable for every such failure on summary conviction to a penalty not exceeding one hundred dollars. 55-56 V., c. 29, s. 514.
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545. Any peace officer or constable may, at all times enter any premises where he has reasonable grounds for supposing that any car, truck or vehicle as to which any company or person has failed to comply with the provisions of the last preceding section, is to be found, or enter on board any vessel in respect whereof he has reasonable grounds for supposing that any company or person has, on any occasion, so failed.

2. Every one who refuses admission to such peace officer or constable is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars and not less than five dollars, and costs, and in default of payment, to thirty days' imprisonment. 55-56 V., c. 29, s. 515

PART IX.

OFFENCES RELATING TO BANK NOTES, COIN AND COUNTERFEIT MONEY.

Interpretation.

546. In this Part, unless the context otherwise requires,—

(a) ‘current gold or silver coin,’ includes any gold or silver coin of any of His Majesty's mints, or gold or silver coin of any foreign prince or state or country, or other gold or silver coin lawfully current, by virtue of any proclamation or otherwise, in any part of His Majesty's dominions;

(b) ‘current copper coin’ includes copper coin coined in any of His Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of His Majesty's dominions;

(c) ‘counterfeit’ means false, not genuine;

(d) ‘gild’ and ‘silver’ applied to coin, include casing with gold or silver respectively, and washing and colouring by any means whatsoever with any wash or materials capable of producing the appearance of gold or silver respectively;

(e) ‘utter’ includes ‘tender’ and ‘put off’;

(f) ‘counterfeit token of value’ means any spurious or counterfeit coin, paper money, inland revenue stamp, postage stamp, or other evidence of value, by whatever technical, trivial or deceptive designation the same may be described, and includes also any coin or paper money, which although genuine has no value as money. 55-56 V., c. 29, s. 460; 63-64 V., c. 46, s. 3.

547. Any genuine coin prepared or altered so as to resemble or pass for any current coin of a higher denomination is a counterfeit coin.

2. A coin fraudulently filed or cut at the edges so as to remove the milling, and on which a new milling has been added to
to restore the appearance of the coin, is a counterfeit coin. 55-56 V., c. 29, s. 460.

**Certain offences—When complete.**

548. Every offence of making any counterfeit coin, or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter or put off, any counterfeit coin is deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, tendered, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected. 55-56 V., c. 29, s. 461.

549. In the case of coin or paper money which, although genuine, has no value as money, it is necessary in order to constitute an offence under this Part that there should be knowledge on the part of the person charged that such coin or paper money was of no value as money, and a fraudulent intent on his part in his dealings with or with respect to the same. 63-64 V., c. 46, s. 3.

**Bank Notes.**

550. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, without lawful authority or excuse, the proof whereof shall lie on him, purchases or receives from any person, or has in his custody or possession, any forged bank note, or forged blank bank note, whether complete or not, knowing it to be forged. 55-56 V., c. 29, s. 430.

551. Every one is guilty of an offence and liable, on summary conviction before two justices, to a fine of one hundred dollars or three months' imprisonment, or both, who designs, engraves, prints or in any manner makes, executes, utters, issues, distributes, circulates or uses any business or professional card, notice, placard, circular, hand-bill or advertisement in the likeness or similitude of any bank note, or any obligation or security of any government or any bank. 55-56 V., c. 29, s. 442.

**Coin.**

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

(a) makes or begins to make any counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin; or,

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(b) R.S., 1906.

Making counterfeit gold or silver coin.
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(b) gilds or silvers any coin resembling or apparently intended to resemble or pass for, any current gold or silver coin; or,

(c) gilds or silvers any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin; or,

(d) gilds any current silver coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold coin; or,

(e) gilds or silvers any current copper coin, or files or in any manner alters such coin, with intent to make the same resemble or pass for any current gold or silver coin.  55-56 V., c. 29, s. 462.

553. Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse the proof whereof shall lie on him,—

(a) buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, at or for a lower rate or value than the same imports, or was apparently intended to import, any counterfeit coin resembling or apparently intended to resemble or pass for any current gold or silver coin; or,

(b) imports or receives into Canada any counterfeit coin resembling or apparently intended to resemble or pass for, any current gold or silver coin knowing the same to be counterfeit.  55-56 V., c. 29, s. 463.

554. Every one who manufactures in Canada any copper coin, or imports into Canada any copper coin, other than current copper coin, with the intention of putting the same into circulation as current copper coin, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars for every pound troy weight thereof; and all such copper coin so manufactured or imported shall be forfeited to His Majesty.  55-56 V., c. 29, s. 464.

555. Every one is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority or excuse the proof whereof shall lie on him, exports or puts on board any ship, vessel or boat, or on any railway or carriage or vehicle of any description whatsoever, for the purpose of being exported from Canada, any counterfeit coin resembling or apparently intended to resemble or pass for any current coin or for any foreign coin of any prince, country or state, knowing the same to be counterfeit.  55-56 V., c. 29, s. 465.  

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556. Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse the proof whereof shall lie on him, makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession,—

(a) any puncheon, counter puncheon, matrix, stamp, die, pattern or mould, in or upon which there is made or impressed or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides; or,

(b) any edger, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any such coin, knowing the same to be so adapted and intended; or,

(c) any press for coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver or other metal or mixture of metals, or any other machine, knowing such press to be a press for coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin. 55-56 V., c. 29, s. 466.

557. Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse the proof whereof shall lie on him, knowingly conveys out of any of His Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar, instrument, press or engine used or employed in or about the coining of coin, or any useful part of any of the several articles aforesaid, or any coin, bullion, metal or mixture of metals. 55-56 V., c. 29, s. 467.

558. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for current gold or silver coin. 55-56 V., c. 29, s. 468.

559. Every one is guilty of an indictable offence and liable to one year's imprisonment who defaces any current gold, silver or copper coin by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, and afterwards tenders the same. 55-56 V., c. 29, s. 469.
560. Every one is guilty of an indictable offence and liable to seven years' imprisonment who unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which have been produced or obtained by impairing, diminishing or lightening any current gold or silver coin, knowing the same to have been so produced or obtained. 55-56 V., c. 29, s. 470.

561. Every one is guilty of an indictable offence and liable to three years' imprisonment who has in his custody or possession, knowing the same to be counterfeit, and with intent to utter the same or any of them,—

(a) any counterfeit coin resembling or apparently intended to resemble or pass for, any current gold or silver coin; or,

(b) three or more pieces of counterfeit coin resembling, or apparently intended to resemble or pass for, any current copper coin. 55-56 V., c. 29, s. 471.

562. Every one is guilty of an indictable offence and liable to three years' imprisonment who,—

(a) makes, or begins to make, any counterfeit coin resembling, or apparently intended to resemble or pass for, any current copper coin; or,

(b) without lawful authority or excuse, the proof of which shall lie on him, knowingly

(i) makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any instrument, tool or engine adapted and intended for counterfeiting any current copper coin,

(ii) buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, any counterfeit coin resembling, or apparently intended to resemble or pass for, any current copper coin, at or for a lower rate of value than the same imports or was apparently intended to import. 55-56 V., c. 29, s. 472.

563. Every one is guilty of an indictable offence and liable to three years' imprisonment who,—

(a) makes, or begins to make, any counterfeit coin or silver coin resembling, or apparently intended to resemble or pass for, any gold or silver coin of any foreign prince, state or country, not being current coin; or,

(b) without lawful authority or excuse, the proof of which shall lie on him,

(i) brings into or receives in Canada any such counterfeit coin, knowing the same to be counterfeit,

(ii) has in his custody or possession any such counterfeit coin, knowing the same to be counterfeit, and with intent to put off the same; or,
(c) utters any such counterfeit coin; or,
(d) makes any counterfeit coin resembling, or apparently intended to resemble or pass for, any copper coin of any foreign prince, state or country, not being current coin. 55-56 V., s. 473.

564. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who utters any counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin, knowing the same to be counterfeit. 55-56 V., c. 29, s. 474.

565. Every one is guilty of an indictable offence and liable to three years' imprisonment who,—
(a) utters, as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, otherwise than by lawful wear; or,
(b) with intent to defraud utters, as or for any current gold or silver coin, any coin not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling, in size, figure and colour, the current coin as or for which the same is so uttered, such coin, medal or piece of metal or mixed metals so uttered being of less value than the current coin as or for which the same is so uttered; or,
(c) utters any counterfeit coin resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be counterfeit. 55-56 V., c. 29, s. 475.

566. Every one who utters any coin defaced by having stamped thereon any names or words is guilty of an offence, and liable, on summary conviction before two justices, to a penalty not exceeding ten dollars 55-56 V., c. 29, s. 476.

567. Every one who utters, or offers in payment, any copper coin, other than current copper coin, is guilty of an offence and liable, on summary conviction, to a penalty of double the nominal value thereof, and in default of payment of such penalty to eight days' imprisonment. R.S., c. 167, s. 33; 55-56 V., c. 29, s. 477.

568. Every one who, after a previous conviction for any second offence relating to the coin under this or any other Act, is convicted of any offence specified in this Part is liable,—
(a) to imprisonment for life, if fourteen years is the longest term of imprisonment to which he would have been liable had he not been so previously convicted;
(b) R.S., 1906.
Penalty.  

(b) to fourteen years' imprisonment, if seven years is the longest term of imprisonment to which he would have been liable had he not been so previously convicted;  

(c) to seven years' imprisonment, if he would not have been liable to seven years' imprisonment had he not been so previously convicted. 55-56 V., c. 29, s. 478.

Advertising Counterfeit Money.  

569. Every one is guilty of an indictable offence and liable to five years' imprisonment who,—  

(a) prints, writes, utters, publishes, sells, lends, gives away, circulates or distributes any letter, writing, circular, paper, pamphlet, handbill or any written or printed matter, advertising, or offering or purporting to advertise or offer for sale, loan, exchange, gift or distribution, or to furnish, procure or distribute, any counterfeit token of value, or what purports to be a counterfeit token of value, or giving or purporting to give, either directly or indirectly, information where, how, of whom or by what means any counterfeit token of value, or what purports to be a counterfeit token of value, may be procured or had; or,  

(b) in executing, operating, promoting or carrying on any scheme or device to defraud, by the use or by means of any papers, writings, letters, circulars or written or printed matters concerning the offering for sale, loan, gift, distribution or exchange of counterfeit tokens of value, uses any fictitious, false or assumed name or address, or any name or address other than his own right, proper and lawful name; or,  

(c) in the execution, operating, promoting or carrying on, of any scheme or device offering for sale, loan, gift, or distribution, or purporting to offer for sale, loan, gift or distribution or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, knowingly receives or takes from the mails, or from the post office, any letter or package addressed to any fictitious, false or assumed name or address, or name other than his own right, proper or lawful name; or,  

(d) purchases, exchanges, accepts, takes possession of or in any way uses, or offers to purchase, exchange, accept, take possession of or in any way use, or negotiates or offers to negotiate with a view to purchasing or obtaining or using any such counterfeit token of value, or what purports so to be. 55-56 V., c. 29, s. 480.
PART X.

ATTEMPTS—CONSPIRACIES—ACCESSORIES.

570. Every one is guilty of an indictable offence and liable to seven years' imprisonment who attempts, in any case not hereinbefore provided for, to commit any indictable offence for which the punishment is imprisonment for life, or for fourteen years, or for any term longer than fourteen years. 55-56 V., c. 29, s. 528.

571. Every one who attempts to commit any indictable offence for committing which the longest term to which the offender can be sentenced is less than fourteen years, and no express provision is made by law for the punishment of such attempt, is guilty of an indictable offence and liable to imprisonment for a term equal to one-half of the longest term to which a person committing the indictable offence attempted to be committed may be sentenced. 55-56 V., c. 29, s. 529.

572. Every one is guilty of an indictable offence and liable to one year's imprisonment who attempts to commit any offence under any statute for the time being in force and not inconsistent with this Act, or incites or attempts to incite any person to commit any such offence, and for the punishment of which no express provision is made by such statute. 55-56 V., c. 29, s. 530.

573. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, in any case not hereinbefore provided for, conspires with any person to commit any indictable offence. 55-56 V., c. 29, s. 527.

574. Every one is guilty of an indictable offence and liable to seven years' imprisonment who, in any case where no express provision is made by this Act for the punishment of an accessory, is accessory after the fact to any indictable offence for which the punishment is, on a first conviction, imprisonment for life, or for fourteen years, or for any term longer than fourteen years. 55-56 V., c. 29, s. 531.

575. Every one who is accessory after the fact to any indictable offence for committing which the longest term to which the offender can be sentenced is less than fourteen years, if no express provision is made for the punishment of such accessory, is guilty of an indictable offence and liable to imprisonment for a term equal to one-half of the longest term to which a person committing the indictable offence to which he is accessory may be sentenced. 55-56 V., c. 29, s. 532.

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576. Every superior court of criminal jurisdiction may at any time, with the concurrence of a majority of the judges thereof present at any meeting held for the purpose, make rules of court, not inconsistent with any statute of Canada, which shall apply to all proceedings relating to any prosecution, proceeding or action instituted in relation to any matter of a criminal nature, or resulting from or incidental to any such matter, and in particular,—

(a) for regulating the sittings of the court or of any division thereof, or of any judge of the court sitting in chambers, except in so far as the same are already regulated by law;

(b) for regulating in criminal matters the pleading, practice and procedure in the court, including the subjects of mandamus, certiorari, habeas corpus, prohibition, quo warranto, bail and costs, and the proceedings on application to a justice to state and sign a case for the opinion of the courts as to a conviction, order, determination or other proceeding before him; and,

(c) generally for regulating the duties of the officers of the court and every other matter deemed expedient for better attaining the ends of justice and carrying the provisions of the law into effect.

2. Copies of all rules made under the authority of this section shall be laid before both Houses of Parliament at the session next after the making thereof, and shall also be published in the Canada Gazette.

3. In the province of Ontario the authority for the making of rules of court applicable to superior courts of criminal jurisdiction in the province is vested in the supreme court of judicature, and such rules may be made by the said court at any time with the concurrence of a majority of the judges thereof present at a meeting held for the purpose. 55-56 V., c. 29, s. 533; 63-64 V., c. 40, s. 3.

General.

577. Unless otherwise specially provided in this Act, every court of criminal jurisdiction in any province is competent to try any crime or offence within the jurisdiction of such court to try, wherever committed within the province, if the accused is found or apprehended or is in custody within the jurisdiction of such court or if he has been committed for trial to such court or ordered to be tried before such court, or before any other court, the jurisdiction of which has by lawful authority been transferred to such first mentioned court under any Act for the time being in force. 55-56 V., c. 29, s. 640.
578. No person who is a master, or the father, son or brother of a master in the particular manufacture, trade or business, in or in connection with which any offence under section five hundred and one is charged to have been committed, shall act as a magistrate or justice, in any case of complaint or information under that section, or as a member of any court for hearing any appeal in any such case. R.S., c. 173, s. 12.

Indictable Offences.

579. Any judge or other person presiding at the sittings of a court at which any person is tried for an indictable offence under this Act, whether he is the judge of such court or is appointed by commission or otherwise to hold such sittings, may reserve the giving of his final decision on questions raised at the trial; and his decision, whenever given, shall be considered as if given at the time of the trial. 55-56 V., c. 29, s. 753.

580. Every superior court of criminal jurisdiction and every judge of such court sitting as a court for the trial of criminal causes, and every court of oyer and terer and general gaol delivery has power to try any indictable offence. 55-56 V., c. 29, s. 538.

581. Where an indictment is found against any person for any of the offences mentioned in section four hundred and ninety-eight, the defendant or person accused shall have the option to be tried before the judge presiding at the court at which the indictment is found, or the judge presiding at any subsequent sitting of such court, or at any court where the indictment comes on for trial, without the intervention of a jury; and in the event of such option being exercised the proceedings subsequent thereto shall be regulated in so far as may be applicable by Part XVIII. 52 V., c. 41, s. 4.

582. Every court of general or quarter sessions of the peace, when presided over by a superior court judge, or a county or district court judge, or in the cities of Montreal and Quebec by a recorder or judge of the sessions of the peace, and in the province of New Brunswick every county court judge has power to try any indictable offence except as herein-after provided. 55-56 V., c. 29, s. 539; 56 V., c. 32, s. 1.

583. No court mentioned in the last preceding section has idem. power to try any offence under sections,—
(a) seventy-four, treason; seventy-six, accessories after the fact to treason; seventy-seven, seventy-eight, and seventy-nine, treasonable offences; eighty, assaults on the King; 2573 eighty-one,

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eighty-one, inciting to mutiny; eighty-five, unlawfully obtaining and communicating official information; eighty-six, communicating information acquired in office; or,

(b) one hundred and twenty-nine, administering, taking or procuring the taking of oaths to commit certain crimes; one hundred and thirty, administering, taking or procuring the taking of other unlawful oaths; one hundred and thirty-four, seditious offences; one hundred and thirty-five, libels on foreign sovereigns; one hundred and thirty-six, spreading false news; or,

(c) one hundred and thirty-seven to one hundred and forty inclusive, piracy; or,

(d) one hundred and fifty-six, judicial, etc., corruption; one hundred and fifty-seven, corruption of officers employed in prosecuting offenders; one hundred and fifty-eight, frauds upon the Government; one hundred and sixty, breach of trust by a public officer; one hundred and sixty-one, municipal corruption; one hundred and sixty-two

(a), selling offices; or,

(e) two hundred and sixty-three, murder; two hundred and sixty-four, attempt to murder; two hundred and sixty-five, threat to murder; two hundred and sixty-six, conspiracy to murder; two hundred and sixty-seven, accessory after the fact to murder; or,

(f) two hundred and ninety-nine, rape; three hundred, attempt to commit rape; or,

(g) three hundred and seventeen to three hundred and thirty-four, defamatory libel; or,

(h) four hundred and ninety-eight, combination in restraint of trade; or,

(i) conspiring or attempting to commit, or being accessory after the fact to any of the offences in this section before mentioned; or

(j) any indictment for bribery or undue influence, personation or other corrupt practice under the Dominion Elections Act. 55-56 V., c. 29, s. 540; 57-58 V., c. 57, s. 1; 63-64 V., c. 46, s. 3.

Special Jurisdiction.

584. For the purposes of this Act,—

(a) where the offence is committed in or upon any water, tidal or other, or upon any bridge, between two or more magisterial jurisdictions, such offence may be considered as having been committed in either of such jurisdictions;

(b) where the offence is committed on the boundary of two or more magisterial jurisdictions, or within the distance of five hundred yards from any such boundary, or is begun within one magisterial jurisdiction and completed within another,
another, such offence may be considered as having been committed in any one of such jurisdictions;

(c) where the offence is committed on or in respect to a mail, or a person conveying a post letter bag, post letter or anything sent by post, or on any person, or in respect of any property, in or upon any vehicle employed in a journey, or on board any vessel employed on any navigable river, canal or other inland navigation, the person accused shall be considered as having committed such offence in any magisterial jurisdiction through which such vehicle or vessel passed in the course of the journey or voyage during which the offence was committed; and where the centre or other part of the road, or any navigable river, canal or other inland navigation along which the vehicle or vessel passed in the course of such journey or voyage, is the boundary of two or more magisterial jurisdictions, the person accused of having committed the offence may be considered as having committed it in any one of such jurisdictions. 55-56 V., c. 29, s. 553; 63-64 V., c. 46, s. 3.

585. All offences committed in any of the unorganized tracts of country in the province of Ontario, including lakes, rivers and other waters therein, not embraced within the limits of any organized county, or within any provisional judicial district, may be laid and charged to have been committed and may be inquired of, tried and punished within any county of such province; and such offences shall be within the jurisdiction of any court having jurisdiction over offences of the like nature committed within the limits of such county, before which court such offences may be prosecuted; and such court shall proceed therein to trial, judgment and execution or other punishment for such offence, in the same manner as if such offence had been committed within the county where such trial is had.

2. When any provisional judicial district or new county is formed and established in any of such unorganized tracts, all offences committed within the limits of such provisional judicial district or new county, shall be inquired of, tried and punished within the same, in like manner as such offences would have been inquired of, tried and punished if this section had not been passed.

3. Any person accused or convicted of any offence in any such provisional district may be committed to any common gaol in the province of Ontario. 55-56 V., c. 29, s. 555.

586. All offences committed in any part of Canada east of the province of Manitoba and what was formerly the district of Keewatin and north of the province of Ontario or Quebec may be inquired of and tried within any district, county or place in any of the said provinces.
2. Such offences shall be within the jurisdiction of any court having jurisdiction over offences of the like nature committed within the limits of such district, county or place.

3. Such court shall proceed therein to trial, judgment and execution or other punishment for any such offence in the same manner as if such offence had been committed within the district, county or place where such trial is had. 62-63 V., c. 47, s. 1.

587. The several courts of criminal jurisdiction in the provinces of Ontario, Quebec and Manitoba, including justices, shall have the same powers, jurisdiction and authority in case of such offences, as they respectively have with reference to offences within their ordinary jurisdiction as provincial courts. 62-63 V., c. 47, s. 2.

588. Whenever any offence is committed in the district of Gaspé, the offender, if committed to gaol before trial, may be committed to the common gaol of the county in which the offence was committed, or may, in law, be deemed to have been committed, and if tried before the Court of King's Bench, he shall be so tried at the sitting of such court held in the county to the gaol of which he has been committed, and if imprisoned in the common gaol after trial he shall be so imprisoned in the common gaol of the county in which he has been tried. 55-56 V., c. 29, s. 556.

PART XII.

SPECIAL PROCEDURE AND POWERS.

Offences Requiring Statute.

589. No person shall be proceeded against for any offence against any Act of the Parliament of England, of Great Britain, or of the United Kingdom of Great Britain and Ireland, unless such Act is, by the express terms thereof, or of some other Act of such Parliament, made applicable to Canada or some portion thereof as part of His Majesty’s dominions or possessions. 55-56 V., c. 29, s. 5.

590. No prosecution shall be maintainable against any person for conspiracy in refusing to work with or for any employer or workman, or for doing any act or causing any act to be done for the purpose of a trade combination, unless such act is an offence punishable by statute. 55-56 V., c. 29, s. 518.

Cases Requiring Consent.

591. Proceedings for the trial and punishment of a person who is not a subject of His Majesty, and who is charged with any offence committed within the jurisdiction of the Admiralty

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of England, shall not be instituted in any court in Canada except with the leave of the Governor General and on his certificate that it is expedient that such proceedings should be instituted. 55-56 V., c. 29, s. 542.

592. No person shall be prosecuted for the offence of unlawfully obtaining and communicating official information, without the consent of the Attorney General or of the Attorney General of Canada. 55-56 V., c. 29, s. 543.

593. No one holding any judicial office shall be prosecuted for the offence of judicial corruption, without the leave of the Attorney General of Canada. 55-56 V., c. 29, s. 544.

594. If any person is charged under section one hundred and thirteen, before a justice with the offence of making or having explosive substances, no further proceeding shall be taken against such person without the consent of the Attorney General except such as the justice thinks necessary, by remand or otherwise, to secure the safe custody of such person. 55-56 V., c. 29, s. 545.

595. No person shall be prosecuted for the offence of sending an unseaworthy ship to sea on a voyage without the consent of the Minister of Marine and Fisheries. 56 V., c. 32, s. 1.

596. No proceeding or prosecution against a trustee for a criminal breach of trust shall be commenced without the sanction of the Attorney General. 55-56 V., c. 29, s. 547.

597. No prosecution for concealing any settlement, deed, will, or other instrument material to any title, or any encumbrance, or falsifying any pedigree upon which any title depends, shall be commenced without the consent of the Attorney General, given after previous notice to the person intended to be prosecuted of the application to the Attorney General for leave to prosecute. 55-56 V., c. 29, s. 548.

598. No proceeding or prosecution for the offence of uttering any coin defaced by having stamped thereon any names or words, shall be taken without the consent of the Attorney General. 55-56 V., c. 29, s. 549.

Provisions as to Ontario and Nova Scotia.

599. The practice and procedure in all criminal cases and matters in the High Court of Justice of Ontario which are not provided for by this Act, shall be the same as the practice and procedure in similar cases and matters heretofore. 55-56 V., c. 29, s. 754.
600. If any general commission for the holding of a court of assize and nisi prius, oyer and terminer or general gaol delivery is issued by the Governor General for any county or district in the province of Ontario, such commission shall contain the names of the justices of the Supreme Court of Judicature for Ontario, and may also contain the names of the judges of any of the county courts in Ontario, and of any of His Majesty's counsel learned in the law duly appointed for the province of Upper Canada, or for the province of Ontario, and if any such commission is for a provisional judicial district such commission may contain the name of the judge of the district court of the said district.

2. The said courts shall be presided over by one of the justices of the said Supreme Court, or in their absence by one of such county court judges or by one of such counsel, or in the case of any such district by the judge of such district court. 55-56 V., c. 29, s. 755.

601. It shall not be necessary for any court of general sessions in the province of Ontario to deliver the gaol of all prisoners who are confined upon charges of theft, but the court may leave any such cases to be tried at the next court of oyer and terminer and general gaol delivery, if, by reason of the difficulty or importance of the case, or for any other cause, it appears to it proper so to do. 55-56 V., c. 29, s. 756.

602. In the province of Nova Scotia a calendar of the criminal cases shall be sent by the Clerk of the Crown to the grand jury in each term, together with the depositions taken in each case and the names of the different witnesses. 63-64 V., c. 46, s. 3.

603. A judge of the Supreme Court of Nova Scotia may sentence convicted criminals on any day of the sittings at Halifax, as well as in term time. 55-56 V., c. 29, s. 761.

Powers General of Certain Officials.

604. The Judge of the Sessions of the Peace for the city of Quebec, the Judge of the Sessions of the Peace for the city of Montreal, and every recorder, police magistrate, district magistrate or stipendiary magistrate appointed for any territorial division, and every magistrate authorized by the law of the province in which he acts to perform acts usually required to be done by two or more justices, may do alone whatever is authorized by this Act to be done by any two or more justices. 55-56 V., c. 29, s. 541.

605. In the district of Montreal the Clerk of the Peace or Deputy Clerk of the Peace shall have all the powers of a justice under
under Parts XIII. and XIV., and under sections six hundred and twenty-nine to six hundred and forty-three, inclusive. 58-59 V., c. 40, s. 1.

606. Every judge of a superior court or of a county court, 
judge of the sessions of the peace, stipendiary magistrate, police 
magistrate, and commissioner of police of Canada, shall, within 
the limits of his jurisdiction as such judge, magistrate or com-
misnioner, have all the powers of a justice with respect to 
ofences against provisions of this Act as to prize fights. R.S., 
c. 153, s. 10.

607. Every judge of the sessions of the peace, chairman of 
the court of general sessions of the peace, police magistrate, 
district magistrate or stipendiary magistrate, shall have such 
and like powers and authority to preserve order in courts held 
by them during the holding thereof, and by the like ways and 
means as now by law are or may be exercised and used in like 
cases and for the like purposes by any court in Canada, or by 
the judges thereof, during the sittings thereof. 55-56 V., 
c. 29, s. 908.

608. Every judge of the sessions of the peace, chairman 
of the court of general sessions of the peace, recorder, police 
magistrate, district magistrate or stipendiary magistrate, when-
ever any resistance is offered to the execution of any summons, 
warrant of execution or other process issued by him, may 
enforce the due execution of the same by the means provided 
by the law for enforcing the execution of the process of other 
courts in like cases. 55-56 V., c. 29, s. 909; 56 V., c. 32, s. 1.

Special Powers and Duties of Certain Officials.

609. Any commissioner, or justice, constable or peace officer, 
or any person acting under a warrant, in aid of any constable 
or peace officer, may arrest and detain any person employed on 
any public work, found carrying any weapon, within any place 
in which Part III. is, at the time, in force, at such time and 
in such manner as, in the judgment of such commissioner, 
justice, constable or peace officer, or person acting under a 
warrant, afford just cause of suspicion that it is carried for 
purposes dangerous to the public peace.

2. The justice or commissioner arresting such person, or 
Committal, before whom he is brought, may commit him for trial unless he 
gives sufficient bail for his appearance at the next term or 
sitting of the court before which the offence can be tried, to 
answer to any indictment to be then preferred against him. 
R.S., c. 151, s. 7.

610. Any commissioner or any justice having authority 
within any place in which Part III. is at the time in force 
upon 
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upon oath before him of belief of the deponent that any weapon is in the possession of any person or in any house or place contrary to the provisions of Part III., may issue his warrant to any constable or peace officer to search for and seize the same.

2. Such constable or peace officer, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place. R.S., c. 151, s. 8.

611. If admission to any such house or place is refused after demand, such constable or peace officer and any person in his aid, may enter the same by force, by day or by night, and seize any such weapon and deliver it to such commissioner or justice.

2. Unless the person in whose possession or in whose house or premises the same is found, within four days next after the seizure, proves to the satisfaction of such commissioner or justice that the weapon so seized was not in his possession or in his house or place contrary to the provisions of Part III., such weapon shall be forfeited to the use of His Majesty. R.S., c. 151, s. 9.

612. All weapons declared forfeited under Part III. shall be sold or destroyed under the direction of the commissioner or justice by whom or by whose authority the same are seized, or before whom the same are brought, and the proceeds of such sale, after deducting necessary expenses, shall be received by such commissioner and paid over by him to the Minister of Finance for the public uses of Canada. R.S., c. 151, s. 10.

613. If any person makes oath or affirmation before any such commissioner or justice, that he has reason to believe, and does believe, that any intoxicating liquor with respect to which a violation of the provisions of section one hundred and fifty has been committed or is intended to be committed is on board of any steamboat, vessel, boat, canoe, raft or other craft, or in or about any building or premises, or in any carriage, vehicle or other conveyance, or at any other place within the limits specified in any proclamation under the said Part, such commissioner or justice shall issue a search warrant to any sheriff, police officer, constable or bailiff who shall forthwith proceed to search the steamboat, vessel, boat, canoe, raft, other craft, building, premises, carriage, vehicle, conveyance or place described in such search warrant.

2. If any intoxicating liquor is found therein or thereon the person executing such search warrant shall seize the intoxicating liquor and the barrels, casks, jars, bottles or other packages in which it is contained and shall keep it and them secure until final action is had thereon.

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3. No dwelling house in which, or in part of which, or on the premises whereof, a shop or bar, is not kept, shall be searched, unless the said informant also makes oath or affirmation that some offence in violation of the provisions of the said section has been committed therein or therefrom within one month next preceding the time of making his said information for a search warrant. R.S., c. 151, s. 16.

614. The owner, keeper or person in possession of the intoxicating liquor so seized, if he is known to the officer seizing the same, shall be summoned forthwith by the commissioner or justice who issued the search warrant to appear before such commissioner or justice.

2. If such owner, keeper or person fails so to appear, or if it appears to the satisfaction of such commissioner or justice that a violation of the provisions of the said section has been committed or is intended to be committed, with respect to such intoxicating liquor, it shall be declared forfeited, with any package in which it is contained, and shall be destroyed by authority of the written order to that effect of such commissioner or justice, and in his presence or in the presence of some person appointed by him to witness the destruction thereof.

3. Such commissioner or justice, or the person so appointed by him, and the officer by whom the said intoxicating liquor has been destroyed, shall jointly attest, in writing upon the back of the said order, the fact that it has been destroyed. R.S., c. 151, s. 16.

615. The owner, keeper or person in possession of any intoxicating liquor so seized and forfeited may be convicted of an offence against the said section without any further information laid or trial had, and shall be liable to the penalties mentioned in section one hundred and fifty-one. R.S., c. 151, s. 16.

616. If the owner, keeper or possessor of intoxicating liquor seized as aforesaid, is unknown to the officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure, with the number and description of the packages, as near as may be, has been advertised for two weeks by posting up a written or a printed notice and description thereof, in at least three public places, in the place where it was seized.

2. If it is proved within such two weeks to the satisfaction of the commissioner or justice by whose authority such intoxicating liquor was seized, that with respect to such intoxicating liquor no violation of the provisions of section one hundred and fifty has been committed or is intended to be committed, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor in writing upon the back of the search warrant. When liquor may be delivered to owner.

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search warrant, which shall be returned to the commissioner or justice who issued the same.

3. If after such advertisement as aforesaid, it appears to such commissioner or justice that a violation of the provisions of the said section has been committed or is intended to be committed, then such intoxicating liquor, with any package in which it is contained, shall be forfeited and destroyed as hereinafter provided. R.S., c. 151, s. 17.

617. In any prosecution under this Act for any offence with respect to intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor with respect to which the offence has been committed, or to the precise consideration therefor, or to the fact of the offence having been committed with his participation or to his own personal and certain knowledge; but the commissioner or justice trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on his defence, and in default of such evidence being rebutted, shall convict the defendant accordingly. R.S. c. 151, s. 19.

618. Any commissioner or justice may hear and determine, in manner provided by Part XV., any case arising within his jurisdiction.

2. All the provisions of Part XV. shall, in so far as they are not inconsistent with this Part, apply to every commissioner or justice mentioned in this Part or empowered to try offenders against Part III.

3. Every such commissioner shall be deemed a justice within the meaning of Part XV., whether he is or is not a justice for other purposes. R.S., c. 151, ss. 20 and 21.

619. Any justice within whose jurisdiction any public meeting is appointed to be held may demand, have and take of and from any person attending such meeting, or on his way to attend the same, without his consent and against his will, by such force as is necessary for that purpose, any offensive weapon, such as firearms, swords, staves, bludgeons, or the like, with which any such person is so armed, or which any such person has in his possession. R.S., c. 152, s. 1.

620. Upon reasonable request to any justice to whom any such weapon has been peaceably and quietly delivered as aforesaid, made on the day next after the meeting has finally dispersed, and not before, such weapon shall, if of the value of one dollar or upwards, be returned by such justice to the person from whom the same was received. R.S., c. 152, s. 2.

621. No such justice shall be held liable to return any such weapon, or make good the value thereof, if the same, by unavoidable

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unavoidable accident, has been actually destroyed or lost out of the possession of such justice without his wilful default. R.S., c. 152, s. 3.

622. The court or justice before whom any person is convicted of any offence against the provisions of sections one hundred and twenty to one hundred and twenty-four inclusive, shall impound the weapon for carrying which such person is convicted, and if the weapon is not a pistol, shall cause it to be destroyed.

2. If the weapon is a pistol, the court or justice shall cause it to be handed over to the corporation of the municipality in which the conviction takes place, for the public uses of such corporation.

3. If the conviction takes place where there is no municipality, the pistol shall be handed over to the lieutenant governor of the province in which the conviction takes place, for the public use thereof in connection with the administration of justice therein. R.S., c. 148, s. 7.

623. Any two or more justices, on oath that any copper coin has been unlawfully manufactured or imported shall cause the same to be seized and detained, and shall summon the person in whose possession the same is found, to appear before them.

2. If it appears to their satisfaction, on evidence, that such copper coin has been manufactured or imported in violation of this Act, such justices shall declare the same forfeited, and shall place the same in safe keeping to await the disposal of the Governor General, for the public uses of Canada. R.S., c. 167, s. 29.

624. If it appears, to the satisfaction of such justices, that the person in whose possession such copper coin was found, knew the same to have been so unlawfully manufactured or imported, they may condemn him to pay the penalty provided by Part IX., for manufacturing or importing copper coin, with costs, and may cause him to be imprisoned for a term not exceeding two months, if such penalty and costs are not forthwith paid. R.S., c. 167, s. 30.

625. If it appears, to the satisfaction of such justices, that the person in whose possession such copper coin was found was not aware of it having been so unlawfully manufactured or imported, the penalty may be recovered from the owner thereof by any person who sues for the same in any court of competent jurisdiction. R.S., c. 167, s. 31.

626. Any officer of Customs may seize any copper coin imported or attempted to be imported into Canada in violation of 2583 of the Customs Code.

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of this Act, and may detain the same as forfeited, to await the disposal of the Governor General, for the public uses of Canada. R.S., c. 167, s. 32.

627. If, at any time, the sheriff of any county, place or district in Canada, any chief of police, any police officer, or any constable or other peace officer has reason to believe that any person within his bailiwick or jurisdiction is about to engage as principal in any prize-fight within Canada, he shall forthwith arrest such person and take him before a justice, and shall forthwith make complaint in that behalf, upon oath, before such justice.

2. Such justice shall inquire into the charge, and if he is satisfied that the person so brought before him was, at the time of his arrest, about to engage as a principal in a prize-fight, he shall require him to enter into a recognizance, with sufficient sureties, in a sum not exceeding five thousand dollars and not less than one thousand dollars, conditioned that he will not engage in any such fight within one year from and after the date of such arrest.

3. In default of such recognizance, the justice before whom the accused has been brought shall commit the accused to the gaol of the county, district or city within which such inquiry takes place, or if there is no common gaol there, then to the common gaol nearest to the place where such inquiry is had, there to remain for the space of one year or until he gives such recognizance with such sureties. R.S., c. 153, s. 6.

628. If any sheriff has reason to believe that a prize-fight is taking place or is about to take place within his jurisdiction as such sheriff, or that any persons are about to come into Canada at a point within his jurisdiction, from any place outside of Canada, with intent to engage in, or to be concerned in, or to attend any prize-fight within Canada, he shall forthwith summon a force of the inhabitants of his district or county sufficient for the purpose of suppressing and preventing such fight.

2. Such sheriff shall with their aid, suppress and prevent the same, and arrest all persons present thereat, or who come into Canada as aforesaid, and shall take them before a justice to be dealt with according to law. R.S., c. 153, s. 7.

629. Any justice who is satisfied by information upon oath in form 1, that there is reasonable ground for believing that there is in any building, receptacle, or place,—

(a) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed;

or,

(b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence; or,

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(c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which the offender may be arrested without warrant;

may at any time issue a warrant under his hand authorizing some constable or other person named therein to search such building, receptacle or place, for any such thing, and to seize and carry it before the justice issuing the warrant, or some other justice for the same territorial division to be by him dealt with according to law. 55-56 V., c. 29, s. 569.

630. Every search warrant shall be executed by day, unless the justice shall by the warrant authorize the constable or other person to execute it at night.

2. Every search warrant may be in form 2, or to the like Form. effect. 55-56 V., c. 29, s. 569.

631. When any such thing is seized and brought before a justice, he may detain it, taking reasonable care to preserve it till the conclusion of the investigation; and, if any one is committed for trial, he may order it further to be detained for the purpose of evidence on the trial.

2. If no one is committed, the justice shall direct such thing to be restored to the person from whom it was taken, except in the cases next hereinafter mentioned, unless he is authorized or required by law to dispose of it otherwise. 55-56 V., c. 29, s. 569.

632. If under any such warrant there is brought before any justice any forged bank note, bank note-paper, instrument or other thing, the possession whereof in the absence of lawful excuse is an offence under any provision of this or any other Act, the court to which any such person is committed for trial or, if there is no commitment for trial, such justice may cause such thing to be defaced or destroyed.

2. If under any such warrant there is brought before any justice, any counterfeit coin or other thing the possession of which with knowledge of its nature and without lawful excuse is an indictable offence under any provision of Part IX., every such thing so soon as it has been produced in evidence, or so soon as it appears that it will not be required to be so produced, shall forthwith be defaced or otherwise disposed of as the justice or the court directs. 55-56 V., c. 29, s. 569.

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

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2. Any explosive substance so seized shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of any offence under any provision of Part II., relating to explosive substances, be forfeited; and the same shall be destroyed or sold under the direction of the court before which such person is convicted.

3. In the case of sale, the proceeds arising therefrom shall be paid to the Minister of Finance, for the public uses of Canada. 55-56 V., c. 29, s. 569.

634. If offensive weapons believed to be dangerous to the public peace are seized under a search warrant the same shall be kept in safe custody in such place as the justice directs, unless the owner thereof proves, to the satisfaction of such justice, that such offensive weapons were not kept for any purpose dangerous to the public peace.

2. Any person from whom any such offensive weapons are so taken may, if the justice upon whose warrant the same are taken, upon application made for that purpose, refuses to restore the same, apply to a judge of a superior or county court for the restitution of such offensive weapons, upon giving ten days' previous notice of such application to such justice; and such judge shall make such order for the restitution or safe custody of such offensive weapons as upon such application appears to him to be proper. 55-56 V., c. 29, s. 569.

635. If goods or things by means of which it is suspected that an offence has been committed against any provision of Part VII. relating to forgery of trade marks and fraudulent marking of merchandise, are seized under a search warrant, and brought before a justice, such justice and one or more other justice or justices shall determine summarily whether the same are or are not forfeited under the said Part.

2. If the owner of any goods or things which, if the owner thereof had been convicted, would be forfeited under this Act, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and the said justice may cause notice to be advertised stating that unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be declared forfeited.

3. At such time and place the justice, unless the owner, or some person on his behalf, or other person interested in the goods or things, shows cause to the contrary, may declare such goods or things, or any of them, forfeited. 55-56 V., c. 29, s. 569.

636. Any constable or other peace officer, if deputed by any public department, may, within the limits for which he is such

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such constable or peace officer, stop, detain and search any person reasonably suspected of having or conveying in any manner any public stores, 'stolen or unlawfully obtained, or any vessel, boat or vehicle in or on which there is reason to suspect that any public stores stolen or unlawfully obtained may be found.

2. A constable or other peace officer shall be deemed to be deputed within the meaning of this section if he is deputed by any writing signed by the person who is the head of such department, or who is authorized to sign documents on behalf of such department. 55-56 V., c. 29, s. 570.

637. On complaint in writing made to any justice of the county, district or place, by any person interested in any mining claim, that mined gold or gold-bearing quartz, or mined or unmanufactured silver or silver ore, is unlawfully deposited in any place, or held by any person contrary to law, a general search warrant may be issued by such justice, as in the case of stolen goods, including any number of places or persons named in such complaint.

2. If, upon search, any such gold or gold-bearing quartz or silver or silver ore is found to be unlawfully deposited or held, the justice shall make such order for the restoration thereof to the lawful owner as he considers right.

3. The decision of the justice in such case is subject to appeal as in ordinary cases coming within the provisions of Part XV. 55-56 V., c. 29, s. 571.

638. If any constable or other peace officer has reasonable cause to suspect that any timber, mast, spar, saw-log or other description of lumber, belonging to any lumberman or owner of lumber, and bearing the registered trade mark of such lumberman or owner of lumber, is kept or detained in any saw-mill, mill-yard, boom or raft, without the knowledge or consent of the owner, such constable or other peace officer may enter into or upon such saw-mill, mill-yard, boom or raft, and search or examine for the purpose of ascertaining whether such timber, mast, spar, saw-log or other description of lumber is detained therein without such knowledge or consent. 55-56 V., c. 29, s. 572.

639. Any officer in His Majesty's service, any warrant or petty officer of the navy, or any non-commissioned officer of marines, with or without seamen or persons under his command, may search any boat or vessel which hovers about or approaches, or which has hovered about or approached, any of His Majesty's ships or vessels mentioned in section one hundred and forty-one, and may seize any intoxicating liquor found on board such boat or vessel; and the liquor so found shall be forfeited to the Crown. 55-56 V., c. 29, s. 573.

640. R.S. 1906.
Search for women in house of ill-fame.

Warrant.

640. Whenever there is reason to believe that any woman or girl mentioned in section two hundred and sixteen of this Act, has been inveigled or enticed to a house of ill-fame or assignation, then upon complaint thereof being made under oath by the parent, husband, master or guardian of such woman or girl, or in the event of such woman or girl having no known parent, husband, master or guardian in the place in which the offence is alleged to have been committed, by any other person, to any justice, or to a judge of any court authorized to issue warrants in cases of alleged offences against the criminal law, such justice or judge may issue a warrant to enter, by day or night, such house of ill-fame or assignation, and if necessary use force for the purpose of effecting such entry whether by breaking open doors or otherwise, and to search for such woman or girl, and bring her and the person or persons in whose keeping and possession she is, before such justice or judge, who may, on examination, order her to be delivered to her parent, husband, master or guardian, or to be discharged, as law and justice require. 55-56 V., c. 20, s. 574.

Search in gaming house.

641. If the chief constable or deputy chief constable of any city, town, incorporated village or other municipality or district, organized or unorganized, or place, or other officer authorized to act in his absence, reports in writing to any of the commissioners of police or to the mayor or chief magistrate or to the police, stipendiary or district magistrate of such city, town, incorporated village or other municipality, district or place, or to any police, stipendiary or district magistrate having jurisdiction there, or if there be no such mayor, or chief magistrate, or police, stipendiary or district magistrate, to any justice having such jurisdiction, that there are good grounds for believing, and that he does believe that any house, room or place within the said city or town, incorporated village or other municipality, district or place, is kept or used as a common gaming or betting house, as defined in sections two hundred and twenty-six and two hundred and twenty-seven, or is used for the purpose of carrying on a lottery, or for the sale of lottery tickets, or for the purpose of conducting or carrying on any scheme, contrivance or operation for the purpose of determining the winners in any lottery contrary to the provisions of section two hundred and thirty-six, whether admission thereto is limited to those possessed of entrance keys or otherwise, such commissi- sioner, mayor, chief magistrate, police, stipendiary or dis- trict magistrate or justice may, by order in writing, authorize the chief constable, deputy chief constable, or other officer as aforesaid, to enter any such house, room or place, with such constables as are deemed requisite by him, and if necessary to use force for the purpose of effecting such entry, whether by breaking open doors or otherwise, and to take into custody all persons who are found therein, and to seize, as the case may be, all...
tables and instruments of gaming or betting, and all moneys and securities for money, and all instruments or devices for the carrying on of such lottery, or of such scheme, contrivance or operation, and all lottery tickets, found in such house or premises, and to bring the same before the person issuing such order or any justice, to be by him dealt with according to law.

2. The chief constable, deputy chief constable or other officer making such entry, in obedience to any such order, may, with the assistance of one or more constables, search all parts of the house, room or place where he has so entered, where he suspects that tables or instruments of gaming or betting, or any instruments or devices for the carrying on of such lottery or of such scheme, contrivance or operation, or any lottery tickets, are concealed, and all persons whom he finds in such house or premises, and seize all tables and instruments of gaming or betting, or any such instruments or devices or lottery tickets as aforesaid, which he so finds.

3. The person issuing such order or the justice before whom any person is taken by virtue of an order under this section, may direct any cards, dice, balls, counters, tables or other instruments of gaming or used in playing any game, or of betting, or any such instruments or devices for the carrying on of a lottery, or for the conducting or carrying on of any such scheme, contrivance or operation, or any such lottery tickets, so seized as aforesaid, to be forthwith destroyed, and any money or securities so seized shall be forfeited to the Crown for the public uses of Canada. 58-59 V., c. 40, s. 1

642. The person issuing such order or the justice before whom any person who has been found in any house, room or place, entered in pursuance of any order under the last preceding section, is taken by virtue of such order may require any such person to be examined on oath and to give evidence touching any unlawful gaming in such house, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, room or place, or any part thereof, of any constable or officer authorized to make such entry; and any such person so required to be examined as a witness who refuses to make oath accordingly, or to answer any question, shall be subject to be dealt with in all respects as any person appearing as a witness before any justice or court in obedience to a summons or subpoena and refusing without lawful cause or excuse to be sworn or to give evidence, may, by law, be dealt with.

2. Every person so required to be examined as a witness, who, upon such examination, makes true disclosure, to the best of his knowledge, of all things as to which he is examined shall receive from the judge, justice, magistrate, examiner or other judicial officer before whom such proceeding is had, a certificate in writing to that effect, and shall be freed from all penalties, on certificate.
all criminal prosecutions and penal actions, and from all penalties, forfeitures and punishments to which he has become liable for anything done before that time in respect of any act of gaming regarding which he has been so examined, if such certificate states that such witness made a true disclosure in respect to all things as to which he was examined; and any action, indictment or proceedings pending or brought in any court against such witness in respect of any act of gaming regarding which he was so examined, shall be stayed, upon the production and proof of such certificate, and upon summary application to the court in which such action, indictment or proceeding is pending, or any judge thereof, or any judge of any of the superior courts of any province. R.S., c. 158, ss. 9 and 10.

643. Any stipendiary or police magistrate, mayor or warden, or any two justices, upon information before them made, that any person described in Part V. as a loose, idle or disorderly person, or vagrant, is or is reasonably suspected to be harboured or concealed in any disorderly house, bawdy-house, house of ill-fame, tavern or boarding-house, may, by warrant, authorize any constable or other person to enter at any time such house or tavern, and to apprehend and bring before them or any other justices, every person found therein so suspected as aforesaid. 55-56 V., c. 29, s. 576.

Trials under Special Provisions.

644. The trials of young persons apparently under the age of sixteen years, shall take place without publicity and separately and apart from the trials of other accused persons, and at suitable times to be designated and appointed for that purpose. 57-58 V., c. 58, s. 1.

645. At the trial of any person charged with an offence under any of the following sections, that is to say:—Two hundred and two, two hundred and three, two hundred and four, two hundred and five, two hundred and six, two hundred and eleven, two hundred and twelve, two hundred and thirteen, two hundred and fourteen, two hundred and fifteen, two hundred and sixteen, two hundred and seventeen, two hundred and eighteen, two hundred and nineteen, two hundred and twenty, two hundred and twenty-eight in so far as it relates to common bawdy-houses, two hundred and thirty-nine in so far as it relates to paragraphs (i), (j) or (k) of section two hundred and thirty-eight, two hundred and ninety-two, two hundred and ninety-three, two hundred and ninety-nine, three hundred, three hundred and one, three hundred and two, three hundred and three, three hundred and four, three hundred and five, three hundred and six, three hundred and thirteen and

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three hundred and fourteen, or with conspiracy or attempt to commit, or being an accessory after the fact to any such offence, the court or judge or justice may order that the public be excluded from the room or place in which the court is held during such trial.

2. Such order may be made in any other case also in which the court or judge or justice may be of opinion that the same will be in the interests of public morals.

3. Nothing in this section shall be construed by implication saving, or otherwise as limiting any power heretofore possessed at common law by the presiding judge or other presiding officer of any court of excluding the general public from the court-room in any case when such judge or officer deems such exclusion necessary or expedient. 63-64 V., c. 46, s. 3.

PART XIII.

COMPELLING APPEARANCE OF ACCUSED BEFORE JUSTICES.

Arrest without Warrant.

646. Any person may arrest without warrant any one who is found committing any of the offences mentioned in sections—

(a) seventy-four, treason; seventy-six, accessories after the fact to treason; seventy-seven, seventy-eight and seventy-nine, treasonable offences; eighty, assaults on the King; eighty-one, inciting to mutiny;

(b) ninety-two, offences respecting the reading of the Riot Act; ninety-six, riotous destruction of property; ninety-seven, riotous damage to property;

(c) one hundred and twenty-nine, administering, taking or procuring the taking of oaths to commit certain crimes; one hundred and thirty, administering, taking or procuring the taking of other unlawful oaths;

(d) one hundred and thirty-seven, piracy; one hundred and thirty-eight, piratical acts; one hundred and thirty-nine, piracy with violence;

(e) one hundred and eighty-five, being at large while under sentence of imprisonment; one hundred and eighty-seven, breaking prison; one hundred and eighty-nine, escape from custody or from prison; one hundred and ninety, escape from lawful custody;

(f) two hundred and two, unnatural offence;

(g) two hundred and sixty-three, murder; two hundred and sixty-four, attempt to murder; two hundred and sixty-seven, being accessory after the fact to murder; two hundred and sixty-eight, manslaughter; two hundred and seventy, attempt to commit suicide;

(h) two hundred and seventy-three, wounding with intent to do bodily harm; two hundred and seventy-four, wounding; two hundred and seventy-six, stupefying in order to commit

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commit an indictable offence; two hundred and seventy-nine and two hundred and eighty, injuring or attempting to injure by explosive substances; two hundred and eighty-two, intentionally endangering persons on railways; two hundred and eighty-three, wantonly endangering persons on railways; two hundred and eighty-six, preventing escape from wreck;

(i) two hundred and ninety-nine, rape; three hundred, attempt to commit rape; three hundred and one, defiling children under fourteen;

(j) three hundred and thirteen, abduction of a woman;

(k) three hundred and fifty-eight, theft by agents and others; three hundred and fifty-nine, theft by clerks, servants and others; three hundred and sixty, theft by tenants and lodgers; three hundred and sixty-one, theft of testamentary instruments; three hundred and sixty-two, theft of documents of title; three hundred and sixty-three, theft of judicial or official documents; three hundred and sixty-four, three hundred and sixty-five and three hundred and sixty-six, theft of postal matter; three hundred and sixty-seven, theft of election documents; three hundred and sixty-eight, theft of railway tickets; three hundred and sixty-nine, theft of cattle; three hundred and seventy-one, theft of oysters; three hundred and seventy-two, theft of things fixed to buildings or land; three hundred and seventy-nine, stealing from the person; three hundred and eighty, stealing in dwelling-houses; three hundred and eighty-one, stealing by picklocks, etc.; three hundred and eighty-two, stealing from ships, docks, wharfs or quays; three hundred and eighty-three, stealing wreck; three hundred and eighty-four, stealing on railways; three hundred and eighty-eight, stealing in manufactories; three hundred and ninety-one, public servant refusing to deliver up chattels, money valuables, security, books, papers, accounts or documents; three hundred and ninety-eight, bringing stolen property into Canada;

(l) three hundred and ninety-nine, receiving property obtained by crime;

(m) four hundred and ten, personation of certain persons;

(n) four hundred and forty-six, aggravated robbery; four hundred and forty-seven, robbery; four hundred and forty-eight, assault with intent to rob; four hundred and forty-nine, stopping the mail; four hundred and fifty, compelling execution of documents by force; four hundred and fifty-one, sending letter demanding with menaces; four hundred and fifty-two, demanding with intent to steal; four hundred and fifty-three, extortion by certain threats;

(o) four hundred and fifty-five, breaking place of worship and committing an indictable offence; four hundred and fifty-six,
fifty-six, breaking place of worship with intent to commit an indictable offence; four hundred and fifty-seven, burglary; four hundred and fifty-eight, housebreaking and committing an indictable offence; four hundred and fifty-nine, housebreaking with intent to commit an indictable offence; four hundred and sixty, breaking shop and committing an indictable offence; four hundred and sixty-one, breaking shop with intent to commit an indictable offence; four hundred and sixty-two, being found in a dwelling-house by night; four hundred and sixty-three, being armed, with intent to break a dwelling-house; four hundred and sixty-four, being disguised or in possession of housebreaking instruments;

(p) four hundred and sixty-eight, four hundred and sixty-nine and four hundred and seventy, forgery; four hundred and sixty-seven, uttering forged documents; four hundred and seventy-two, counterfeiting seals; four hundred and seventy-eight, using probate obtained by forgery or perjury; five hundred and fifty, possessing forged bank notes;

(q) four hundred and seventy-one, making, having or using instrument for forgery or having or uttering forged bond or undertaking; four hundred and seventy-nine, counterfeiting stamps; four hundred and eighty, injuring or falsifying registers;

(r) one hundred and twelve, attempt to damage by explosives; five hundred and ten, mischief; five hundred and eleven, arson; five hundred and twelve, attempt to commit arson; five hundred and thirteen, setting fire to crops; five hundred and fourteen, attempting to set fire to crops; five hundred and seventeen, mischief on railways; five hundred and twenty, mischief to mines; five hundred and twenty-one, injuries to electric telegraphs, magnetic telegraphs, electric lights, telephones and fire alarms; five hundred and twenty-two, wrecking; five hundred and twenty-three, attempting to wreck; five hundred and twenty-six, interfering with marine signals;

(s) five hundred and fifty-two, counterfeiting gold and silver coin; five hundred and fifty-six, making instruments for coining; five hundred and fifty-eight, clipping current coin; five hundred and sixty, possessing clippings of current coin; five hundred and sixty-two, counterfeiting copper coin; five hundred and sixty-three, counterfeiting foreign gold and silver coin; five hundred and sixty-seven, uttering copper coin not current. 55-56 V., c. 29, s. 552; 58-59 V., c. 40, s. 1.

647. A peace officer may arrest, without warrant, any one who has committed any of the offences mentioned in the sections in the last preceding section mentioned or in sections,—

(a) four hundred and five, obtaining by false pretense; four hundred

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hundred and six, obtaining execution of valuable securities by false pretense;
(b) five hundred and twenty-five, injuring dams, etc., or blocking timber channel; five hundred and thirty-six, attempting to injure or poison cattle;
(c) five hundred and forty-two, cruelty to animals; five hundred and forty-three, keeping cock-pit;
(d) five hundred and fifty-five, exporting counterfeit coin; five hundred and sixty-one, possessing counterfeit current coin; five hundred and sixty-three, paragraph (b), bringing into Canada or possessing counterfeit foreign gold or silver coin; five hundred and sixty-three, paragraph (d), counterfeiting foreign copper coin. 55-56 V., c. 29, s. 552; 58-59 V., c. 40, s. 1.

648. A peace officer may arrest, without warrant, any one whom he finds committing any criminal offence.

2. Any person may arrest, without warrant, any one whom he finds committing any criminal offence by night. 58-59 V., c. 40, s. 1.

649. Any one may arrest without warrant a person whom he, on reasonable and probable grounds, believes to have committed a criminal offence and to be escaping from, and to be freshly pursued by, those whom the person arresting, on reasonable and probable grounds, believes to have lawful authority to arrest such person. 55-56 V., c. 29, s. 552.

650. The owner of any property on or with respect to which any person is found committing any criminal offence, or any person authorized by such owner, may arrest, without warrant, the person so found, who shall forthwith be taken before a justice to be dealt with according to law. 58-59 V., c. 40, s. 1.

651. Any officer in His Majesty's service, any warrant or petty officer in the navy, and any non-commissioned officer of marines may arrest without warrant any person found committing any of the offences mentioned in section one hundred and forty-one. 55-56 V., c. 29, s. 552.

652. Any peace officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place during the night, and whom he has good cause to suspect of having committed or being about to commit, any indictable offence, and may detain such person until he can be brought before a justice to be dealt with according to law.

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2. No person who has been so apprehended shall be detained after noon of the following day without being brought before a justice. 55-56 V., c. 29, s. 552.

Procedure—Summons or Warrant.

653. Every justice may issue a warrant or summons as hereinafter mentioned to compel the attendance of an accused person before him, for the purpose of preliminary inquiry in any of the following cases:

(a) If such person is accused of having committed in any place whatever an indictable offence triable in the province in which such justice resides, and is, or is suspected to be, within the limits over which such justice has jurisdiction, or resides or is suspected to reside within such limits;

(b) If such person, wherever he may be, is accused of having committed an indictable offence within such limits;

(c) If such person is alleged to have anywhere unlawfully received property which was unlawfully obtained within such limits;

(d) If such person has in his possession, within such limits, any stolen property. 55-56 V., c. 29, s. 554.

654. Any one who, upon reasonable or probable grounds, believes that any person has committed an indictable offence under this Act may make a complaint or lay an information in writing and under oath before any magistrate or justice having jurisdiction to issue a warrant or summons against such accused person in respect of such offence.

2. Such complaint or information may be in form 3, or to the like effect. 55-56 V., c. 29, s. 558.

655. Upon receiving any such complaint or information the justice shall hear and consider the allegations of the complainant, and if of opinion that a case for so doing is made out, he shall issue a summons, or warrant, as the case may be, in manner hereinafter provided.

2. Such justice shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant. 55-56 V., c. 29, s. 559.

656. Whenever any indictable offence is committed on the high seas, or in any creek, harbour, haven or other place in which the Admiralty of England have or claim to have jurisdiction, and whenever any offence is committed on land beyond the seas for which an indictment may be preferred or the offender may be arrested in Canada, any justice for any territorial division in which any person charged with, or suspected of having committed any such offence is, or is suspected to be, may issue his warrant, in form 4, or to the like effect, to apprehend

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apprehend such person to be dealt with as herein and hereby directed. 55-56 V., c. 29, s. 560.

657. Every one who is reasonably suspected of being a deserter from His Majesty's service may be apprehended and brought for examination before any justice, and if it appears that he is a deserter he shall be confined in gaol until claimed by the military or naval authorities or proceeded against according to law.

2. No one shall break open any building to search for a deserter unless he has obtained a warrant for that purpose from a justice, founded on affidavit that there is reason to believe that the deserter is concealed in such building, and that admission has been demanded and refused.

3. Every one who resists the execution of any such warrant shall incur a penalty of eighty dollars, recoverable on summary conviction, before two justices. 55-56 V., c. 29, s. 561.

658. Every summons issued by a justice under this Act shall be directed to the accused, and shall require him to appear at a time and place to be therein mentioned.

2. Such summons may be in form 5, or to the like effect.

3. No summons shall be signed in blank.

4. Every such summons shall be served by a constable or other peace officer upon the person to whom it is directed, either by delivering it to him personally or, if such person cannot conveniently be met with, by leaving it for him at his last or most usual place of abode with some inmate thereof apparently not under sixteen years of age.

5. The service of any such summons may be proved by the oral testimony of the person effecting the same or by the affidavit of such person purporting to be made before a justice. 55-56 V., c. 29, s. 562.

659. The warrant issued by a justice for the apprehension of the person against whom an information or complaint has been laid as provided in section six hundred and fifty-four may be in form 6, or to the like effect.

2. No such warrant shall be signed in blank. 55-56 V., c. 29, s. 563.

660. Every warrant shall be under the hand and seal of the justice issuing the same, and may be directed, either to any constable by name, or to such constable and all other constables within the territorial jurisdiction of the justice issuing it, or generally to all constables within such jurisdiction.

2. The warrant shall state shortly the offence for which it is issued, and shall name or otherwise describe the offender, and it shall order the officer or officers to whom it is directed to apprehend
apprehend the offender and bring him before the justice or justices issuing the warrant, or before some other justice or justices, to answer to the charge contained in the information or complaint, and to be further dealt with according to law.

3. It shall not be necessary to make such warrant returnable at any particular time, but the same shall remain in force until it is executed.

4. The fact that a summons has been issued shall not prevent any justice from issuing a warrant at any time before or after the time mentioned in the summons for the appearance of the accused.

5. In case the service of the summons has been proved and the accused does not appear, or when it appears that the summons cannot be served, a warrant in form 7 may issue. 55-56 Form. V., c. 29, s. 563.

661. Every such warrant may be executed by arresting the accused wherever he is found in the territorial jurisdiction of the justice by whom it is issued, or, in the case of fresh pursuit, at any place in an adjoining territorial division within seven miles of the border of the first-mentioned division.

2. Every such warrant may be executed by any constable by whom named therein or by any one of the constables to whom it is directed, whether or not the place in which it is to be executed is within the place for which he is a constable.

3. Every warrant authorized by this Act may be issued and executed on a Sunday or statutory holiday. 55-56 V., c. 29, s. 564.

662. If the person against whom any warrant has been issued cannot be found within the jurisdiction of the justice by whom the same was issued, but is or is suspected to be in any other part of Canada, any justice within whose jurisdiction he is or is suspected to be, upon proof being made on oath or affirmation of the handwriting of the justice who issued the same, shall make an endorsement on the warrant, signed with his name, authorizing the execution thereof within his jurisdiction.

2. Such endorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables of the territorial division where the warrant has been so endorsed, to execute the same therein and to carry the person against whom the warrant issued when apprehended, before the justice who issued the warrant, or before some other justice for the same territorial division.

3. Such endorsement may be in form 8. 55-56 V., c. 29, Form. s. 565.
663. If the prosecutor or any of the witnesses for the prosecution are in the territorial division where such person has been apprehended upon a warrant endorsed as provided in the last preceding section, the constable or other person or persons who have apprehended him may, if so directed by the justice endorsing the warrant, take him before such justice, or before some other justice for the same territorial division; and the said justice may thereupon take the examination of such prosecutor or witnesses, and proceed in every respect as if he had himself issued the warrant. 55-56 V., c. 29, s. 566.

664. When any person is arrested upon a warrant he shall, except in the case provided for in the last preceding section, be brought as soon as is practicable before the justice who issued it or some other justice for the same territorial division, and such justice shall either proceed with the inquiry or postpone it to a future time, in which latter case he shall either commit the accused person to proper custody or admit him to bail or permit him to be at large on his own recognizance according to the provisions hereinafter contained. 55-56 V., c. 29, s. 567.

665. The preliminary inquiry may be held either by one justice or by more justices than one.

2. If the accused person is brought before any justice charged with an offence committed out of the limits of the jurisdiction of such justice, such justice may, after hearing both sides, order the accused at any stage of the inquiry to be taken by a constable before some justice having jurisdiction in the place where the offence was committed.

3. The justice so ordering shall give a warrant for that purpose to a constable, which may be in form 9, or to the like effect, and shall deliver to such constable the information, depositions and recognizances, if any, taken under the provisions of this Act, to be delivered to the justice before whom the accused person is to be taken, and such depositions and recognizances shall be treated to all intents as if they had been taken by the last-mentioned justice. 55-56 V., c. 29, s. 557.

666. Upon the constable delivering to the justice the warrant, information, if any, depositions and recognizances, and proving on oath or affirmation, the handwriting of the justice who has subscribed the same, such justice, before whom the accused is produced, shall thereupon furnish such constable with a receipt or certificate in form 10, of his having received from him the body of the accused, together with the warrant, information, if any, depositions and recognizances, and of his having proved to him, upon oath or affirmation, the handwriting of the justice who issued the warrant.
2. If such justice does not commit the accused for trial, or hold him to bail, the recognizances taken before the first mentioned justice shall be void. 55-56 V., c. 29, s. 557.

667. Every coroner, upon any inquisition taken before him whereby any person is charged with manslaughter or murder, shall, if the person or persons, or either of them, affected by the verdict or finding is not already charged with the said offence before a magistrate or justice, by warrant under his hand, direct that such person be taken into custody and be conveyed, with all convenient speed, before a magistrate or justice; or such coroner may direct such person to enter into a recognizance before him, with or without a surety or sureties, to appear before a magistrate or justice.

2. In either case, it shall be the duty of the coroner to transmit to such magistrate or justice the depositions taken before him in the matter.

3. Upon any such person being brought or appearing before any such magistrate or justice, he shall proceed in all respects as though such person had been brought or had appeared before him upon a warrant or summons. 55-56 V., c. 29, s. 568.

PART XIV.

PROCEDURE ON APPEARANCE OF ACCUSED BEFORE JUSTICE.

Jurisdiction.

668. When any person accused of an indictable offence is before a justice, whether voluntarily or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, the justice shall proceed to inquire into the matters charged against such person in the manner hereinafter directed. 55-56 V., c. 29, s. 577.

669. No irregularity or defect in the substance or form of the summons or warrant, and no variance between the charge contained in the summons or warrant and the charge contained in the information, or between either and the evidence adduced on the part of the prosecution at the inquiry, shall affect the validity of any proceeding at or subsequent to the hearing. 55-56 V., c. 29, s. 578.

670. If it appears to the justice that the person charged has been deceived or misled by any such variance in any summons or warrant, he may adjourn the hearing of the case to some future day, and in the meantime may remand such person, or admit him to bail as hereinafter mentioned. 55-56 V., c. 29, s. 579.
Procuring attendance of Witnesses.

671. If it appears to the justice that any person being or residing within the province is likely to give material evidence either for the prosecution or for the accused on such inquiry, he may issue a summons under his hand, requiring such person to appear before him at a time and place mentioned therein to give evidence respecting the charge, and to bring with him any documents in his possession or under his control relating thereto.

2. Such summons may be in form 11, or to the like effect. 55-56 V., c. 29, s. 580.

672. Every such summons shall be served by a constable or other peace officer upon the person to whom it is directed either personally, or, if such person cannot conveniently be met with, by leaving it for him at his last or most usual place of abode with some inmate thereof apparently not under sixteen years of age. 55-56 V., c. 29, s. 581.

673. If any one to whom such last-mentioned summons is directed does not appear at the time and place appointed therefor, and no just excuse is offered for such non-appearance, then after proof upon oath that such summons has been served as aforesaid, or that the person to whom the summons is directed is keeping out of the way to avoid service, the justice before whom such person ought to have appeared, if satisfied by proof on oath that such person is likely to give material evidence, may issue a warrant under his hand to bring such person at a time and place to be therein mentioned before him or any other justice in order to testify as aforesaid.

2. The warrant may be in form 12, or to the like effect.

3. Such warrant may be executed anywhere within the territorial jurisdiction of the justice by whom it is issued, or, if necessary, endorsed as provided in section six hundred and sixty-two and executed anywhere in the province out of such jurisdiction. 55-56 V., c. 29, s. 582.

674. If a person summoned as a witness under the provisions of this Part is brought before a justice on a warrant issued in consequence of refusal to obey the summons, such person may be detained on such warrant before the justice who issued the summons, or before any other justice in and for the same territorial division who shall then be there, or in the common gaol, or any other place of confinement, or in the custody of the person having him in charge, with a view to secure his presence as a witness on the day fixed for the trial, or, in the discretion of the justice, released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer as for contempt for his default in not attending upon the said summons.

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2. The justice may, in a summary manner, examine into and dispose of the charge of contempt against such person, who, if found guilty, shall be liable to a fine not exceeding twenty dollars, or to imprisonment in the common gaol, without hard labour, for a term not exceeding one month, or to both such fine and imprisonment, and may also be ordered to pay the costs incident to the service and execution of the said summons and warrant and of his detention in custody.

3. The conviction under this section may be in form 13. Form of conviction.

675. If the justice is satisfied by evidence on oath that any person within the province, likely to give material evidence either for the prosecution or for the accused, will not attend to give evidence without being compelled so to do, then instead of issuing a summons, he may issue a warrant in the first instance.

2. Such warrant may be in form 14, or to the like effect, and may be executed anywhere within the jurisdiction of such justice, or, if necessary, endorsed as provided in section six hundred and sixty-two and executed anywhere in the province out of such jurisdiction. Form, etc. Warrant for witness in first instance.

676. If there is reason to believe that any person residing anywhere in Canada out of the province who is not within the province, is likely to give material evidence either for the prosecution or for the accused, any judge of a superior court or a county court, on application therefor by the informant or complainant, or the Attorney General, or by the accused person or his solicitor or some person authorized by the accused, may cause a writ of subpoena to be issued under the seal of the court of which he is a judge, requiring such person to appear before the justice before whom the inquiry is being held or is intended to be held at a time and place mentioned therein to give evidence respecting the charge and to bring with him any documents in his possession or under his control relating thereto.

2. Such subpoena shall be served personally upon the person to whom it is directed, and an affidavit of such service by a person effecting the same purporting to be made before a justice, shall be sufficient proof thereof. Witness beyond jurisdiction. Service and proof.

677. If the person served with a subpoena as provided by the last preceding section, does not appear at the time and place specified therein, and no just excuse is offered for his non-appearance, the justice holding the inquiry, after proof upon oath that the subpoena has been served, may issue a warrant under his hand directed to any constable or peace officer in the district, county or place where such person is, or to all constables Warrant for defaulting witness.

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stables or peace officers in such district, county or place, directing him, them or any of them to arrest such person and bring him before the said justice or any other justice at a time and place mentioned in such warrant in order to testify as aforesaid.

2. The warrant may be in form 15, or to the like effect; and if necessary, may be endorsed in the manner provided by section six hundred and sixty-two and executed in a district, county or place other than the one therein mentioned. 55-56 V., c. 29, s. 584.

**Hearing and Connected Procedure.**

678. Whenever any person appearing, either in obedience to a summons or subpoena, or by virtue of a warrant, or being present and being verbally required by the justice to give evidence, refuses to be sworn, or having been sworn, refuses to answer such questions as are put to him, or refuses or neglects to produce any documents which he is required to produce, or refuses to sign his depositions without in any such case offering any just excuse for such refusal, such justice may adjourn the proceedings for any period not exceeding eight clear days, and may in the meantime by warrant in form 16, or to the like effect, commit the person so refusing to gaol, unless he sooner consents to do what is required of him.

2. If such person, upon being brought up upon such adjourned hearing, again refuses to do what is required of him, the justice, if he sees fit, may again adjourn the proceedings, and commit him for the like period, and so again from time to time until such person consents to do what is required of him.

3. Nothing in this section shall prevent such justice from sending any such case for trial, or otherwise disposing of the same in the meantime, according to any other sufficient evidence taken by him. 55-56 V., c. 29, s. 585.

679. A justice holding a preliminary inquiry may in his discretion,—

(a) permit or refuse permission to the prosecutor, his counsel or attorney, to address him in support of the charge, either by way of opening or summing up the case, or by way of reply upon any evidence which may be produced by the person accused:  

(b) receive further evidence on the part of the prosecutor after hearing any evidence given on behalf of the accused:  

(c) adjourn the hearing of the matter from time to time, and change the place of hearing, if from the absence of witnesses, the inability of a witness who is ill to attend at the place where the justice usually sits, or from any other reasonable cause, it appears desirable to do so, and may remand the accused, if required, by warrant in form 17:

Provided that no such remand shall be for more than eight
eight clear days, the day following that on which the remand is made being counted as the first day;

(d) order that no person other than the prosecutor and accused, their counsel and solicitors shall have access to or remain in the room or building in which the inquiry is held, if it appears to him that the ends of justice will be best answered by so doing;

(e) regulate the course of the inquiry in any way which may appear to him desirable, and which is not inconsistent with the provisions of this Act.

2. If any remand under this section is for a time not exceeding three clear days the justice may verbally order the constable or other person in whose custody the accused then is, or any other constable or person named by the justice in that behalf, to keep the accused person in his custody and to bring him before him or such other justice as shall then be acting at the time appointed for continuing the examination. 55-56 V., c. 29, s. 586.

680. The justice may order the accused person to be brought before him, or before any other justice for the same territorial division, at any time before the expiration of the time for which such person has been remanded, and the gaoler or officer in whose custody he then is shall duly obey such order. 55-56 V., c. 29, s. 588.

681. If the accused is remanded as aforesaid, the justice may discharge him, upon his entering into a recognizance in form 18, with or without sureties in the discretion of the justice, conditioned for his appearance at the time and place appointed for the continuance of the examination. 55-56 V., c. 29, s. 587.

682. When the accused is before a justice holding an inquiry, such justice shall take the evidence of the witnesses called on the part of the prosecution.

2. The evidence of the said witnesses shall be given upon oath and in the presence of the accused: and the accused, his counsel or solicitor, shall be entitled to cross-examine them.

3. The evidence of each witness shall be taken down in writing in the form of a deposition, which may be in form 19, or to the like effect.

4. Such deposition shall in the presence of the accused, and of the justice, at some time before the accused is called on for his defence, be read over to and signed by the witness and the justice.

5. The signature of the justice may either be at the end of the deposition of each witness, or at the end of several or of all the depositions in such a form as to show that the signature is R.S., 1906.
is meant to authenticate each separate deposition. 55-56 V., c. 29, s. 590.

683. Every justice holding a preliminary inquiry shall cause the depositions to be written in a legible hand and on one side only of each sheet of paper on which they are written: Provided that the evidence upon such inquiry or any part of the same may be taken in shorthand by a stenographer who may be appointed by the justice and who before acting shall make oath that he shall truly and faithfully report the evidence.

2. Where evidence is so taken, it shall not be necessary that such evidence be read over to or signed by the witness, but it shall be sufficient if the transcript be signed by the justice and be accompanied by an affidavit of the stenographer that it is a true report of the evidence. 55-56 V., c. 29, s. 590.

684. After the examination of the witnesses produced on the part of the prosecution has been completed, and after the depositions have been signed as aforesaid, the justice unless he discharges the accused person, shall ask him whether he wishes the depositions to be read again, and unless the accused dispenses therewith shall read or cause them to be read again.

2. When the depositions have been again read, or the reading dispensed with, the accused shall be addressed by the justice in these words, or to the like effect:

'Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of guilt, but whatever you now say may be given in evidence against you upon your trial notwithstanding such promise or threat.'

3. Whatever the accused then says in answer thereto shall be taken down in writing in form 20, or to the like effect, and shall be signed by the justice and kept with the depositions of the witnesses and dealt with as hereinafter provided. 55-56 V., c. 29, s. 591.

685. Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement, made at any time by the person accused or charged, which by law would be admissible as evidence against him. 55-56 V., c. 29, s. 592.

686. After the proceedings required by section six hundred and eighty-four are completed the accused shall be asked if he wishes to call any witnesses.
2. Every witness called by the accused who testifies to any fact relevant to the case shall be heard, and his deposition shall be taken in the same manner as the depositions of the witnesses for the prosecution. 55-56 V., c. 29, s. 593.

Adjudication and subsequent steps and Bail.

687. When all the witnesses on the part of the prosecution and the accused have been heard the justice shall, if upon the whole of the evidence he is of opinion that no sufficient case is made out to put the accused upon his trial, discharge him.

2. In such case any recognizances taken in respect of the charge shall become void, unless some person is bound over to prosecute under the provisions of the next following section. 55-56 V., c. 29, s. 594.

688. If the justice discharges the accused, and the person preferring the charge desires to prefer an indictment respecting the said charge, he may require the justice to bind him over to prefer and prosecute such an indictment, and thereupon the justice shall take his recognizance to prefer and prosecute an indictment against the accused before the court by which such accused would be tried if such justice had committed him, and the justice shall deal with the recognizance, information and depositions in the same way as if he had committed the accused for trial.

2. Such recognizance may be in form 21, or to the like effect. 55-56 V., c. 29, s. 595.

689. If the prosecutor so bound over at his own request does not prefer and prosecute such an indictment, or if the grand jury does not find a true bill, or if the accused is not convicted upon the indictment so preferred, the prosecutor shall, if the court so direct, pay to the accused person his costs, including the costs of his appearance on the preliminary inquiry.

2. The court before which the indictment is to be tried or a judge thereof may in its or his discretion order that the prosecutor shall not be permitted to prefer any such indictment until he has given security for such costs to the satisfaction of such court or judge. 55-56 V., c. 29, s. 595.

690. If a justice holding a preliminary inquiry thinks that the evidence is sufficient to put the accused on his trial, he shall commit him for trial by a warrant of commitment, which may be in form 22, or to the like effect. 55-56 V., c. 29, s. 596.

691. Every one who has been committed for trial, whether he is bailed out or not, shall be entitled at any time before the trial to have copies of the depositions, and of his own statement, if any, from the officer who has custody thereof, on payment.

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ment of a reasonable sum not exceeding five cents for each folio of one hundred words. 55-56 V., c. 29, s. 597.

692. When any one is committed for trial the justice holding the preliminary inquiry may bind over to prosecute some person willing to be so bound, and bind over every witness whose deposition has been taken, and whose evidence in his opinion is material, to give evidence at the court before which the accused is to be indicted.

2. Every recognizance so entered into shall specify the name and surname of the person entering into it, his occupation or profession, if any, the place of his residence and the name and number, if any, of any street in which it may be, and whether he is owner or tenant thereof or a lodger therein.

3. Such recognizance may be either at the foot of the deposition or separate therefrom, and may be in form 23, 24 or 25, or to the like effect, and shall be acknowledged by the person entering into the same, and be subscribed by the justice or one of the justices before whom it is acknowledged.

4. Every such recognizance shall bind the person entering into it to prosecute or give evidence (both or either as the case may be), before the court by which the accused shall be tried. 55-56 V., c. 29, s. 598.

693. Whenever any person is bound by recognizance to give evidence before a justice, or any criminal court, in respect of any offence under this Act, any justice, if he sees fit, upon information being made in writing and on oath, that such person is about to abscond, or has absconded, may issue his warrant for the arrest of such person.

2. If such person is arrested, any justice, upon being satisfied that the ends of justice would otherwise be defeated, may commit such person to prison until the time at which he is bound by such recognizance to give evidence, unless in the meantime he produces sufficient sureties.

3. Any person so arrested shall be entitled on demand to receive a copy of the information upon which the warrant for his arrest was issued. 55-56 V., c. 29, s. 598.

694. Any witness who refuses to enter into or acknowledge any such recognizance as aforesaid may be committed by the justice holding the inquiry by a warrant in form 26, or to the like effect, to the prison for the place where the trial is to be had, there to be kept until after the trial, or until the witness enters into such recognizance as aforesaid before a justice having jurisdiction in the place where the prison is situated.

2. If the accused is afterwards discharged any justice having such jurisdiction may order any such witness to be discharged by an order which may be in form 27, or to the like effect. 55-56 V., c. 29, s. 599.
695. The information, if any, the depositions of the witnesses, the exhibits thereto, the statement of the accused, and all recognizances entered into, and also any depositions taken before a coroner if any such have been sent to the justice, shall as soon as may be after the committal of the accused, be transmitted to the clerk or other proper officer of the court by which the accused is to be tried.

2. When any order changing the place of trial is made the person obtaining it shall serve it, or an office copy of it, upon the person then in possession of the said documents, who shall thereupon transmit them and the indictment, if found, to the officer of the court before which the trial is to take place. 55-56 V., c. 29, s. 600.

696. When any person appears before any justice charged with an indictable offence punishable by imprisonment for more than five years, other than treason or an offence punishable with death or an offence under any of the sections, seventy-six to eighty-six inclusive, and the evidence adduced is, in the opinion of such justice, sufficient to put the accused on his trial, but does not furnish such a strong presumption of guilt as to warrant his committal for trial, the justice, jointly with some other justice, may admit the accused to bail upon his procuring and producing such surety or sureties as, in the opinion of the two justices, will be sufficient to ensure his appearance at the time and place when and where he ought to be tried for the offence; and thereupon the two justices shall take the recognizances of the accused and his sureties, conditioned for his appearance at the time and place of trial, and that he will then surrender and take his trial and not depart the court without leave.

2. In any case in which the offence committed or suspected to have been committed is an offence punishable by imprisonment for a term less than five years any one justice before whom the accused appears may admit him to bail in manner aforesaid, and such justice or justices may, in his or their discretion, require such bail to justify upon oath before him or them as to their sufficiency.

3. In default of such person procuring sufficient bail, such justice or justices may commit him to prison, there to be kept until delivered according to law.

4. The recognizance mentioned in this section shall be in form 28. 55-56 V., c. 29, s. 601.

697. Where the offence is one triable by the court of general or quarter sessions of the peace and the justice is of opinion that it may better or more conveniently be so tried, the condition of the recognizance may be for the appearance of the accused at the next sittings of that court notwithstanding that 2607

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a sitting of a superior court of criminal jurisdiction capable of trying the offence intervenes. 63-64 V., c. 46, s. 3.

698. In case of any offence other than treason or an offence punishable with death, or an offence under any of the sections, seventy-six to eighty-six inclusive, where the accused has been finally committed as herein provided, any judge of any superior or county court, having jurisdiction in the district or county within the limits of which the accused is confined, may, in his discretion, on application made to him for that purpose, order the accused to be admitted to bail on entering into a recognizance with sufficient sureties before two justices, in such amount as the judge directs, and thereupon the justices shall issue a warrant of deliverance as hereinafter provided, and shall attach thereto the order of the judge directing the admitting the accused to bail.

2. Such warrant of deliverance shall be in form 29. 55-56 V., c. 29, s. 602.

699. No judge of a county court or justices shall admit any person to bail accused of treason or an offence punishable with death, or an offence under any of the sections, seventy-six to eighty-six inclusive, nor shall any person be admitted to bail, except by order of a superior court of criminal jurisdiction for the province in which the accused stands committed, or of one of the judges thereof, or, in the province of Quebec, by order of a judge of the Court of King's Bench or Superior Court. 55-56 V., c. 29, s. 603.

700. When any person has been committed for trial by any justice, the prisoner, his counsel, solicitor or agent may notify the committing justice that he will, as soon as counsel can be heard, move before a superior court of the province in which such person stands committed, or one of the judges thereof, or the judge of the county court, if it is intended to apply to such judge, under section six hundred and ninety-eight, for an order to the justice to admit such prisoner to bail.

2. Such committing justice shall, as soon as may be, after being so notified, transmit to the clerk of the Crown, or the chief clerk of the court, or the clerk of the county court, or other proper officer, as the case may be, endorsed under his hand and seal, a certified copy of all informations, examinations and other evidence touching the offence wherewith the prisoner has been charged, together with a copy of the warrant of commitment, and the packet containing the same shall be handed to the person applying therefor for transmission, and it shall be certified on the outside thereof to contain the information concerning the case in question.

3. If any justice neglects to comply with the foregoing provisions of this section, according to the true intent and meaning

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701. Upon application for bail as aforesaid to any such court or judge the same order concerning the prisoner being bailed or continued in custody, shall be made as if the prisoner was brought up upon a habeas corpus. 55-56 V., c. 29, s. 604.

702. Whenever any justice or justices admit to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, such justice or justices shall send to or cause to be lodged with the keeper of such prison, a warrant of deliverance under his or their hands and seals, requiring the said keeper to discharge the person so admitted to bail if he is detained for no other offence, and upon such warrant of deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same. 55-56 V., c. 29, s. 605.

703. Whenever a person charged with any offence has been bailed in manner aforesaid, it shall be lawful for any justice, if he sees fit, upon the application of the surety or of either of the sureties of such person and upon information being made in writing and on oath by such surety, or by some person on his behalf, that there is reason to believe that the person so bailed is about to abscond for the purpose of evading justice, to issue his warrant for the arrest of the person so bailed, and afterwards, upon being satisfied that the ends of justice would otherwise be defeated, to commit such person when so arrested to gaol until his trial or until he produces another sufficient surety or other sufficient sureties, as the case may be, in like manner as before. 55-56 V., c. 29, s. 606.

704. The constable or any of the constables, or other person to whom any warrant of commitment authorized by this or any other Act or law is directed, shall convey the accused person therein named or described to the gaol or other prison mentioned in such warrant, and there deliver him, together with the warrant, to the keeper of such gaol or prison, who shall thereupon give the constable or other person delivering the prisoner into his custody, a receipt for the prisoner, setting forth the state and condition of the prisoner when delivered into his custody.

2. Such receipt shall be in form 30. 55-56 V., c. 29, Form. s. 607.
PART XV.

SUMMARY CONVICTIONS.

Interpretation.

705. In this Part, unless the context otherwise requires,—
(a) 'territorial division' means district, county, union of counties, township, city, town, parish or other judicial division or place;
(b) 'the court' in the sections of this Part relating to justices stating or signing cases means and includes any superior court of criminal jurisdiction for the province in which the proceedings in respect of which the case is sought to be stated are carried on;
(c) 'district' or 'county' includes any territorial or judicial division or place in and for which there is such judge, justice, justice's court, officer or prison as is mentioned in the context;
(d) 'common gaol' or 'prison' for the purpose of this Part means any place other than a penitentiary in which persons charged with offences are usually kept and detained in custody;
(e) 'clerk of the peace' includes the proper officer of the court having jurisdiction in appeal under this Part, and, in the province of Saskatchewan or Alberta, and in the Northwest Territories, means the clerk of the Supreme Court of the judicial district within which conviction under this Part takes place or an order is made. R.S., c. 50, s. 102; 55-56 V., c. 29, ss. 839 and 900.

Application of Part.

706. Subject to any special provision otherwise enacted with respect to such offence, act or matter, this Part shall apply to,—
(a) every case in which any person commits, or is suspected of having committed, any offence or act over which the Parliament of Canada has legislative authority, and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment;
(b) every case in which a complaint is made to any justice in relation to any matter over which the Parliament of Canada has legislative authority, and with respect to which such justice has authority by law to make any order for the payment of money or otherwise. 55-56 V., c. 29, s. 840.

Jurisdiction.

707. Every complaint and information shall be heard, tried, determined and adjudged by one justice or two or more justices.
justices as directed by the Act or law upon which the complaint or information is framed or by any other Act or law in that behalf.

2. If there is no such direction in any Act or law then the complaint or information may be heard, tried, determined and adjudged by any one justice for the territorial division where the matter of the complaint or information arose: Provided that every one who aids, abets, counsels or procures the commission of any offence punishable on summary conviction, may be proceeded against and convicted either in the territorial division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting, counselling or procuring was committed. 55-56 V., c. 29, s. 842.

708. Any one justice may receive the information or complaint, and grant a summons or warrant thereon, and issue his summons or warrant to compel the attendance of any witnesses for either party, and do all other acts and matters necessary preliminary to the hearing, even if by the statute in that behalf it is provided that the information or complaint shall be heard and determined by two or more justices.

2. After a case has been heard and determined one justice may issue all warrants of distress or commitment thereon.

3. It shall not be necessary for the justice who acts before or after the hearing to be the justice or one of the justices by whom the case is to be or has been heard and determined.

4. If it is required by any Act or law that an information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices, such justices shall be present and acting together during the whole of the hearing and determination of the case. 55-56 V., c. 29, s. 842.

709. No justice shall hear and determine any case of assault or battery, in which any question arises as to the title to any lands, tenements, hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice. 55-56 V., c. 29, s. 842.

Information and Complaint.

710. It shall not be necessary that any complaint upon which a justice may make an order for the payment of money or otherwise shall be in writing, unless it is so required by the particular Act or law upon which such complaint is founded.

2. Every complaint upon which a justice is authorized by law to make an order, and every information for any offence or act punishable on summary conviction, may, unless it is by this Part or by some particular Act or law otherwise provided, R.S., 1906.
For one offence or matter.

May be laid by agent.

Compelling appearance.

Provido. Copy of warrant to be served.

Summons necessary when.

Backing warrants.

Summons for witness out of jurisdiction.

Summons and warrant served by peace officer.

vided, be made or had without any oath or affirmation as to the truth thereof.

3. Every complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every information shall be for one offence only, and not for two or more offences.

4. Every complaint or information may be laid or made by the complainant or informant in person, or by his counsel or attorney or other person authorized in that behalf. 55-56 V., c. 29, s. 845.

**Summons and Warrant.**

**711.** The provisions of Parts XIII. and XIV. relating to compelling the appearance of the accused before the justice receiving an information for an indictable offence and the provisions respecting the attendance of witnesses on a preliminary inquiry and the taking of evidence thereon, shall, so far as the same are applicable, except as varied by the sections immediately following, apply to any hearing under the provisions of this Part: Provided that whenever a warrant is issued in the first instance against a person charged with an offence punishable under the provisions of this Part, the justice issuing it shall furnish a copy or copies thereof, and cause a copy to be served on the person arrested at the time of such arrest.

2. Nothing herein contained shall obligate any justice to issue any summons to procure the attendance of a person charged with an offence by information laid before such justice whenever the application for any order may, by law, be made ex parte. 55-56 V., c. 29, s. 843.

**712.** The provisions of section six hundred and sixty-two relating to the endorsement of warrants shall apply to the case of any warrant issued under the provisions of this Part against the accused, whether before or after conviction, and whether for the apprehension or imprisonment of any such person. 55-56 V., c. 29, s. 844.

**713.** A summons may be issued to procure the attendance, on the hearing of any charge under the provisions of this Part of a witness who resides out of the jurisdiction of the justice before whom such charge is to be heard.

2. Every such summons and every warrant issued to procure the attendance of a witness, whether in consequence of refusal by such witness to appear in obedience to a summons or otherwise, may be respectively served and executed by the constable or other peace officer to whom the same is delivered or by any other person, as well beyond as within the territorial division of the justice who issued the same. 55-56 V., c. 29, s. 848.

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Trial.

714. The room or place in which the justice sits to hear and try any complaint or information shall be deemed an open and public court, to which the public generally may have access so far as the same can conveniently contain them. 55-56 V., c. 29, s. 849.

715. The person against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel, solicitor or agent on his behalf.

2. Every complainant or informant in any such case shall be at liberty to conduct the complaint or information, and to have the witnesses examined and cross-examined, by counsel or attorney on his behalf. 55-56 V., c. 29, s. 850.

716. Every witness at any hearing shall be examined upon oath or affirmation, by the justice before whom such witness appears for the purpose of being examined.

2. A judge of any superior or county court may appoint a commissioner or commissioners to take the evidence upon oath of any person who resides out of Canada and is stated to be able to give material information relating to an offence for which a prosecution is pending under this Part, or relating to any person accused of such offence, in the circumstances and in the manner, mutatis mutandis, in which he might do so under section nine hundred and ninety-seven; and all the provisions of the said section, in respect of matters arising thereunder, shall apply mutatis mutandis to matters arising under this section. Provided that no such appointment shall be made without the consent of the Attorney General. 55-56 V., c. 29, s. 851; 6 E. VII., c. 5, s. 1.

717. If the information or complaint in any case negatives any exemption, exception, proviso or condition in the statute on which the same is founded it shall not be necessary for the prosecutor or complainant to prove such negative, but the defendant may prove the affirmative thereof in his defence if he wishes to avail himself of the same. 55-56 V., c. 29, s. 852.

718. In case the accused does not appear at the time and place appointed by any summons issued by a justice on information before him of the commission of an offence punishable on summary conviction then, if it appears to the satisfaction of the justice that the summons was duly served a reasonable time before the time appointed for appearance, such justice may proceed ex parte to hear and determine the case in the absence of the defendant, as fully and effectually, to all intents and purposes, as if the defendant had personally appeared in obedience to such summons, or the justice may, if he thinks fit, issue his warrant R.S., 1906.
warrant as provided by sections six hundred and fifty-nine and six hundred and sixty and adjourn the hearing of the complaint or information until the defendant is apprehended. 55-56 V., c. 29, s. 853; 56 V., c. 32, s. 1.

719. If, upon the day and at the place so appointed, the defendant appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the justice by virtue of a warrant, then, if the complainant or informant, having had due notice, does not appear by himself, his counsel, solicitor or agent, the justice shall dismiss the complaint or information unless he thinks proper to adjourn the hearing of the same until some other day upon such terms as he thinks fit. 55-56 V., c. 29, s. 854.

720. If both parties appear, either personally or by their respective counsel, solicitors or agents, before the justice who is to hear and determine the complaint or information such justice shall proceed to hear and determine the same. 55-56 V., c. 29, s. 855.

721. If the defendant is personally present at the hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be.

2. If the defendant thereupon admits the truth of the information or complaint, and shows no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, the justice present at the hearing shall convict him or make an order against him accordingly.

3. If the defendant does not admit the truth of the information or complaint, the justice shall proceed to inquire into the charge and for the purposes of such inquiry shall take the evidence of witnesses both for the complainant and accused in the manner provided by Part XIV. in the case of a preliminary inquiry.

4. The prosecutor or complainant is not entitled to give evidence in reply if the defendant has not adduced any evidence other than as to his general character.

5. In a hearing under this Part the witnesses need not sign their depositions. 55-56 V., c. 29, s. 856.

722. Before or during the hearing of any information or complaint the justice may, in his discretion adjourn the hearing of the same to a certain time or place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective counsel, solicitors or agents then present, but no such adjournment shall be for more than eight days.

2. If, at the time and place to which the hearing or further hearing is adjourned, either or both of the parties do not appear, 2614 appear,
appear, personally or by his or their counsel, solicitors or agents respectively, before the justice or such other justices as shall then be there, the justice who is then there may proceed to the hearing or further hearing as if the party or parties were present.

3. If the prosecutor or complainant does not appear the justice may dismiss the information, with or without costs as to him seems fit.

4. Whenever any justice adjourns the hearing of any case he may suffer the defendant to go at large or may commit him to the common gaol or other prison within the territorial division for which such justice is then acting, or to such other safe custody as such justice thinks fit, or may discharge the defendant upon his recognizance, with or without sureties at the discretion of such justice, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned.

5. Whenever any defendant who is discharged upon recognizance, or allowed to go at large, does not appear at the time mentioned in the recognizance or to which the hearing or further hearing is adjourned the justice may issue his warrant for his apprehension. 55-56 V., c. 29, s. 857.

Defects and Objections.

723. No information, complaint, warrant, conviction or other proceeding under this Part shall be deemed objectionable or insufficient on any of the following grounds, that is to say,—
(a) that it does not contain the name of the person injured, or intended or attempted to be injured; or,
(b) that it does not state who is the owner of any property therein mentioned; or,
(c) that it does not specify the means by which the offence was committed; or,
(d) that it does not name or describe with precision any person or thing.

2. The justice may, if satisfied that it is necessary for a fair trial, order that a particular, further describing such means, person, place or thing, be furnished by the prosecutor.

3. The description of any offence in the words of the Act or any order, by-law, regulation or other document creating the offence, or any similar words, shall be sufficient in law. 63-64 V., c. 46, s. 3.

724. No objection shall be allowed to any information, complaint, summons or warrant for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint.

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2. Any variance between the information for any offence or act punishable on summary conviction and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material if it is proved that such information was, in fact, laid within the time limited by law for laying the same.

3. Any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material if the offence or act is proved to have been committed within the jurisdiction of the justice by whom the information is heard and determined.

4. If any such variance, or any other variance between the information, complaint, summons or warrant, and the evidence adduced in support thereof, appears to the justice present and acting at the hearing to be such that the defendant has been thereby deceived or misled, the justice may, upon such terms as he thinks fit, adjourn the hearing of the case to some future day. 55-56 V., c. 29, s. 847.

725. No information, summons, conviction, order or other proceeding shall be held to charge two offences, or shall be held to be uncertain on account of its stating the offence to have been committed in different modes, or in respect of one or other of several articles, either conjunctively or disjunctively, for example, in charging an offence under section five hundred and thirty-three it may be alleged that 'the defendant unlawfully did cut, break, root up and otherwise destroy or damage a tree, sapling or shrub'; and it shall not be necessary to define more particularly the nature of the act done, or to state whether such act was done in respect of a tree, or a sapling, or a shrub. 55-56 V., c. 29, s. 907.

Adjudication.

726. The justice, having heard what each party has to say, and the witnesses and evidence adduced shall consider the whole matter, and, unless otherwise provided, determine the same and convict or make an order against the defendant, or dismiss the information or complaint, as the case may be. 55-56 V., c. 29, s. 858.

727. If the justice convicts or makes an order against the defendant, a minute or memorandum thereof may then be made, for which no fee shall be paid, and the conviction or order, in such case, shall afterwards be drawn up by the justice on parchment or on paper, under his hand and seal, in such one of the forms of conviction or of orders from 31 to 36 inclusive as is applicable to the case, or to the like effect. 55-56 V., c. 29, s. 859.

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728. When several persons join in the commission of the same offence, and upon conviction thereof each is adjudged to pay a penalty which includes the value of the property or the amount of the injury done, no further sum shall be paid to the person aggrieved than such amount or value and costs, if any, and the residue of the penalties imposed shall be applied in the same manner as other penalties imposed by a justice are directed to be applied. 55-56 V., c. 29, s. 860.

729. Whenever any person is summarily convicted before a justice of any offence against Part VI., or Part VII., except section four hundred and nine and sections four hundred and sixty-six to five hundred and eight inclusive, or against Part VIII., except sections five hundred and forty-two to five hundred and forty-five inclusive, and it is a first conviction, the justice may, if he thinks fit, discharge the offender from his conviction upon his making such satisfaction to the person aggrieved, for damages and costs, or either of them, as are ascertained by the justice. 55-56 V., c. 29, s. 861.

730. If the justice dismisses the information or complaint, he may, when required so to do, make an order of dismissal in form 37, and he shall give the defendant a certificate in form 38 which, upon being afterwards produced, shall without further proof, be a bar to any subsequent information or complaint for the same matter, against the same defendant. 55-56 V., c. 29, s. 862.

731. Whenever, by any Act or law, authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying an order of a justice, the defendant shall be served with a copy of the minute of the order before any warrant of commitment or of distress is issued in that behalf.

2. The order or minute shall not form any part of the warrant of commitment or of distress. 55-56 V., c. 29, s. 863.

732. Whenever any person is charged with common assault any justice may summarily hear and determine the charge. 2. If the justice finds the assault complained of to have been accompanied by an attempt to commit some other indictable offence, or is of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he had no authority finally to hear and determine the same. 63-64 V., c. 46, s. 3.

733. If the justice, upon the hearing of any case of assault or battery upon the merits where the information is laid by or on behalf of the person aggrieved, under the last preceding Dismissal of complaint for assault. R.S., 1906.
ceding section, deems the offence not to be proved, or finds the assault or battery to have been justified, or so trivial as not to merit any punishment, he shall dismiss the complaint and shall forthwith make out a certificate under his hand stating the fact of such dismissal, and shall deliver such certificate to the person against whom the complaint was preferred. 55-56 V., c. 29, s. 865.

Release from further proceedings.

734. If the person against whom any such information has been laid, by or on behalf of the person aggrieved, obtains such certificate, or, having been convicted, pays the whole amount adjudged to be paid or suffers the imprisonment, or imprisonment with hard labour, awarded, he shall be released from all further or other proceedings, civil or criminal, for the same cause. 55-56 V., c. 29, s. 866.

Costs on conviction or order.

735. In every case of a summary conviction, or of an order made by a justice, such justice may, in his discretion, award and order in and by the conviction or order that the defendant shall pay to the prosecutor or complainant such costs as to the said justice seem reasonable in that behalf, and not inconsistent with the fees established by law to be taken on proceedings had by and before justices. 55-56 V., c. 29, s. 867.

Costs on dismissal.

736. Whenever the justice, instead of convicting or making an order, dismisses the information or complaint, he may, in his discretion, in and by his order or dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the said justice seem reasonable and consistent with law. 55-56 V., c. 29, s. 868.

Recovery of costs with penalty.

737. The sums so allowed for costs shall, in all cases, be specified in the conviction or order, or order of dismissal, and the same shall be recoverable in the same manner and under the same warrants as any penalty, adjudged to be paid by the conviction or order, is to be recovered. 55-56 V., c. 29, s. 869.

Recovery of costs only.

738. Whenever there is no such penalty to be recovered such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of distress, by imprisonment, with or without hard labour, for any term not exceeding one month. 55-56 V., c. 29, s. 870.

Conviction or order involving payment of money.

739. Whenever a conviction adjudges a pecuniary penalty or compensation to be paid, or an order requires the payment of a sum of money, whether the Act or law authorizing such conviction or order does or does not provide a mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment thereof, the justice by his conviction, or order after adjudging payment of such penalty, compensation or sum of money, with or without costs, may order and adjudge,—

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(a) that in default of payment thereof forthwith, or within a limited time, such penalty, compensation or sum of money and costs, if the conviction or order is made with costs, shall be levied by distress and sale of the goods and chattels of the defendant, and, if sufficient distress cannot be found, that the defendant be imprisoned in the manner and for the time directed by the Act or law authorizing such conviction or order or by this Act, or for any period not exceeding three months, if the Act or law authorizing the conviction or order does not specify imprisonment, or does not specify any term of imprisonment, unless such penalty, compensation or sum of money and costs, if the conviction or order is made with costs, and the costs and charges of the distress and of the commitment and of the conveying of the defendant to gaol are sooner paid; or,

(b) that in default of payment of the said penalty, compensation or sum of money, and costs, if any, forthwith or within a limited time, the defendant be imprisoned in the manner and for the time mentioned in the said Act or law, or for any period not exceeding three months, if the Act or law authorizing the conviction or order does not specify imprisonment, or does not specify any term of imprisonment, unless the same and the costs and charges of the distress and of the commitment and of the conveying of the defendant to gaol are sooner paid.

2. Whenever under such Act or law, imprisonment with hard labour may be ordered or adjudged in the first instance as part of the punishment for the offence of the defendant, the imprisonment in default of distress or of payment may be with hard labour. 55-56 V., c. 29, s. 872; 57-58 V., c. 57, s. 1; 63-64 V., c. 46, s. 3.

740. Where, by virtue of an Act or law so authorizing, the justice by his conviction adjudges against the defendant payment of a penalty or compensation, and also imprisonment, as punishment for an offence, he may, if he thinks fit, order that the imprisonment in default of distress or of payment, shall commence at the expiration of the imprisonment awarded as a punishment for the offence.

2. The like proceeding may be had upon any conviction or order made in accordance with this or the last preceding section as if the Act or law authorizing the conviction or order had expressly provided for a conviction or order in the terms permitted by this or the last preceding section. 55-56 V., c. 29, s. 872.

Enforcing Adjudication.

741. The justice making the conviction or order mentioned in paragraph (a) of section seven hundred and thirty-nine may issue a warrant of distress in form 39 or 40, as the case requires.

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requires, and in the case of a conviction or order under paragraph \((b)\) of the said section, a warrant in one of the forms 41 or 42 may issue.

2. If the warrant of distress is issued and the constable or peace officer charged with the execution thereof returns (form 43) that he can find no goods or chattels whereon to levy thereunder, the justice may issue a warrant of commitment in form 44. 55-56 V., c. 29, s. 872.

742. When any information or complaint is dismissed with costs the justice may issue a warrant of distress on the goods and chattels of the prosecutor or complainant, in form 45, for the amount of such costs; and, in default of distress, a warrant of commitment in form 46 may issue.

2. The term of imprisonment in such case shall not exceed one month. 55-56 V., c. 29, s. 873.

743. If, after delivery of any warrant of distress issued under this Part to the constable or constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the justice granting the warrant, then upon proof being made upon oath or affirmation of the handwriting of the justice granting the warrant, before any justice of any other territorial division, such justice shall thereupon make an endorsement on the warrant, signed with his hand, authorizing the execution of the warrant within the limits of his jurisdiction, by virtue of which warrant and endorsement the penalty or sum and costs, or so much thereof as has not been before levied or paid, shall be levied by the person bringing the warrant, or by the person or persons to whom the warrant was originally directed, or by any constable or other peace officer of the last mentioned territorial division, by distress and sale of the goods and chattels of the defendant therein.

2. Such endorsement shall be in form 47. 55-56 V., c. 29, s. 874.

744. Whenever it appears to any justice that the issuing of a distress warrant would be ruinous to the defendant and his family, or whenever it appears to the justice, by the confession of the defendant or otherwise, that he has no goods and chattels whereon to levy such distress, then the justice, if he deems fit, instead of issuing a warrant of distress, may commit the defendant to the common gaol or other prison in the territorial division, there to be imprisoned, with or without hard labour, for the time and in the manner he would have been committed in case such warrant of distress had issued and no sufficient distress had been found. 55-56 V., c. 29, s. 875.

745. Whenever a justice issues a warrant of distress as hereinbefore provided, he may suffer the defendant to go at large,
large, or verbally, or by a written warrant in that behalf, may order the defendant to be kept and detained in safe custody, until return has been made to the warrant of distress, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the justice, for his appearance, at the time and place appointed for the return of the warrant of distress, before him or before such other justice for the same territorial division as shall then be there. 55-56 V., c. 29, s. 876.

746. Whenever a justice, upon any information or complaint, adjudges the defendant to be imprisoned, and the defendant is then in prison undergoing imprisonment upon conviction for any other offence, the warrant of commitment for the subsequent offence shall be forthwith delivered to the gaoler or other officer to whom it is directed.

2. The justice who issued the same, if he thinks fit, may award and order therein that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the defendant was previously sentenced. 55-56 V., c. 29, s. 877.

747. Whenever a warrant of distress has issued against any person, and such person pays or tenders to the peace officer having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the costs and charges of the distress up to the time of payment or tender, the peace officer shall cease to execute the same.

2. Whenever any person is imprisoned for non-payment of any penalty or other sum, he may pay or cause to be paid to the keeper of the prison in which he is imprisoned, the sum in the warrant of commitment mentioned, together with the amount of the costs and charges therein also mentioned, and the keeper shall receive the same, and shall thereupon discharge the person, if he is in his custody for no other matter.

3. Such keeper shall forthwith pay over any moneys so received by him to the justice who issued the warrant. 55-56 V., c. 29, s. 901.

Sureties to Keep the Peace.

748. Whenever any person is charged before a justice with any offence triable under this Part which, in the opinion of such justice, is directly against the peace, and the justice after hearing the case is satisfied of the guilt of the accused, and that the offence was committed under circumstances which render it probable that the person convicted will be again guilty of the same or some other offence against the peace unless he is bound over to good behaviour, such justice may, in addition to, or in lieu of, any other sentence which may be imposed upon the accused, require him forthwith to enter into his own recognizance, 2621 R.S., 1906.
In case of complaint if threats made.

2. Upon complaint by or on behalf of any person that on account of threats made by some other person or on any other account, he, the complainant, is afraid that such other person will do him, his wife or child some personal injury, or will burn or set fire to his property, the justice before whom such complaint is made, may, if he is satisfied that the complainant has reasonable grounds for his fears, require such other person to enter into his own recognizance, or to give security, to keep the peace, and to be of good behaviour, for a term not exceeding twelve months.

3. The provisions of this Part shall apply, so far as the same are applicable, to proceedings under this section, and the complainant and defendant and witnesses may be called and examined, and cross-examined, and the complainant and defendant shall be subject to costs as in the case of any other complaint.

4. If any person so required to enter into his own recognizance or give security as aforesaid, refuses or neglects so to do, the same or any other justice may order him to be imprisoned for any term not exceeding twelve months.

5. The forms 48, 49 and 50, with such variations and additions as the circumstances may require, may be used in proceedings under this section. 55-56 V., c. 29, s. 959; 56 V., c. 32, s. 1.

**Appeal.**

749. Unless it is otherwise provided in any special Act under which a conviction takes place or an order is made by a justice for the payment of money or dismissing an information or complaint, any person who thinks himself aggrieved by any such conviction or order or dismissal, the prosecutor or complainant, as well as the defendant, may appeal,—

(a) in the province of Ontario, when the conviction adjudges imprisonment only, to the Court of General Sessions of the Peace; and in all other cases to the Division Court of the division of the county in which the cause of the information or complaint arose;

(b) in the province of Quebec, to the Court of King’s Bench, Crown side;

(c) in the provinces of Nova Scotia, New Brunswick and Manitoba, to the county court of the district or county where the cause of the information or complaint arose;

(d) in the province of British Columbia, to the county court, at the sitting thereof which shall be held nearest to the place where the cause of the information or complaint arose;

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

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(f) in the province of Saskatchewan or Alberta, to a judge of the Supreme Court of the Northwest Territories pending the abolition of that court by the legislature of the province, and thereafter to a judge of such court in either of the said provinces as may in respect of that province be substituted by the legislature thereof for the Supreme Court of the Northwest Territories;

(g) in the Northwest Territories, to a stipendiary magistrate; and,

(h) in the Yukon Territory, to a judge of the Territorial Court.

2. In the district of Nipissing such person may appeal to the Court of General Sessions of the Peace for the county of Renfrew, when the conviction adjudges imprisonment only, and in all other cases to the Division Court of the county of Renfrew held nearest to the place where the cause of the information or complaint arose.

3. In the case of the provinces of Saskatchewan and Alberta, and of the Northwest Territories and the Yukon Territory, the judge or stipendiary magistrate hearing any such appeal shall sit without a jury at the place where the cause of the information or complaint arose, or at the nearest place thereto where a court is appointed to be held. 55-56 V. c. 29, s. 879; 4-5 E. VII., c. 3, s. 16; c. 10, ss. 1 and 2; c. 27, s. 8; c. 42, s. 16.

750. Unless it is otherwise provided in the special Act,—

(a) if a conviction or order is made more than fourteen days before the sittings of the court to which an appeal is given, such appeal shall be made to the next sittings of such court; but if the conviction or order is made within fourteen days of the sittings of such court, then to the second sittings next after such conviction or order;

(b) the appellant shall give notice of his intention to appeal by filing in the office of the clerk of the court appealed to, and serving the respondent with a copy thereof, a notice in writing setting forth with reasonable certainty the conviction appealed against and the court appealed to, within ten days after the conviction complained of, and shall, at least five days before the hearing of such appeal, serve upon the respondent or his solicitor a notice setting forth the grounds of such appeal;

(c) the appellant, if the appeal is from a conviction adjudging imprisonment, shall either remain in custody until the holding of the court to which the appeal is given, or shall enter into a recognizance in form 51 with two sufficient sureties, before a county judge, clerk of the peace, or justice of the peace for the county in which such conviction has been made, conditioned personally to appear at the said court, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as are awarded R.S., 1906.
awarded by the court; and upon such recognizance being given, the justice before whom such recognizance is entered into, shall liberate such person, if in custody;

(d) in case of an appeal from the order of a justice, pursuant to section six hundred and thirty-seven, for the restoration of gold or gold-bearing quartz, or silver or silver ore, the appellant shall give security by recognizance to the value of the said property to prosecute his appeal at the next settings of the court and to pay such costs as are awarded against him. 55-56 V., c. 29, s. 880; 4-5 E. VII., c. 10, ss. 3 and 4.

751. The court to which such appeal is made shall thereupon hear and determine the matter of appeal and make such order therein, with or without costs to either party, including costs of the court below, as seems meet to the court, and, in case of the dismissal of an appeal by the defendant and the affirmance of the conviction or order, shall order and adjudge the appellant to be punished according to the conviction or to pay the amount adjudged by the order, and to pay such costs as are awarded, and shall, if necessary, issue process for enforcing the judgment of the court.

2. In any case where a deposit was made on appeal previously to the twentieth day of July in the year of our Lord one thousand nine hundred and five, if the conviction or order is affirmed, the court may order that the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, shall be paid out of the money deposited, and that the residue, if any, shall be repaid to the appellant; and, if the conviction or order is quashed, the court shall order the money to be repaid to the appellant.

3. The court to which such appeal is made shall have power, if necessary, from time to time, by order endorsed on the conviction or order, to adjourn the hearing of the appeal from one sittings to another, or others, of the said court.

4. Whenever any conviction or order is quashed on appeal, the clerk of the peace or other proper officer shall forthwith endorse on the conviction or order a memorandum that the same has been quashed.

5. Whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall, when certified under the hand of the clerk of the peace, or of the proper officer having the custody of the same, be sufficient evidence, in all courts and for all purposes, that the conviction or order has been quashed. 55-56 V., c. 29, s. 880; 4-5 E. VII., c. 10, s. 4.

752. When an appeal against any summary conviction or order has been lodged in due form, and in compliance with the requirements of this Part, the court appealed to shall try,

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and shall be the absolute judge, as well of the facts as of the law, in respect to such conviction or order.

2. Any of the parties to the appeal may call witnesses and adduce evidence whether such witnesses were called or evidence adduced at the hearing before the justice or not, either as to the credibility of any witness, or as to any other fact material to the inquiry.

3. Any evidence taken before the justice at the hearing below, certified by the justice, may be read on such appeal, and shall have the like force and effect as if the witness was there examined if the court appealed to is satisfied by affidavit or otherwise, that the personal presence of the witness cannot be obtained by any reasonable efforts. 55-56 V., c. 29, s. 881.

753. No judgment shall be given in favour of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant issued upon any such information, complaint or summons, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced in support thereof at the hearing of such information or complaint, unless it is proved before the court hearing the appeal that such objection was made before the justice before whom the case was tried, and by whom such conviction, judgment or decision was given, nor unless it is proved that notwithstanding it was shown to such justice that by such variance the person summoned and appearing or apprehended had been deceived or misled, such justice refused to adjourn the hearing of the case to some further day, as in this Part provided. 55-56 V., c. 29, s. 882.

754. In every case of appeal from any summary conviction or order had or made before any justice, the court to which such appeal is made shall, notwithstanding any defect in such conviction or order, and notwithstanding that the punishment imposed or the order made may be in excess of that which might lawfully have been imposed or made, hear and determine the charge or complaint on which such conviction or order has been had or made, upon the merits, and may confirm, reverse or modify the decision of such justice, or may make such other conviction or order in the matter as the court thinks just, and may by such order exercise any power which the justice whose decision is appealed from might have exercised, and may make such order as to costs to be paid by either party as it thinks fit.

2. Such conviction or order shall have the same effect and may be enforced in the same manner as if it had been made by such justice.

3. Any conviction or order made by the court on appeal may be enforced by process of the court itself. 55-56 V., c. 20, s. 883.

Costs when appeal not prosecuted.

The court to which an appeal is made, upon proof of notice of the appeal to such court having been given to the person entitled to receive the same, whether such notice has been properly given or not, and though such appeal has not been afterwards prosecuted or entered, may, if such appeal has not been abandoned according to law, at the same sittings for which such notice was given, order to the party or parties receiving the same such costs and charges as are thought reasonable and just by the court, to be paid by the party or parties giving such notice.

2. Such costs shall be recoverable in the manner provided by this Act for the recovery of costs upon an appeal against an order or conviction. 55-56 V., c. 29, s. 884; 57-58 V., c. 57, s. 1.

Proceedings when appeal fails.

If an appeal against a conviction or order is decided in favour of the respondents, the justice who made the conviction or order, or any other justice for the same territorial division, may issue the warrant of distress or commitment for execution of the same, as if no appeal had been brought. 55-56 V., c. 29, s. 885.

Conviction to be transmitted to appeal court.

Every justice before whom any person is summarily tried, shall transmit the conviction or order to the court to which the appeal is by this Part given, in and for the district, county or place wherein the offence is alleged to have been committed, before the time when an appeal from such conviction or order may be heard, there to be kept by the proper officer among the records of the court.

2. The conviction or order shall be presumed not to have been appealed against, until the contrary is shown.

3. Upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence.

4. In any case when a conviction or order is required by this Part after appeal to be enforced by any justice the clerk of the court to which the appeal was had or other proper officer shall remit such conviction or order and all papers therewith sent to the court of appeal excepting any notice of intention to appeal and recognizance to such justice to be by him proceeded upon as in such case directed by this Part. 55-56 V., c. 29, s. 888.

Order as to costs.

If upon any appeal the court trying the appeal orders either party to pay costs, the order shall direct the costs to be paid to the clerk of the peace or other proper officer of the court, to be paid over by him to the person entitled to the same, and shall state within what time the costs shall be paid. 55-56 V., c. 29, s. 897.

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759. If such costs are not paid within the time so limited, and the person ordered to pay the same has not been bound by any recognizance conditioned to pay such costs, the clerk of the peace or his deputy, on application of the person entitled to the costs, or of any person on his behalf, and on payment of any fee to which he is entitled, shall grant to the person so applying a certificate that the costs have not been paid.

2. Upon production of the certificate to any justice in and for the same territorial division, such justice may enforce the payment of the costs by warrant of distress, and in default of distress may by warrant commit the person against whom the warrant of distress has issued, for any term not exceeding one month, unless the amount of the costs and all costs and charges of the distress and also the costs of the commitment and of the conveying of the party to prison, if the justice thinks fit so to order, are sooner paid.

3. The said certificate shall be in form 52 and the warrants in forms 53 and 54 respectively.

760. An appellant may abandon his appeal by giving to the opposite party notice in writing of his intention six clear days before the sitting of the court appealed to, and thereupon the costs of the appeal shall be added to the sum, if any, adjudged against the appellant by the conviction or order, and the justice shall proceed on the conviction or order as if there had been no appeal.

Stating a Case.

761. Any person aggrieved, the prosecutor or complainant as well as the defendant, who desires to question a conviction, order, determination or other proceeding of a justice under this Part, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to such justice to state and sign a case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the justice declines to state the case, may apply to the court for an order requiring the case to be stated.

2. The application shall be made and the case stated within such time and in such manner as is, from time to time, directed by rules or orders under section five hundred and seventy-six.

762. The appellant at the time of making such application, and before a case is stated and delivered to him by the justice, shall, in every instance, enter into a recognizance before such justice or some other justice exercising the same jurisdiction, with or without surety or sureties, and in such sum as to the justice seems meet, conditioned to prosecute his appeal without delay, and to submit to the judgment of the court and pay such costs
Fees.

costs as are awarded by the same; and the appellant shall, at the same time, and before he shall be entitled to have the case delivered to him, pay to the justice such fees as he is entitled to.

2. The appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same justice, or such other justice as is then sitting, within ten days after the judgment of the court has been given, to abide such judgment, unless the judgment appealed against is reversed. 55-56 V., c. 29, s. 900.

Discharge of applicant from custody.

Refusal to state a case.

Exception.

Application to compel case.

Rule therefor.

Case to be stated.

Hearing of case stated.

Order final.

No costs against justice.

Amendment of case.

763. If the justice is of opinion that the application is merely frivolous, but not otherwise, he may refuse to state a case, and shall on the request of the applicant sign and deliver to him a certificate of such refusal: Provided that the justice shall not refuse to state a case where the application for that purpose is made to him by or under the direction of the Attorney General of Canada, or of any province. 55-56 V., c. 29, s. 900.

764. Where the justice refuses to state a case, it shall be lawful for the applicant to apply to the court, upon an affidavit of the facts, for a rule calling upon the justice, and also upon the respondent, to show cause why such case should not be stated; and such court may make such rule absolute, or discharge the application, with or without payment of costs, as to the court seems meet.

2. The justice upon being served with such rule absolute, shall state a case accordingly, upon the appellant entering into such recognizance as hereinbefore provided. 55-56 V., c. 29, s. 900.

765. The court to which a case is transmitted shall hear and determine the question or questions of law arising thereon, and shall thereupon affirm, reverse or modify the conviction, order or determination in respect of which the case has been stated, or remit the matter to the justice with the opinion of the court thereon, and may make such other order in relation to the matter, and such orders as to costs, as to the court seems fit; and all such orders shall be final and conclusive upon all parties.

2. No justice who states and delivers a case shall be liable to any costs in respect or by reason of such appeal against his determination. 55-56 V., c. 29, s. 900.

766. The court for the opinion of which a case is stated shall have power, if it thinks fit, to cause the case to be sent back for amendment; and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.

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2. The authority and jurisdiction of the court for the opinion of which a case is stated may, subject to any rules and orders of court in relation thereto, be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time. 55-56 V., c. 29, s. 900.

767. After the decision of the court in relation to any case stated for their opinion, the justice in relation to whose determination the case has been stated, or any other justice exercising the same jurisdiction, shall have the same authority to enforce any conviction, order or determination which has been affirmed, amended or made by such court as the justice who originally decided the case would have had to enforce his determination if a case had not been stated.

2. If the court deems it necessary or expedient any order of the court may be enforced by its own process. 55-56 V., c. 29, s. 900.

768. No writ of certiorari or other writ shall be required for the removal of any conviction, order or other determination in relation to which a case is stated as aforesaid for obtaining the judgment or determination of a superior court on such case. 55-56 V., c. 29, s. 900.

769. Every person for whom a case is stated as aforesaid in respect of any determination of a justice from which he is entitled to an appeal under section seven hundred and forty-nine, shall be taken to have abandoned his said right of appeal finally and conclusively and to all intents and purposes.

2. Where, by any special Act, it is provided that there shall be no appeal from any conviction or order, no proceedings shall be taken to have a case stated or signed as aforesaid in any case to which such provision as to appeal in such special Act applies. 55-56 V., c. 29, s. 900.

Fees.

770. The fees mentioned in the following tariff and no Fees. others shall be and constitute the fees to be taken on proceed-
ings before justices under this Part:

<table>
<thead>
<tr>
<th>Fees to be taken by Justices of the Peace or their Clerks.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Information or complaint and warrant or summons.</td>
</tr>
<tr>
<td>2. Warrant where summons issued in first instance.</td>
</tr>
<tr>
<td>3. Each necessary copy of summons or warrant.</td>
</tr>
<tr>
<td>4. Each summons or warrant to or for a witness or witnesses. (Only one summons on each side to be charged for in each case, which may contain any number of names. If the justice of the case requires it, additional summonses shall be issued without charge)</td>
</tr>
<tr>
<td>5.</td>
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</tbody>
</table>

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5. Information for warrant for witness and warrant. $0 50
6. Each necessary copy of summons or warrant for witness. 0 10
7. For every recognizance. 0 25
8. For hearing and determining case. 0 50
9. If case lasts over two hours. 1 00
10. Where one justice alone cannot lawfully hear and determine the case the same fee for hearing and determining to be allowed to the associate justice.
11. For each warrant of distress or commitment. 0 25
12. For making up record of conviction or order where the same is ordered to be returned to sessions or on certiorari. 1 00
But in all cases which admit of a summary proceeding before a single justice and wherein no higher penalty than $20 can be imposed, there shall be charged for the record of conviction not more than. 0 50
13. For copy of any other paper connected with any case, and the minutes of the same if demanded, per folio of 100 words. 0 05
14. For every bill of costs when demanded to be made out in detail. 0 10
(Items 13 and 14 to be chargeable only when there has been an adjudication.)

Constables' Fees.
1. Arrest of each individual upon a warrant. 1 50
2. Serving summons. 0 25
3. Mileage to serve summons or warrant, per mile (one way) necessarily travelled. 0 10
4. Same mileage when service cannot be affected, but only upon proof of due diligence.
5. Mileage taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance. 0 10
6. Attending justices on trial, for each day necessarily employed in one or more cases, when engaged less than four hours. 1 00
7. Attending justices on trial, for each day necessarily employed in one or more cases, when engaged more than four hours. 1 50
8. Mileage travelled to attend trial (when public conveyance can be taken, only reasonable disbursements to be allowed) one way per mile. 0 10
9. Serving warrant of distress and returning same. 1 00
10. Advertising under warrant of distress. 1 00
11. Travelling to make distress or to search for goods to make distress, when no goods are found (one way) per mile. 0 10

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12. Appraisements, whether by one appraiser or more—two cents in the dollar on the value of the goods.
13. Commissison on sale and delivery of goods—five cents in the dollar on the net proceeds.

Witnesses' Fees.
1. Each day attending trial.............. $0 75
2. Mileage travelled to attend trial (one way) per mile. 0 10
   55-56 V., c. 29, s. 871; 57-58 V., c. 57, s. 1.

PART XVI.

SUMMARY TRIAL OF INDICTABLE OFFENCES.

Interpretation.

771. In this Part, unless the context otherwise requires,—Definitions.
   (a) 'magistrate' means and includes,
      (i) in the provinces of Ontario, Quebec and Manitoba,
          any recorder, judge of a county court if a justice of the
          peace, commissioner of police, judge of the sessions
          of the peace, and police magistrate, district magistrate,
          or other functionary or tribunal, invested by the proper
          legislative authority with power to do alone such acts
          as are usually required to be done by two or more
          justices, and acting within the local limits of his or of
          its jurisdiction,
      (ii) in the provinces of Nova Scotia and New Brunswick,
          any recorder, judge of a county court, stipendiary magis-
          trate or police magistrate, acting within the local limits
          of his jurisdiction, and any commissioner of police and
          any functionary, tribunal or person invested by the proper
          legislative authority with power to do alone such acts
          as are usually required to be done by two or more
          justices of the peace,
      (iii) in the provinces of British Columbia and Prince
          Edward Island, any two justices sitting together, and
          any functionary or tribunal having the powers of two
          justices,
      (iv) in the province of Saskatchewan or Alberta, any
          judge of the Supreme Court of the Northwest Territor-
          ies, pending the abolition of that Court by the legis-
          lature of the province, and thereafter any judge of such
          court in either of the said provinces as may in respect
          of that province be substituted by the legislature thereof
          for the Supreme Court of the Northwest Territories;
          any two justices sitting together, and any functionary
          or tribunal having the powers of two justices,
      (v) in the Northwest Territories, any stipendiary magis-
          trate, any two justices sitting together and any func-
          tionary or tribunal having the powers of two justices,

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(vi) in the Yukon Territory, any judge of the Territorial Court, any two justices sitting together and any functional or tribunal having the powers of two justices, 
(vii) in all the provinces, where the defendant is charged with any of the offences mentioned in paragraphs (a) and (f) of section seven hundred and seventy-three, any two justices sitting together;

(b) 'the common gaol or other place of confinement,' in the case of any offender whose age at the time of his conviction does not, in the opinion of the magistrate, exceed sixteen years, includes any reformatory prison provided for the reception of juvenile offenders in the province in which the conviction referred to takes place, and to which by the law of that province the offender may be sent; and,

(c) 'property' includes everything within the meaning of 'valuable security,' as defined by this Act.

2. In any case where the value of any valuable security is necessary to be determined it shall be reckoned in the manner prescribed by section four. 55-56 V., c. 29, s. 782; 58-59 V., c. 40, s. 1.

Application of Part.

772. Nothing in this Part shall affect the provisions of Part XVII., and this Part shall not extend to persons punishable under that Part so far as regards offences for which such persons may be punished thereunder. 55-56 V., c. 29, s. 808.

Jurisdiction.

773. Whenever any person is charged before a magistrate—

(a) with theft, or obtaining money or property by false pretenses, or unlawfully receiving stolen property, where the value of the property does not, in the judgment of the magistrate, exceed ten dollars; or,

(b) with attempt to commit theft; or,

(c) with unlawfully wounding or inflicting grievous bodily harm upon any other person, either with or without a weapon or instrument; or,

(d) with indecent assault upon a male person whose age does not, in the opinion of the magistrate, exceed fourteen years, when such assault is of a nature which cannot, in the opinion of the magistrate, be sufficiently punished by a summary conviction before him under any other Part; or with indecent assault upon a female, not amounting, in the magistrate's opinion, to an assault with intent to commit a rape; or,

(e) with assaulting or obstructing any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer; or,

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(f) with keeping or being an inmate, or habitual frequenter of any disorderly house, house of ill-fame or bawdy-house; or,

(g) with any offence under section two hundred and thirty-five;

the magistrate may, subject to the subsequent provisions of this Part, hear and determine the charge in a summary way. 55-56 V., c. 29, s. 783.

774. The jurisdiction of such magistrate is absolute in the case of any person charged with keeping or being an inmate or habitual frequenter of any disorderly house, house of ill-fame or bawdy-house, and does not depend on the consent of the person charged to be tried by such magistrate, nor shall such person be asked whether he consents to be so tried.

2. The provisions of this Part shall not affect the absolute summary jurisdiction given to any justice or justices in any case by any other Part of this Act. 55-56 V., c. 29, s. 784.

775. The jurisdiction of the magistrate is absolute in the case of any person who, being a seafaring person and only transiently in Canada, and having no permanent domicile therein, is charged, either within the city of Quebec as limited for the purpose of the police ordinance, or within the city of Montreal as so limited, or in any other seaport city or town in Canada where there is such magistrate, with the commission therein of any of the offences in this Part previously mentioned, and also in the case of any other person charged with any such offence on the complaint of any such seafaring person whose testimony is essential to the proof of the offence.

2. Such jurisdiction does not depend on the consent of any such person to be tried by the magistrate, nor shall such person be asked whether he consents to be so tried. 55-56 V., c. 29, s. 784.

776. The jurisdiction of the magistrate in the provinces of British Columbia, Prince Edward Island, Saskatchewan and Alberta, and in the Northwest Territories and Yukon Territory, under this Part, is absolute without the consent of the party charged, except in cases coming within the provisions of section seven hundred and seventy-seven, and except in cases under sections seven hundred and eighty-two and seven hundred and eighty-three, where the person charged is not a person who under section seven hundred and seventy-five, can be tried summarily without his consent. 63-64 V., c. 46, s. 3.

777. If any person is charged in the province of Ontario before a police magistrate or before a stipendiary magistrate in any county, district or provisional county in such province, with having committed any offence for which he may be tried at a court of general sessions of the peace, or if any person

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is committed to a gaol in the county, district or provisional county, under the warrant of any justice, for trial on a charge of being guilty of any such offence, such person may, with his own consent, be tried before such magistrate, and may, if found guilty, be sentenced by the magistrate to the same punishment as he would have been liable to if he had been tried before the court of general sessions of the peace.

2. This section shall apply also to police and stipendiary magistrates of cities and incorporated towns in every other part of Canada, and to recorders where they exercise judicial functions: Provided that when the magistrate has jurisdiction by virtue of this section only, no person shall be summarily tried thereunder without his own consent.

3. Sections seven hundred and eighty and seven hundred and eighty-one do not extend or apply to cases tried under this section. 63-64 V., c. 46, s. 3.

**Procedure.**

778. Whenever the magistrate, before whom any person is charged as aforesaid, proposes to dispose of the case summarily under the provisions of this Part, such magistrate, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the person charged for any statement which he wishes to make, shall state to such person the substance of the charge against him.

2. If the charge is not one that can be tried summarily without the consent of the accused the magistrate shall then address him in these words, or words to the like effect: 'Do you consent that the charge against you shall be tried by me, or do you desire that it shall be sent for trial by a jury at the (naming the court at which it can probably soonest be tried).'

3. If the person charged consents to the charge being summarily tried and determined as aforesaid, or if the power of the magistrate to try it does not depend on the consent of the accused, the magistrate shall reduce the charge to writing and read the same to such person, and shall then ask him whether he is guilty or not of such charge.

4. If the person charged confesses the charge the magistrate shall then proceed to pass such sentence upon him as by law may be passed in respect to such offence, subject to the provisions of this Act; but if the person charged says that he is not guilty, the magistrate shall then examine the witnesses for the prosecution, and when the examination has been completed, the magistrate shall inquire of the person charged whether he has any defence to make to such charge, and if he states that he has a defence the magistrate shall hear such defence, and shall then proceed to dispose of the case summarily. 55-56 V., c. 29, s. 786.
779. Whenever the person charged appears to be of, or about, or under the age of sixteen years, and is not represented by counsel present at the time, the magistrate shall not proceed under the last preceding section without first asking the person charged what his age is.

2. If such person then states his age as being sixteen years or less, the magistrate shall defer any further action, and shall at once cause notice to be given to the parent or parents of such person, living in the province, if any, or if he has no such parents, or if his parents are unknown, then to the guardian or householder, if any, with whom he ordinarily resides, of such person having been so charged, and of the time and place when such person will be called on to make his election as to whether he will be tried by the said magistrate.

3. Such notice shall allow reasonable time for the said parents, guardian or householder to be present and advise the said person charged before he is called on to so elect.

4. At the time fixed by such notice, or if it appears to the satisfaction of the magistrate that there is no person for whom notice is provided as aforesaid, or that all reasonable means to give such notice have been taken without success, then, at the earliest convenient time, the magistrate shall proceed as in the last preceding section provided.

5. If any person notified as aforesaid is present at the time so fixed, the magistrate shall afford him an opportunity to advise the person charged before he is called upon to elect.

6. The notice provided for by this section may be given by registered letter, if the person to be notified does not reside in the city, town or municipality where the proceedings are had.

4 E. VII., c. 8, s. 1.

780. In the case of an offence charged under paragraph (a) or (b) of section seven hundred and seventy-three, the magistrate, after hearing the whole case for the prosecution and for the defence, shall, if he finds the charge proved, convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months. 55-56 V., c. 29, s. 787.

781. In any case summarily tried under paragraphs (c), (d), (e), (f), (g), (h) or (i) of section seven hundred and seventy-three, if the magistrate finds the charge proved, he may convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, one hundred dollars, or to both fine and imprisonment not exceeding the said sum and term.

2. Such fine may be levied by warrant of distress under the hand and seal of the magistrate, or the person convicted may be

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be condemned, in addition to any other imprisonment on the same conviction, to be committed to the common gaol or other place of confinement for a further term not exceeding six months, unless such fine is sooner paid. 55-56 V., c. 29, s. 788.

782. When any person is charged before a magistrate with theft or with having obtained property by false pretenses, or with having unlawfully received stolen property, and the value of the property stolen, obtained or received exceeds ten dollars, and the evidence in support of the prosecution is, in the opinion of the magistrate, sufficient to put the person on his trial for the offence charged, such magistrate, if the case appears to him to be one which may properly be disposed of in a summary way, shall reduce the charge to writing, and shall read it to the said person, and, unless such person is one who, under section seven hundred and seventy-five, can be tried summarily without his consent, shall then put to him the question mentioned in section seven hundred and seventy-eight, and shall explain to him that he is not obliged to plead or answer before such magistrate, and that if he does not plead or answer before him, he will be committed for trial in the usual course. 63-64 V., c. 46, s. 3.

783. If the person charged as mentioned in the last preceding section consents to be tried by the magistrate, the magistrate shall then ask him whether he is guilty or not guilty of the charge, and if such person says that he is guilty, the magistrate shall then cause a plea of guilty to be entered upon the proceedings, and sentence him to the same punishment as he would have been liable to if he had been convicted upon indictment in the ordinary way; and if he says that he is not guilty, he shall be remanded to gaol to await his trial before him in the usual course. 63-64 V., c. 46, s. 3.

784. If, in any proceeding under this Part, it appears to the magistrate that the offence is one which, owing to a previous conviction of the person charged, or from any other circumstance, ought to be made the subject of prosecution by indictment rather than to be disposed of summarily, such magistrate may, before the accused person has made his defence, decide not to adjudicate summarily upon the case; but a previous conviction shall not prevent the magistrate from trying the offender summarily, if he thinks fit so to do. 55-56 V., c. 29, s. 791.

785. If, when his consent is necessary, the person charged elects to be tried before a jury, the magistrate shall proceed to hold a preliminary inquiry as provided in Parts XIII. and XIV., and if the person charged is committed for trial, shall state in the warrant of committal the fact of such election having been made. 55-56 V., c. 29, s. 792.
786. In every case of summary proceedings under this Part the person accused shall be allowed to make his full answer and defence, and to have all witnesses examined and cross-examined by counsel or solicitor. 55-56 V., c. 29, s. 793.

787. Every court held by a magistrate for the purposes of this Part shall be an open public court. 55-56 V., c. 29, s. 794.

788. The magistrate before whom any person is charged under the provisions of this Part may, by summons or, by writing under his hand, require the attendance of any person as a witness upon the hearing of the case, at a time and place to be named in such summons, and such magistrate may bind, by recognizance, all persons whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge.

2. If any person so summoned, or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is made of such person having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the magistrate before whom such person should have attended may issue a warrant to compel his appearance as a witness. 55-56 V., c. 29, s. 795.

789. Every summons issued under the provisions of this Part may be served by delivering a copy of the summons to the person summoned, or by delivering a copy of the summons to some inmate of such person's usual place of abode apparently over sixteen years of age.

2. Every person required by any writing under the hand of the magistrate to attend and give evidence as aforesaid shall be deemed to have been duly summoned. 55-56 V., c. 29, s. 796.

790. Whenever the magistrate finds the offence not proved, he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal. 55-56 V., c. 29, s. 797.

791. Every conviction under this Part shall have the same effect as a conviction upon indictment for the same offence. 55-56 V., c. 29, s. 798.

792. Every person who obtains a certificate of dismissal or is convicted under the provisions of this Part, shall be released from all further or other criminal proceedings for the same cause. 55-56 V., c. 29, s. 799.

793. The magistrate adjudicating under the provisions of this Part shall transmit the conviction, or a duplicate of the certificate R.S., 1906.
certificate of dismissal, with the written charge, the depositions of witnesses for the prosecution and for the defence, and the statement of the accused, to the clerk of the peace or other proper officer for the district, city, county or place wherein the offence was committed, there to be kept by the proper officer among the records of the general or quarter sessions of the peace or of any court discharging the functions of a court of general or quarter sessions of the peace. 63-64 V., c. 46, s. 3; 1 E. VII., c. 42, s. 2.

794. A copy of such conviction, or of such certificate of dismissal, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein in any legal proceedings. 55-56 V., c. 29, s. 802.

795. The magistrate by whom any person has been convicted under the provisions of this Part may order restitution of the property stolen, or taken or obtained by false pretenses, in any case in which the court, before whom the person convicted would have been tried but for the provisions of this Part, might by law order restitution. 55-56 V., c. 29, s. 803.

796. Whenever any person is charged before any justice or justices, with any offence mentioned in section seven hundred and seventy-three, and in the opinion of such justice or justices the case is proper to be disposed of summarily by a magistrate, as in this Part provided, the justice or justices before whom such person is so charged may, if he or they see fit, remand such person for trial before the nearest magistrate in like manner in all respects as a justice or justices are authorized to commit an accused person for trial at any court: Provided that no justice or justices, in any province, shall so remand any person for trial before any magistrate in any other province.

2. Any person so remanded for trial before a magistrate in any city, may be examined and dealt with by the said magistrate or any other magistrate in the same city. 55-56 V., c. 29, s. 804.

797. When any of the offences mentioned in paragraphs (a) or (f) of section seven hundred and seventy-three is tried in any of the provinces under this Part an appeal shall lie from a conviction for the offence in the same manner as from summary convictions under Part XV., and all provisions of that Part relating to appeals shall apply to every such appeal: Provided that in the province of Saskatchewan or Alberta there shall be no appeal if the conviction is made by a judge of a superior court. 58-59 V., c. 40, s. 1.

798. Except as specially provided for in the two last preceding sections, neither the provisions of this Act relating to
799. A conviction or certificate of dismissal under this Part may be in the form 55, 56, or 57 applicable to the case or to the like effect; and whenever the nature of the case requires it, such forms may be altered by omitting the words stating the consent of the person to be tried before the magistrate, and by adding the requisite words, stating the fine imposed, if any, and the imprisonment, if any, to which the person convicted is to be subjected, if the fine is not sooner paid. 55-56 V., c. 29, s. 807.

PART XVII.

TRIAL OF JUVENILE OFFENDERS FOR INDICTABLE OFFENCES.

Interpretation.

800. In this Part, unless the context otherwise requires,—
(a) 'two or more justices,' or 'the justices,' includes,
(i) in the provinces of Ontario and Manitoba, any judge of the county court being a justice, police magistrate or stipendiary magistrate, or any two justices, acting within the limits of their respective jurisdictions,
(ii) in the province of Quebec, any two or more justices, the sheriff of any district, except Montreal and Quebec, the deputy sheriff of Gaspé, and any recorder, judge of the sessions of the peace, police magistrate, district magistrate or stipendiary magistrate, acting within the limits of their respective jurisdictions,
(iii) in the provinces of Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, any functionary or tribunal invested by the proper legislative authority with power to do acts usually required to be done by two or more justices,
(iv) in the province of Saskatchewan or Alberta, any judge of the Supreme Court of the Northwest Territories, pending the abolition of that Court by the legislature of the province, and thereafter any judge of such court in either of the said provinces as may in respect of that province be substituted by the legislature thereof for the Supreme Court of the Northwest Territories; any two justices sitting together, and any functionary or tribunal having the powers of two justices,
(v) in the Northwest Territories, any stipendiary magistrate, any two justices sitting together, and any functionary or tribunal having the powers of two justices, and
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(vi) in the Yukon Territory, any judge of the Territorial Court, any two justices sitting together, and any functionary or tribunal having the powers of two justices;

(b) 'the common gaol or other place of confinement' includes any reformatory prison provided for the reception of juvenile offenders in the province in which the conviction referred to takes place, and to which, by the law of that province, the offender may be sent. 55-56 V., c. 29, s. 809.

Application of Part.

801. The provisions of this Part shall not apply to any offence committed in the province of British Columbia or Prince Edward Island, punishable by imprisonment for two years and upwards; and in such provinces it shall not be necessary to transmit any recognizance to the clerk of the peace or other proper officer. 55-56 V., c. 29, s. 829.

Jurisdiction.

802. Every person charged with having committed, or having attempted to commit any offence which is theft, or punishable as theft, and whose age, at the period of the commission or attempted commission of such offence, does not, in the opinion of the justice before whom he is brought or appears, exceed the age of sixteen years, shall, upon conviction thereof in open court, upon his own confession or upon proof, before any two or more justices, be committed to the common gaol or other place of confinement within the jurisdiction of such justices, there to be imprisoned, with or without hard labour, for any term not exceeding three months, or, in the discretion of such justices, shall forfeit and pay such sum, not exceeding twenty dollars, as such justices adjudge. 55-56 V., c. 29, s. 810.

803. The provisions of this Part shall not authorize two or more justices to sentence offenders to imprisonment in a reformatory in the province of Ontario. 55-56 V., c. 29, s. 830.

804. Nothing in this Part shall prevent the summary conviction of any person who may be tried thereunder before one or more justices, for any offence for which he is liable to be so convicted under any other Part of this Act or under any other Act. 55-56 V., c. 29, s. 831.

Procedure.

805. Whenever any person, whose age is alleged not to exceed sixteen years, is charged with any offence mentioned in section eight hundred and two, on the oath of a credible witness, before any justice, such justice may issue his summons or warrant.
rant, to summon or to apprehend the person so charged, to appear before any two justices, at a time and place to be named in such summons or warrant. 55-56 V., c. 29, s. 811.

806. Any justice, if he thinks fit, may remand for further examination or for trial, or suffer to go at large, upon his finding sufficient sureties, any such person charged before him with any offence aforesaid.

2. Every such surety shall be bound by recognizance conditioned for the appearance of such person before the same or some other justice or justices for further examination, or for trial before two or more justices as aforesaid, or for trial by indictment at the proper court of criminal jurisdiction, as the case may be.

3. Every such recognizance may be enlarged, from time to time, by any such justice or justices to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward, when the person has appeared according to the condition thereof. 55-56 V., c. 29, s. 812.

807. The justices before whom any person is charged and proceeded against under the provisions of this Part, before such person is asked whether he has any cause to show why he should not be convicted, shall address the person so charged in these words, or words to the like effect:

'Ve shall have to hear what you wish to say in answer to the charge against you; but if you wish to be tried by a jury, you must object now to our deciding upon it at once.'

2. And if such person, or a parent or guardian of such person, then objects, no further proceedings shall be had under the provisions of this Part; but the justices may deal with the case according to the provisions set out in Parts XIII. and XIV., as if the accused were before them thereunder. 55-56 V., c. 29, s. 813.

808. If the justices are of opinion, before the person charged has made his defence, that the charge is, from any circumstance, a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this Part, the justices shall not deal with it summarily, but may proceed to hold a preliminary inquiry as provided for in Parts XIII. and XIV.

2. In case the accused has elected to be tried by a jury, the justices shall state in the warrant of commitment the fact of such election having been made. 55-56 V., c. 29, s. 814.

809. Any justice may, by summons or by writing under his hand, require the attendance of any person as a witness upon R.S., 1906.
upon the hearing of any case before two justices, under the authority of this Part, at a time and place to be named in such summons. 55-56 V., c. 29, s. 813.

**S10.** Any such justice may require and bind by recognizance every person whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge. 55-56 V., c. 29, s. 816.

**S11.** If any person summoned or required or bound, as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is given of such person having been duly summoned, as hereinafter mentioned, or bound by recognizance, as aforesaid, either of the justices before whom any such person should have attended, may issue a warrant to compel his appearance as a witness. 55-56 V., c. 29, s. 817.

**S12.** Every summons issued under the authority of this Part may be served by delivering a copy thereof to the person, or to some inmate, apparently over sixteen years of age, at such person's usual place of abode, and every person so required by any writing under the hand or hands of any justice or justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. 55-56 V., c. 29, s. 818.

**S13.** If the justices upon the hearing of the case deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the person charged, and make out and deliver to him a certificate in the form 58, or to the like effect, under the hands of such justices, stating the fact of such dismissal: Provided that if the dismissal shall be on account only of it being deemed inexpedient to inflict any punishment the accused shall be discharged only on his finding sureties for his good behaviour. 55-56 V., c. 29, s. 819.

**S14.** The justices before whom any person is summarily convicted of any offence in this Part previously mentioned, may cause the conviction to be drawn up in form 59, or in any other form to the same effect, and the conviction shall be good and effectual to all intents and purposes. 55-56 V., c. 29, s. 820.

**S15.** Every person who obtains such certificate of dismissal, or is so convicted, shall be released from all further or other criminal proceedings for the same cause. 55-56 V., c. 29, s. 821.

**S16.** The justice before whom any person is convicted under the provisions of this Part shall forthwith transmit the conviction and recognizances to the clerk of the peace or other proper
proper officer, for the district, city, county or union of counties
wherein the offence was committed, there to, be kept by the
proper officer among the records of the court of general or
quarter sessions of the peace, or of any other court discharging
the functions of a court of general or quarter sessions of the
peace. 55-56 V., c. 29, s. 822.

817. No conviction under the authority of this Part shall
be attended with any forfeiture, except such penalty as is
imposed by the sentence; but whenever any person is adjudged
guilty under the provisions of this Part, the presiding justice
may order restitution of property in respect of which the offence
was committed, to the owner thereof or his representatives.

2. If such property is not then forthcoming, the justices, if
whether they award punishment or not, may inquire into and
ascertain the value thereof in money; and, if they think proper,
order payment of such sum of money to the true owner, by the
person convicted, either at one time or by instalments, at such
periods as the justices deem reasonable.

3. The person ordered to pay such sum may be sued for the
same as a debt in any court in which debts of the like amount
are, by law, recoverable, with costs of suit, according to the
practice of such court. 55-56 V., c. 29, s. 824.

818. Whenever the justices adjudge any offender to forfeit
and pay a pecuniary penalty under the authority of this Part,
and such penalty is not forthwith paid, they may, if they deem
it expedient, appoint some future day for the payment thereof,
and order the offender to be detained in safe custody until the
day so appointed, unless such offender gives security to the
satisfaction of the justices, for his appearance on such day;
and the justices may take such security by way of recognizance
or otherwise in their discretion.

2. If at any time so appointed such penalty has not been
paid, the same or any other justices may, by warrant under
their hands and seals, commit the offender to the common gaol
or other place of confinement within their jurisdiction, there to
remain for any time not exceeding three months, reckoned from
the day of such adjudication. 55-56 V., c. 29, s. 825.

819. The justices before whom any person is prosecuted
or tried for any offence cognizable under this Part may, in their
discretion, at the request of the prosecutor or of any other
person who appears on recognizance or summons to prosecute
or give evidence against such person, order payment to the
prosecutor and witnesses for the prosecution, of such sums as
to them seem reasonable and sufficient, to reimburse such
prosecutor and witnesses for the expenses they have severally
incurred in attending before them, and in otherwise carrying on
such prosecution, and also to compensate them for their trouble
and loss of time therein, and to the constables and other peace
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officers payment for the apprehension and detention of any persons so charged.

2. The justices may, although no conviction takes place, order all or any of the payments aforesaid to be made, when they are of opinion that the persons, or any of them, have acted in good faith. 55-56 V., c. 29, s. 826.

820. The amount of expenses of attending before the justices and the compensation for trouble and loss of time therein, and the allowances to the constables and other peace officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such justices.

2. The amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one case exceed the sum of eight dollars. 55-56 V., c. 29, s. 828.

821. Every such order of payment to any prosecutor or other person, after the amount thereof has been certified by the proper justices as aforesaid, shall be forthwith made out and delivered by the said justices or one of them, or by the clerk of the peace or other proper officer, as the case may be, to such prosecutor or other person, upon such clerk or officer being paid his lawful fee for the same, and shall be made upon the officer to whom fines imposed under the authority of this Part are required to be paid over in the district, city, county or union of counties in which the offence was committed, or was supposed to have been committed.

2. Such officer shall upon sight of every such order, forthwith pay to the person named therein, or to any other person duly authorized to receive the same on his behalf, out of any moneys received by him under this Part, the money in such order mentioned, and he shall be allowed the same in his accounts of such moneys. 55-56 V., c. 29, s. 828.

PART XVIII.

SPEEDY TRIALS OF INDICTABLE OFFENCES.

Application of Part.

822. The provisions of this Part do not apply to the province of Saskatchewan or Alberta, or to the Northwest Territories or the Yukon Territory. 55-56 V., c. 29, s. 762.

Interpretation.

823. In this Part, unless the context otherwise requires,—

(a) 'judge' means and includes,

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(i) in the province of Ontario, any judge of a county or district court, junior judge or deputy judge authorized to act as chairman of the general sessions of the peace, 
(ii) in the province of Quebec, in any district wherein there is a judge of the sessions, such judge of sessions, and in any district wherein there is no judge of sessions but wherein there is a district magistrate, such district magistrate, and in any district wherein there is neither a judge of sessions nor a district magistrate, the sheriff of such district, 
(iii) in each of the provinces of Nova Scotia, New Brunswick and Prince Edward Island, any judge of a county court,
(iv) in the province of Manitoba, the Chief Justice, or a puisne judge of the Court of King's Bench, or any judge of a county court,
(v) in the province of British Columbia, the Chief Justice or a puisne judge of the Supreme Court, or any judge of a county court;
(b) 'county attorney' or 'clerk of the peace' includes, in the province of Ontario, the County Crown Attorney, in the provinces of Nova Scotia, New Brunswick and Prince Edward Island, any clerk of a county court, and in the province of Manitoba, any Crown attorney, the prothonotary of the Court of King's Bench, and any deputy prothonotary thereof, any deputy clerk of the peace, and the deputy clerk of the Crown and pleas for any district in the said province. 55-56 V., c. 29, s. 763; 58-59 V., c. 40, s. 1: 63-64 V., c. 46, s. 3.

**Jurisdiction.**

**824.** The judge sitting on any trial under this Part, for Judge a court all the purposes thereof and proceedings connected therewith of record, or relating thereto, shall be a court of record, and in every province of Canada, except the province of Quebec, such court shall be called the County Court Judge's Criminal Court of the county or union of counties or judicial district in which the same is held.

2. The record in any such case shall be filed among the Record to be records of the court over which the judge presides, and as part of such records. 55-56 V., c. 29, s. 764.

**825.** Every person committed to gaol for trial on a charge of being guilty of any of the offences which are mentioned in section five hundred and eighty-two as being within the jurisdiction of the general or quarter sessions of the peace, may, with his own consent, be tried in any province except Saskatchewan and Alberta, and, if convicted, sentenced by the judge.

2. An entry shall be made of such consent at the time the Entry of same is given.

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3. Such trial shall be had under and according to the provisions of this Part out of sessions and out of the regular term or sittings of the court, and whether the court before which, but for such consent, the said person would be triable for the offence charged or the grand jury thereof is or is not then in session.

4. A person who has been bound over by a justice or justices under the provisions of section six hundred and ninety-six, and has been surrendered by his sureties, and is in custody on the charge, or who is otherwise in custody awaiting trial on the charge, shall be deemed to be committed for trial within the meaning of this section. 63-64 V., c. 46, s. 3.

Procedure.

826. Every sheriff shall, within twenty-four hours after any prisoner charged as aforesaid is committed to gaol for trial, notify the judge in writing that such prisoner is so confined, stating his name and the nature of the charge preferred against him, whereupon, with as little delay as possible, such judge shall cause the prisoner to be brought before him.

2. Where the judge does not reside in the county in which the prisoner is committed, the notification required by this section may be given to the prosecuting officer, instead of to the judge, and the prosecuting officer shall in such case, with as little delay as possible, cause the prisoner to be brought before him. 55-56 V., c. 29, s. 766; 63-64 V., c. 46, s. 3.

827. The judge or such prosecuting officer upon having obtained the depositions on which the prisoner was so committed, shall state to him,—

(a) that he is charged with the offence, describing it;

(b) that he has the option to be forthwith tried before a judge without the intervention of a jury, or to remain in custody or under bail, as the court decides, to be tried in the ordinary way by the court having criminal jurisdiction.

2. If the prisoner has been brought before the prosecuting officer, and consents to be tried by the judge, without a jury, such prosecuting officer shall forthwith inform the judge, and the judge shall thereupon fix an early day for the trial and communicate the same to the prosecuting officer.

3. In such case or if the prisoner has been brought before the judge and consents to be tried by him without a jury, the prosecuting officer shall prefer the charge against him for which he has been committed for trial, and if, upon being arraigned upon the charge, the prisoner pleads guilty, the prosecuting officer shall draw up a record as nearly as may be in form 60.

4. Such plea shall be entered on the record, and the judge shall pass the sentence of the law on such prisoner, which shall have the same force and effect as if passed by a court having jurisdiction to try the offence in the ordinary way. 63-64 V., c. 46, s. 3.
828. If the prisoner on being brought before the prosecuting officer or before the judge as aforesaid demands a trial by jury, he shall be remanded to gaol.

2. Any prisoner who has elected to be tried by jury may, notwithstanding such election, at any time before such trial has commenced, and whether an indictment has been preferred against him or not, notify the sheriff that he desires to re-elect, and it shall thereupon be the duty of the sheriff and judge or prosecuting officer to proceed as directed by section eight hundred and twenty-six.

3. Thereafter unless the judge, or the prosecuting officer acting under subsection two of section eight hundred and twenty-six, is of opinion that it would not be in the interests of justice that the prisoner should be allowed to make a second election, the prisoner shall be proceeded against as if his said first election had not been made. 63-64 V., c. 46, s. 3.

829. If one of two or more prisoners charged with the same offence demands a trial by jury, and the other or others consent to be tried by the judge without a jury, the judge, in his discretion, may remand all the said prisoners to gaol to await trial by a jury. 55-56 V., c. 29, s. 768.

830. If under Part XVI. or Part XVII., any person has been asked to elect whether he would be tried by the magistrate or justices, as the case may be, or before a jury, and he has elected to be tried by a jury, and if such election is stated in the warrant of committal for trial, the sheriff, prosecuting officer or judge shall not be required to take the proceedings directed by this Part.

2. If such person, after his said election to be tried by a jury, has been committed for trial he may, at any time before the regular term or sittings of the court at which such trial by jury would take place, notify the sheriff that he desires to re-elect.

3. In such case it shall be the duty of the sheriff to proceed as directed by section eight hundred and twenty-six, and thereafter the person so committed shall be proceeded against as if his said election in the first instance had not been made. 55-56 V., c. 29, s. 769.

831. Proceedings under this Part commenced before any judge may, where such judge is for any reason unable to act, be continued before any other judge competent to try prisoners under this Part in the same judicial district, and such last mentioned judge shall have the same powers with respect to such proceedings as if such proceedings had been commenced before him, and may cause such portion of the proceedings to be repeated before him as he shall deem necessary. 55-56 V.; c. 29, s. 770.
If, on the trial under Part XVI. or Part XVII. of any person charged with any offence triable under the provisions of this Part, the magistrate or justices decide not to try the same summarily, but commit such person for trial, such person may afterwards, with his own consent, be tried under the provisions of this Part. 55-56 V., c. 29, s. 771.

If the prisoner upon being arraigned under this Part consents as aforesaid and pleads not guilty the judge shall appoint an early day, or the same day, for his trial, and the county attorney or clerk of the peace shall subpoena the witnesses named in the depositions, or such of them and such other witnesses as he thinks requisite to prove the charge, to attend at the time appointed for such trial, and the judge may proceed to try such prisoner, and if he be found guilty sentence as aforesaid shall be passed upon him.

2. If he be found not guilty the judge shall immediately discharge him from custody, so far as respects the charge in question.

3. The prosecuting officer in such case shall draw up a record as nearly as may be in form 61. 55-56 V., c. 29, s. 772.

The county attorney or clerk of the peace or other prosecuting officer may, with the consent of the judge, prefer against the prisoner a charge or charges for any offence or offences for which he may be tried under the provisions of this Part other than the charge or charges for which he has been committed to gaol for trial, although such charge or charges do not appear or are not mentioned in the depositions upon which the prisoner was so committed.

2. Any such charge may thereupon be dealt with, prosecuted and disposed of, and the prisoner may be remanded, held for trial or admitted to bail thereon, in all respects as if such charge had been the one upon which the prisoner was committed for trial. 55-56 V., c. 29, s. 773.

The judge shall, in any case tried before him, have the same power as to acquitting or convicting, or convicting of any other offence than that charged, as a jury would have in case the prisoner were tried by a court having jurisdiction to try the offence in the ordinary way, and may render any verdict which might be rendered by a jury upon a trial at a sitting of any such court. 55-56 V., c. 29, s. 774.

If the prisoner elects to be tried by a judge without the intervention of a jury the judge may, in his discretion, admit him to bail to appear for his trial, and extend the bail, from time to time, in case the court be adjourned or there is any other reason therefor.
2. Such bail may be entered into and perfected before the clerk of the court. 55-56 V., c. 29, s. 775.

837. If a prisoner elects to be tried by a jury the judge may, instead of remanding him to gaol, admit him to bail, to appear for trial at such time and place and before such court as is determined upon, and such bail may be entered into and perfected before the clerk of the court. 55-56 V., c. 29, s. 776.

838. The judge may adjourn any trial from time to time until finally terminated. 55-56 V., c. 29, s. 777.

839. The judge shall have all the powers of amendment which are possessed by any court before which an indictment may be tried under this Act. 55-56 V., c. 29, s. 778.

840. Any recognizance taken under section six hundred and ninety-two, for the purpose of binding a prosecutor or a witness, shall, if the person committed for trial elects to be tried under the provisions of this Part, be obligatory on each of the persons bound thereby, as to all things therein mentioned with reference to the trial by the judge under this Part, as if such recognizance had been originally entered into for the doing of such things with reference to such trial: Provided that at least forty-eight hours' notice in writing shall be given, either personally or by leaving the same at the place of residence of the persons bound by such recognizance as therein described, to appear before the judge at the place where such trial is to be had. 55-56 V., c. 29, s. 779.

841. Every witness, whether on behalf of the prisoner or against him, duly summoned or subpoenaed to attend and give evidence before the judge sitting on any such trial on the day appointed for the same shall be bound to attend and remain in attendance throughout the trial.

2. If he fails so to attend he shall be held guilty of contempt of court, and may be proceeded against therefor accordingly. 55-56 V., c. 29, s. 780.

842. Upon proof to the satisfaction of the judge of the service of a subpoena upon any witness who fails to attend before him as required by such subpoena, and upon such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence as required by such subpoena, and to answer for his disregard of the same.

2. Such witness may be detained on such warrant before the said judge, or in the common gaol, with a view to secure his presence as a witness; or, in the discretion of the judge, such witness may be released thereunder or on recognizance.

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witness may be released on recognizance with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his default in not attending upon the said subpoena, as for a contempt.

3. The judge may, in a summary manner, examine into and dispose of the charge of contempt against any such witness who, if found guilty thereof, may be fined or imprisoned, or both, such fine not to exceed one hundred dollars, and such imprisonment to be in the common gaol, with or without hard labour, and not to exceed the term of ninety days, and he may also be ordered to pay the costs incident to the execution of such warrant and of his detention in custody.

4. Such warrant may be in form 62 and the conviction for contempt in form 13, and the same shall be authority to the persons and officers therein required to act to do as they are therein respectively directed. 55-56 V., c. 29, s. 781.

PART XIX.

PROCEDURE BY INDICTMENT.

General Provisions as to Indictments.

843. It shall not be necessary for any indictment or any record or document relative to any criminal case to be written on parchment. 55-56 V., c. 29, s. 608.

844. It shall not be necessary to state any venue in the body of any indictment, and the district, county or place named in the margin thereof shall be the venue for all the facts stated in the body of the indictment.

2. If local description is required such local description shall be given in the body of the indictment. 55-56 V., c. 29, s. 609.

845. It shall not be necessary to state in any indictment that the jurors present upon oath or affirmation.

2. It shall be sufficient if an indictment begins according to form 63, or to the like effect.

3. Any mistake in the heading shall upon being discovered be forthwith amended, and whether amended or not shall be immaterial. 55-56 V., c. 29, s. 610.

Special Cases.

846. It shall not be necessary to allege, in any indictment against any person for wrongfully and wilfully pretending or alleging that he inclosed and sent, or caused to be inclosed and sent, in any post letter, any money, valuable security or chattel, or to prove on the trial, that the act was done with intent to defraud. 55-56 V., c. 29, s. 618.

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847. Every indictment for treason, or for an offence against any of the sections, seventy-six to eighty-six inclusive, shall state overt acts, and no evidence shall be admitted of any overt act not stated unless it is otherwise relevant as tending to prove some overt act stated.

2. The power of amending indictments in this Part contained shall not extend to authorize the court to add to the overt acts stated in the indictment. 55-56 V., c. 29, s. 614.

848. An indictment may be preferred against any person who steals any chattel let to be used by him in or with any house or lodging, or who steals any fixture so let to be used, in the same form as if the offender was not a tenant or lodger, and in either case the property may be laid in the owner or person letting to hire. 55-56 V., c. 29, s. 625.

849. Every one charged with being an accessory after the fact to any offence, or with receiving any property knowing it to have been stolen, may be indicted, whether the principal offender or other party to the offence or person by whom such property was so obtained has or has not been indicted or convicted, or is or is not amenable to justice, and such accessory may be indicted either alone as for a substantive offence or jointly with such principal or other offender or person.

3. When any property has been stolen any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive offences in the same indictment, and may be tried together, whether the person by whom the property was so obtained is or is not indicted with them, or is or is not in custody or amenable to justice. 55-56 V., c. 29, s. 627.

850. In any indictment against any person employed in the post office of Canada for any offence against this Act, or against any person for an offence committed in respect of any person so employed, it shall be sufficient to allege that the offender, or such other person, was employed in the post office of Canada at the time of the commission of such offence, without stating further the nature or particulars of his employment. 55-56 V., c. 29, s. 624.

851. In any indictment for an indictable offence, committed after a previous conviction or convictions for any indictable offence or offences, or for any offence or offences, for which a greater punishment may be inflicted by reason of such previous conviction, it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of an indictable offence or offences, or of an offence or offences, as the case may be, and to state the substance and effect only, 2651 omitting R.S., 1906.
omitting the formal part of the indictment and conviction, or of the summary conviction, as the case may be, for the previous offence or offences, without otherwise describing the previous offence or offences. 55-56 V., c. 29, s. 628.

**General Provisions as to Counts.**

852. Every count of an indictment shall contain, and shall be sufficient if it contains in substance, a statement that the accused has committed some indictable offence therein specified.

2. Such statement may be made in popular language without any technical averments or any allegations of matter not essential to be proved.

3. Such statement may be in the words of the enactment describing the offence or declaring the matter charged to be an indictable offence, or in any words sufficient to give the accused notice of the offence with which he is charged.

4. Form 64 affords examples of the manner of stating offences. 55-56 V., c. 29, s. 611.

853. Every count of an indictment shall contain so much detail of the circumstances of the alleged offence as is sufficient to give the accused reasonable information as to the act or omission to be proved against him, and to identify the transaction referred to: Provided that the absence or insufficiency of such details shall not vitiate the count.

2. A count may refer to any section or subsection of any statute creating the offence charged therein, and in estimating the sufficiency of such count the court shall have regard to such reference.

3. Every count shall in general apply only to a single transaction. 55-56 V., c. 29, s. 611.

854. A count shall not be deemed objectionable on the ground that it charges in the alternative several different matters, acts or omissions which are stated in the alternative in the enactment describing any indictable offence or declaring the matters, acts or omissions charged to be an indictable offence, or on the ground that it is double or multifarious. 55-56 V., c. 29, s. 612.

855. No count shall be deemed objectionable or insufficient for the reason only,—

(a) that it does not contain the name of the person injured, or intended, or attempted to be injured; or,

(b) that it does not state who is the owner of any property therein mentioned; or,

(c) that it charges an intent to defraud without naming or describing the person whom it was intended to defraud; or,

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2652 (d)
(d) that it does not set out any document which may be the subject of the charge; or,
(e) that it does not set out the words used where words used are the subject of the charge; or,
(f) that it does not specify the means by which the offence was committed; or,
(g) that it does not name or describe with precision any person, place or thing; or,
(h) that it does not in cases where the consent of any person, official or authority is required before a prosecution can be instituted, state that such consent has been obtained.

2. No provision contained in this Part as to matters which are not to render any count objectionable or insufficient shall be construed as restricting or limiting in any way the general provisions of sections eight hundred and fifty-two and eight hundred and fifty-three. 55-56 V., c. 29, ss. 613 and 616; 56 V., e. 32, s. 1.

856. Any number of counts for any offences whatever may be joined in the same indictment, and shall be distinguished in the manner shown in form 63, or to the like effect: Provided that to a count charging murder no count charging any offence other than murder shall be joined. 55-56 V., c. 29, s. 626.

857. When there are more counts than one in an indictment each count may be treated as a separate indictment.

2. If the court thinks it conducive to the ends of justice to do so, it may direct that the accused shall be tried upon any one or more of such counts separately: Provided that, unless there be special reasons, no order shall be made preventing the trial at the same time of any number of distinct charges of theft, not exceeding three, alleged to have been committed within six months from the first to the last of such offences, whether against the same person or not. 55-56 V., c. 29, s. 626.

858. Any order for trial upon one or more counts of an indictment separately may be made either before or in the course of the trial, and if it is made in the course of the trial the jury shall be discharged from giving a verdict on the counts on which the trial is not to proceed.

2. The counts in the indictment as to which the jury are so discharged shall be proceeded upon in all respects as if they had been found in a separate indictment. 55-56 V., c. 29, s. 626.

Particulars.

859. The court may, if satisfied that it is necessary for a fair trial, order that the prosecutor shall furnish a particular, —

(a) of what is relied on in support of any charge of perjury, the making of a false oath or of a false statement.

2653 fabricating

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fabricating evidence or suborning, or procuring the commission of any of such offences;
(b) of any false pretenses or any fraud charged;
(c) of any attempt or conspiracy by fraudulent means:
(d) stating what passages in any book, pamphlet, newspaper or other printing or writing are relied on in support of a charge of selling or exhibiting an obscene book, pamphlet, newspaper, printing or writing;
(e) further describing any document or words the subject of a charge:
(f) further describing the means by which any offence was committed;
(g) further describing any person, place or thing referred to in any indictment. 55-56 V., c. 29, ss. 613, 615 and 616.

Copy to be furnished.

When any particular as aforesaid is delivered a copy shall be given without charge to the accused or his solicitor, and it shall be entered in the record, and the trial shall proceed in all respects as if the indictment had been amended in conformity with such particular.

Regard to depositions.

2. In determining whether a particular is required or not, and whether a defect in the indictment is material to the substantial justice of the case or not, the court may have regard to the depositions. 55-56 V., c. 29, s. 617.

Special Cases.

No count for publishing a blasphemous, seditious, obscene or defamatory libel, or for selling or exhibiting an obscene book, pamphlet, newspaper or other printed or written matter, shall be deemed insufficient on the ground that it does not set out the words thereof.

Libel, etc.

2. A count for libel may charge that the matter published was written in a sense which would make the publishing criminal, specifying that sense without any prefatory averment showing how the matter was written in that sense.

Specifying sense.

3. On the trial it shall be sufficient to prove that the matter published was criminal either with or without such innuendo. 55-56 V., c. 29, s. 615.

Proof necessary.

No count charging perjury, the making of a false oath or of a false statement, fabricating evidence or suborning, or procuring the commission of any of these offences, shall be deemed insufficient on the ground that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used or the evidence fabricated, or on the ground that it does not expressly negative the truth of the words used.

Perjury.

55-56 V., c. 29, s. 616.

Statements unnecessary.

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863. No count which charges any false pretense, or any fraud, or any attempt or conspiracy by fraudulent means, shall be deemed insufficient because it does not set out in detail in what the false pretenses or the fraud or fraudulent means consisted. 55-56 V., c. 29, s. 616.

**How and in whom Property may be Laid.**

864. An indictment shall be deemed sufficient in the cases following:

(a) If it be necessary to name the joint owners of any real or personal property, whether the same be partners, joint tenants, parceners, tenants in common, joint stock companies or trustees, and it is alleged that the property belongs to one who is named, and another or others, as the case may be;

(b) If it is necessary for any purpose to mention such persons and one only is named;

(c) If the property in a turnpike road is laid in the trustees or commissioners thereof without specifying the names of such trustees or commissioners;

(d) If the offence is committed in respect to any property in the occupation or under the management of any public officer or commissioner, and the property is alleged to belong to such officer or commissioner without naming him;

(e) If for an offence under section three hundred and seventy-one the oyster bed, laying or fishery is described by name or otherwise, without stating the same to be in any particular county or place. 55-56 V., c. 29, s. 619.

865. All property, real and personal, whereof any body corporate has, by law, the management, control or custody, shall, for the purpose of any indictment or proceeding against any other person for any offence committed on or in respect thereof, be deemed to be the property of such body corporate. 55-56 V., c. 29, s. 620.

866. In any indictment for any offence mentioned in sections three hundred and seventy-eight and four hundred and twenty-four it shall be sufficient to lay the property in His Majesty, or in any person or corporation, in different counts in such indictment. 55-56 V., c. 29, s. 621.

867. In any indictment for any offence committed in respect of any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the legislature of any province of Canada, or by or by the authority of, any corporate body for the payment of any fee, rate or duty whatsoever, the property therein may be laid in the person in whose possession, as the owner thereof, it was laid. R.S., 1906.
was when the offence was committed, or in His Majesty if it was then unissued or in the possession of any officer or agent of the Government of Canada or of the province by authority of the legislature whereof it was issued or prepared for issue. 55-56 V., c. 29, s. 622.

868. In every case of theft or fraudulent application or disposition of any chattel, money or valuable security under section three hundred and fifty-nine, paragraph (c), or three hundred and ninety-one, the property in any such chattel, money or valuable security may, in any warrant by the justice before whom the offender is charged, and in the indictment preferred against such offender, be laid in His Majesty, or in the municipality, as the case may be. 55-56 V., c. 29, s. 623.

869. When an offence is committed in respect of a post letter bag, or a post letter, or other mailable matter, chattel, money or valuable security sent by post, the property of such post letter bag, post letter, or other mailable matter, chattel, money or valuable security may, in the indictment preferred against the offender, be laid in the Postmaster General; and it shall not be necessary to allege in the indictment, or to prove upon the trial or otherwise, that the post letter bag, post letter or other mailable matter, chattel or valuable security was of any value.

2. The property of any chattel or thing used or employed in the service of the post office, or of moneys arising from duties of postage, shall, except in the cases aforesaid, be laid in His Majesty, if the same is the property of His Majesty, or if the loss thereof would be borne by His Majesty, and not by any person in his private capacity. 55-56 V., c. 29, s. 624.

**Preferring Indictment.**

870. Any judge of any court of record before whom any inquiry or trial is held, and which he is by law required or authorized to hold, may, if it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, affirmation, declaration, deposition, examination, answer or other proceeding made or taken before him, direct such person to be prosecuted for such perjury, if there appears to such judge a reasonable cause for such prosecution.

2. Such judge may commit such person until the next term, sittings or session of any court having power to try for perjury, in the jurisdiction within which such perjury was committed, or permit him to enter into a recognizance, with one or more sufficient sureties, conditioned for his appearance at such next term, sittings or session, and that he will then surrender and take his trial and not depart the court without leave.
3. Such judge may require any person he thinks fit, to enter into a recognizance conditioned to prosecute or give evidence against the person so directed to be prosecuted. R.S., c. 154, s. 4.

871. Any one who is bound over to prosecute any person, whether committed for trial or not, may prefer a bill of indictment for the charge on which the accused has been committed, or in respect of which the prosecutor is so bound over, or for any charge founded upon the facts or evidence disclosed on the depositions taken before the justice.

2. The accused may at any time before he is given in charge to the jury apply to the court to quash any count in the indictment on the ground that it is not founded on such facts or evidence, and the court shall quash such count if satisfied that it is not so founded.

3. If at any time during the trial it appears to the court that any count is not so founded, and that injustice has been or is likely to be done to the accused in consequence of such count remaining in the indictment, the court may then quash such count and discharge the jury from finding any verdict upon it. 63-64 V., c. 46, s. 3.

872. The counsel acting on behalf of the Crown at any court of criminal jurisdiction may prefer against any person who has been committed for trial at such court a bill of indictment for the charge on which the accused has been so committed or for any charge founded on the facts or evidence disclosed in the depositions taken before the justice. 63-64 V., c. 46, s. 3.

873. The Attorney General or any one by his direction or any one with the written consent of a judge of any court of criminal jurisdiction or of the Attorney General, may prefer a bill of indictment for any offence before the grand jury of any court specified in such consent.

2. Any person may prefer any bill of indictment before any court of criminal jurisdiction by order of such court.

3. It shall not be necessary to state such consent or order in the indictment and an objection to an indictment for want of such consent or order must be taken by motion to quash the indictment before the accused person is given in charge.

4. Except as in this Part previously provided no bill of indictment shall be preferred in any province of Canada. 63-64 V., s. 46, s. 3.

Proceedings before the Grand Jury.

874. It shall not be necessary for any person to take an Evidence oath in open court in order to qualify him to give evidence before any grand jury. 55-56 V., c. 29, s. 643.

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875. The foreman of the grand jury or any member of the grand jury who may, for the time being, act on behalf of the foreman in the examination of witnesses, may administer an oath to every person who appears before such grand jury to give evidence in support of any bill of indictment; and every such person may be sworn and examined upon oath by such grand jury touching the matters in question. 55-56 V., c. 29, s. 644.

876. The name of every witness examined, or intended to be examined, shall be endorsed on the bill of indictment; and the foreman of the grand jury, or any member of the grand jury so acting for him, shall write his initials against the name of each witness sworn by him and examined touching such bill of indictment. 55-56 V., c. 29, s. 645.

877. The name of every witness intended to be examined on any bill of indictment shall be submitted to the grand jury by the officer prosecuting on behalf of the Crown, and no others shall be examined by or before such grand jury unless upon the written order of the presiding judge. 55-56 V., c. 29, s. 646.

878. Nothing in this Act shall affect any fees by law payable to any officer of any court for swearing witnesses, but such fees shall be payable as if the witnesses had been sworn in open court. 55-56 V., c. 29, s. 647.

Proceedings when Person Indicted at Large.

879. When any one against whom an indictment has been duly preferred and has been found, and who is then at large, does not appear to plead to such indictment, whether he is under recognizances to appear or not, the court before which the accused ought to have been tried may issue a warrant for his apprehension, which may be executed in any part of Canada.

2. The officer of the court at which said indictment is found, or, if the place of trial has been changed, the officer of the court before which the trial is to take place, shall, at any time after the time at which the accused ought to have appeared and pleaded, grant to the prosecutor, upon application made on his behalf and upon payment of twenty cents, a certificate of such indictment having been found which may be in form 65, or to the like effect. 55-56 V., c. 29, s. 618.

880. Upon production of such certificate to any justice for the county or place in which the indictment was found, or in which the accused is or resides or is suspected to be or reside, such justice shall issue his warrant to apprehend him, and to cause him to be brought before such justice, or before any other justice.

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justice for the same county or place, to be dealt with according to law.

2. The warrant may be in the form 66, or to the like effect. Form. 55-56 V., c. 29, s. 648.

881. If it is proved upon oath before such justice that any one apprehended and brought before him on such warrant is the person charged and named in such indictment, such justice shall, without further inquiry or examination, either commit him to prison by a warrant which may be in form 67, or to the like effect, or admit him to bail as provided in other cases: Provided that if it appears that the accused has without reason- able excuse broken his recognizance to appear he shall not in any case be bailable as of right. 55-56 V., c. 29, s. 648.

882. If it is proved before the justice upon oath that any such accused person is at the time of such application and production of the said certificate as aforesaid confined in any prison for any other offence than that charged in the said indictment, such justice shall issue his warrant directed to the warden or gaoler of the prison in which such person is then confined as aforesaid, commanding him to detain him in his custody until by lawful authority he is removed therefrom.

2. Such warrant may be in form 68, or to the like effect. Form. 55-56 V., c. 29, s. 648.

Place of Trial.

883. If after removal by the Governor in Council or the lieutenant governor in council of any province of any person confined in any gaol to any other place for safe keeping or to any other gaol, a true bill for any indictable offence is returned by any grand jury of the county or district from which any such person is removed against any such person, the court into which such true bill is returned may make an order for the removal of such person from the place for safe keeping or gaol in which he is then confined to the gaol of the county or district in which such court is sitting for the purpose of his being tried in such county or district. 55-56 V., c. 29, s. 650.

884. Whenever it appears to the satisfaction of the court or judge hereinafter mentioned, that it is expedient to the ends of justice that the trial of any person charged with an indictable offence should be held in some district, county or place other than that in which the offence is supposed to have been committed, or would otherwise be triable, the court before which such person is or is liable to be indicted may, at any term or sitting thereof, and any judge who might hold or sit in such court may, at any other time, either before or after the presentation of a bill of indictment, order that the trial shall be R.S., 1906.
be proceeded with in some other district, county or place within the same province, named by the court or judge in such order.

2. Such order shall be made upon such conditions as to the payment of any additional expense thereby caused to the accused as the court or judge thinks proper to prescribe. 55-56 V., c. 29, s. 651.

885. Forthwith upon such order being made by the court or judge, the indictment, if any has been found against the prisoner, and all informations, depozitions, recognizances and other documents relating to the prosecution against him, shall be transmitted by the officer having the custody thereof to the proper officer of the court at the place where the trial is to be had, and all proceedings in the case shall be had, or, if previously commenced, shall be continued in such district, county or place, as if the case had arisen or the offence had been committed therein. 55-56 V., c. 29, s. 651.

886. The order of the court, or of the judge, made as aforesaid shall be a sufficient warrant, justification and authority, to all sheriffs, gaolers and peace officers, for the removal, disposal and reception of the prisoner, in conformity with the terms of such order; and the sheriff may appoint and empower any constable to convey the prisoner to the gaol in the district, county or place in which the trial is ordered to be had.

2. Every recognizance entered into for the prosecution of any person, and every recognizance, as well of any witness to give evidence, as of any person for any offence, shall, in case of any such order, be obligatory on each of the persons bound by such recognizance as to all things therein mentioned with reference to the trial at the place where such trial is so ordered to be had, in like manner as if such recognizance had been originally entered into for the doing of such things at such last mentioned place: Provided that notice in writing shall be given either personally or by leaving the same at the place of residence of the persons bound by such recognizance, as therein described, to appear before the court, at the place where such trial is ordered to be had. 55-56 V., c. 29, s. 651.

887. Whenever, in the province of Quebec, it has been decided by competent authority that no term of the Court of King's Bench, holding criminal pleas, is to be held, at the appointed time, in any district in the said province within which a term of the said court should be then held, any person charged with an indictable offence whose trial should by law be held in the said district, may in the manner hereinbefore provided obtain an order that his trial be proceeded with in some other district within the said province, named by the court or judge.

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2. All provisions contained in the three last preceding sections shall apply to the case of a person so applying for and obtaining a change of venue as aforesaid. 57-58 V., c. 57, s. 1.

888. Nothing in this Act authorizes any court in one province of Canada to try any person for any offence committed entirely in another province: Provided that every proprietor, publisher, editor or other person charged with the publication in a newspaper of any defamatory libel, shall be dealt with, indicted, tried and punished in the province in which he resides, or in which such newspaper is printed. 55-56 V., c. 29, s. 640.

Amendments.

889. If on the trial of any indictment there appears to be a variance between the evidence given and the charge in any count in the indictment, either as found or as amended, or as it would have been if amended in conformity with any particular furnished as provided in section eight hundred and fifty-nine, the court before which the case is tried may, if of opinion that the accused has not been misled or prejudiced in his defence by such variance, amend the indictment or any count in it or any such particular so as to make it conformable with the proof.

2. If it appears that the indictment has been preferred under some other Act of Parliament instead of under this Act, or under this instead of under some other Act, or that there is in the indictment, or in any count in it, an omission to state or a defective statement of anything requisite to constitute the offence, or an omission to negative any exception which ought to have been negatived, but that the matter omitted is proved by the evidence, the court before which the trial takes place, if of opinion that the accused has not been misled or prejudiced in his defence by such error or omission, shall amend the indictment or count as may be necessary.

3. The trial in either of these cases may then proceed in all respects as if the indictment or count had been originally framed as amended. 55-56 V., c. 29, s. 723.

890. If the court is of the opinion that the accused has been misled or prejudiced in his defence by any such variance, error, omission or defective statement, but that the effect of such misleading or prejudice might be removed by adjourning or postponing the trial, the court may in its discretion make the amendment and adjourn the trial to a future day in the same settings, or discharge the jury and postpone the trial to the next settings of the court, on such terms as it thinks just.

2. In determining whether the accused has been misled or prejudiced in his defence the court which has to determine the question shall consider the contents of the depositions, as well as the other circumstances of the case.
3. The propriety of making or refusing to make any such amendment shall be deemed a question for the court, and the decision of the court upon it may be reserved for the Court of Appeal, or may be brought before the Court of Appeal by appeal like any other question of law. 55-56 V., c. 29, s. 723.

**891.** In case an order for amendment as provided for in the two last preceding sections is made it shall be endorsed on the record; and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer and filed with the indictment, among the proper records of the court. 55-56 V., c. 29, s. 724.

**892.** The accused may at any stage of the trial apply to the court to amend or divide any count of an indictment which charges in the alternative different matters, acts or omissions, stated in the alternative in the enactment describing the offence or declaring the matters, acts or omissions charged to be an indictable offence, or which is double or multifarious on the ground that it is so framed as to embarrass him in his defence.

2. The court, if it is satisfied that the ends of justice require it, may order any such count to be amended or divided into two or more counts; and on such order being made such count shall be so divided or amended and thereupon a formal commencement may be inserted before each of the counts into which it is divided. 55-56 V., c. 29, s. 612.

**893.** Upon a prosecution for any offence under section three hundred and seventy-eight or four hundred and twenty-four, any variance when the property is laid in a person or corporation, between the statement in the indictment and the evidence adduced, may be amended at the trial.

2. If no owner is proved, the indictment may be amended by laying the property in His Majesty. 55-56 V., c. 29, s. 621.

**Inspection and Copies of Documents.**

**894.** Every accused person shall be entitled at the time of his trial to inspect, without fee or reward, all depositions, or copies thereof, taken against him and returned into the court before which such trial is had, and to have the indictment on which he is to be tried read over to him if he so requires. 55-56 V., c. 29, s. 653.

**895.** Every person indicted for any offence shall, before being arraigned on the indictment, be entitled to a copy thereof on paying the clerk five cents per folio of one hundred words for the same, if the court is of opinion that the same can be made without delay to the trial, but not otherwise. 55-56 V., c. 29, s. 654.
896. Every person indicted shall be entitled to a copy of the depositions returned into court on payment of five cents per folio of one hundred words for the same.
2. If a copy is not demanded before the opening of the assizes, term, sittings or sessions, the person indicted shall be entitled to such copy if the court is of opinion that the same can be made without delay to the trial, but not otherwise.
3. The court may, if it sees fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged. 55-56 V., c. 29, s. 655.

897. When any one is indicted for treason, or for being accessory after the fact to treason, there shall be delivered to him after the indictment has been found, and at least ten days before his arraignment,—
(a) a copy of the indictment;
(b) a list of the witnesses to be produced on the trial to prove the indictment: and,
(c) a copy of the panel of the jurors who are to try him returned by the sheriff.
2. The list of the witnesses and the copy of the panel of the jurors must mention the names, occupations, and places of abode of the said witnesses and jurors.
3. The documents aforesaid must all be given to the accused at the same time and in the presence of two witnesses.
4. This section shall not apply to cases of treason by killing His Majesty, or to cases where the overt act alleged is any attempt to injure his person in any manner whatever, or to the offence of being accessory after the fact to any such treason. 55-56 V., c. 29, s. 658.

Objections, Pleas and Record.

898. Every objection to any indictment for any defect apparent on the face thereof shall be taken by demurrer, or motion to quash the indictment, before the defendant has pleaded, and not afterwards, except by leave of the court or judge before whom the trial takes place, and every court before which any such objection is taken may, if it is thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared.
2. No motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or amended under the authority of this Act. 55-56 V., c. 29, s. 629.

899. No plea in abatement shall be allowed.
2. Any objection to the constitution of the grand jury may be taken by motion to the court, and the indictment shall be quashed if the court is of opinion both that such objection is well R.S., 1906.
well founded and that the accused has suffered or may suffer prejudice thereby, but not otherwise. 55-56 V., c. 29, s. 656.

900. When the accused is called upon to plead he may plead either guilty or not guilty, or such special plea as is in this Part subsequently provided for.

2. If the accused wilfully refuses to plead, or will not answer directly, the court may order the proper officer to enter a plea of not guilty. 55-56 V., c. 29, s. 657.

901. No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him in any court, or to imparl, or to have time allowed him to plead or demur to any such indictment.

2. If the court before which any person is so indicted, upon the application of such person or otherwise, is of opinion that he ought to be allowed a further time to plead or demur or to prepare for his defence, or otherwise, such court may grant such further time and may adjourn the trial of such person to a future time in the sittings of the court, or to the next or any subsequent session or sittings of the court, and upon such terms, as to bail or otherwise, as to the court seem meet, and may, in the case of adjournment to another session or sittings, repulse the recognizances of the prosecutor and witnesses accordingly.

3. In such case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session or sittings without entering into any fresh recognizances for that purpose. 55-56 V., c. 29, s. 630.

902. If any person is prosecuted in any division of the High Court of Justice for Ontario for any indictable offence, by information there filed, or by indictment there found or removed into such court, and appears therein in term time in person, or, in case of a corporation, by attorney, to answer to such information or indictment, such defendant, upon being charged therewith, shall not imparl to a following term, but shall plead or demur thereto within four days from the time of his appearance; and in default of his pleading or demurring within four days as aforesaid judgment may be entered against such defendant for want of a plea. 55-56 V., c. 29, s. 757.

903. If such defendant appears to such information or indictment by attorney, he shall not imparl to a following term, but a rule, requiring him to plead, may forthwith be given and served, and a plea to such information or indictment may be enforced, or judgment in default may be entered in the same manner as might have been done formerly in cases in which the defendant had appeared to such information or indictment by attorney in a previous term; but the court, or any judge thereof, upon sufficient cause shown for that purpose, may allow
allow further time for such defendant to plead or demur to
such information or indictment. 55-56 V., c. 29, s. 758.

904. If any prosecution for an indictable offence, instituted
by the Attorney General for Ontario in the said court, is not
brought to trial within twelve months next after the plea of not
guilty has been pleaded thereto, the court in which such proce-
sion is depending, upon application made on behalf of any
defendant in such prosecution, of which application twenty
days' previous notice shall be given to such Attorney General,
may make an order authorizing such defendant to bring on the
trial of such prosecution: and thereupon such defendant may
bring on such trial accordingly unless a nolle prosequi is entered
to such prosecution. 55-56 V., c. 29, s. 759.

905. The following special pleas and no others may be
pleaded according to the provisions hereinafter contained, that
is to say, a plea of autrefois acquit, a plea of autrefois convict,
a plea of pardon, and such pleas in cases of defamatory libel as
are hereinafter mentioned.

1. All other pleas of such nature as might be
pleaded, or which are not
pleaded according to the provisions hereinafter contained,
are not admissible.

2. All other grounds of defence may be relied on under the
plea of not guilty. 55-56 V., c. 29, s. 631.

906. The pleas of autrefois acquit, autrefois convict, and
pardon may be pleaded together, and if pleaded shall be dis-
posed of before the accused is called on to plead further.

2. If every such plea is disposed of against the accused he
shall be allowed to plead not guilty.

3. In any plea of autrefois acquit or autrefois convict it shall
be sufficient for the accused to state that he has been lawfully
acquitted or convicted, as the case may be, of the offence
charged in the count or counts to which such plea is pleaded,
indicating the time and place of such acquittal, or conviction.
55-56 V., c. 29, s. 631.

907. On the trial of an issue on a plea of autrefois acquit
or autrefois convict to any count or counts, if it appear that the
matter on which the accused was given in charge on the former
trial is the same in whole or in part as that on which it is pro-
posed to give him in charge, and that he might on the former
trial, if all proper amendments had been made which might
then have been made, have been convicted of all the offences of
which he may be convicted on the count or counts to which such
plea is pleaded, the court shall give judgment that he be dis-
charged from such count or counts.

2. If it appear that the accused might on the former trial
have been convicted of any offence of which he might be con-
victed on the count or counts to which such plea is pleaded, but
that he may be convicted on any such count or counts of some
offence or offences of which he could not have been convicted on

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the former trial, the court shall direct that he shall not be convicted on any such count or counts of any offence of which he might have been convicted on the former trial, but that he shall plead over as to the other offence or offences charged. 55-56 V., c. 29, s. 631.

908. On the trial of an issue on a plea of autrefois acquit or autrefois convict the depositions transmitted to the court on the former trial, together with the judge's and official stenographer's notes if available, and the depositions transmitted to the court on the subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges. 55-56 V., c. 29, s. 632.

909. When an indictment charges substantially the same offence as that charged in the indictment on which the accused was given in charge on a former trial, but adds a statement of intention or circumstances of aggravation tending if proved to increase the punishment, the previous acquittal or conviction shall be a bar to such subsequent indictment.

2. A previous conviction or acquittal on an indictment for murder shall be a bar to a second indictment for the same homicide charging it as manslaughter; and a previous conviction or acquittal on an indictment for manslaughter shall be a bar to a second indictment for the same homicide charging it as murder. 55-56 V., c. 29, s. 633.

910. Every one accused of publishing a defamatory libel may plead that the defamatory matter published by him was true, and that it was for the public benefit that the matters charged should be published in the manner and at the time when they were published.

2. Such plea may justify the defamatory matter in the sense specified, if any, in the count, or in the sense which the defamatory matter bears without any such specification; or separate pleas justifying the defamatory matter in each sense may be pleaded separately to each as if two libels had been charged in separate counts.

3. Every such plea must be in writing, and must set forth the particular fact or facts by reason of which it was for the public good that such matters should be so published.

4. The prosecutor may reply generally denying the truth thereof. 55-56 V., c. 29, s. 634; 56 V., c. 32, s. 1.

911. The truth of the matters charged in an alleged libel shall in no case be inquired into without the plea of justification aforesaid unless the accused is put upon his trial upon any indictment or information charging him with publishing the libel knowing the same to be false, in which case evidence of the truth may be given in order to negative the allegation that the accused knew the libel to be false.

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2. The accused may, in addition to such plea, plead not guilty and such pleas shall be inquired of together.

3. If, when such plea of justification is pleaded, the accused is convicted, the court may, in pronouncing sentence, consider whether his guilt is aggravated or mitigated by the plea. 55-56 V., c. 29, s. 634.

912. Every person against whom any criminal proceedings are commenced or prosecuted in any manner for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, by order or under the authority of any legislative council, legislative assembly or house of assembly, may submit to the court in which such proceedings are so commenced or prosecuted, or before any judge of the same, upon twenty-four hours' notice of his intention so to do, to the prosecutor in such proceedings, or to his attorney or solicitor, a certificate under the hand of the speaker or clerk of such legislative council, legislative assembly or house of assembly, as the case may be, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such criminal proceedings are commenced or prosecuted, was or were published by such person, or by his servant, by order or under the authority of the legislative council, legislative assembly or house of assembly, as the case may be.

2. Such court or judge shall, upon such certificate being so submitted, immediately stay such criminal proceedings, and the same shall thereupon be deemed finally ended, determined and superseded. R.S., c. 163, s. 6.

913. In any criminal prosecution for or on account of or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant may submit to the court or judge before which or whom such prosecution is pending a copy of such report, paper, votes or proceedings, verified by affidavit, and the court or judge shall immediately stay such criminal prosecution, and the same shall thereupon be deemed to be finally ended, determined and superseded. R.S., c. 163, s. 7.

914. In making up the record of any conviction or acquittal on any indictment it shall be sufficient to copy the indictment with the plea pleaded thereto, without any formal caption or heading.

2. The statement of the arraignment and the proceedings subsequent thereto shall be entered of record in the same manner as heretofore, subject to any such alterations in the forms of such entry as are, from time to time, prescribed by any rule or rules of the superior courts of criminal jurisdiction respectively.

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3. Such rules shall also apply to such inferior courts of criminal jurisdiction as are therein designated. 55-56 V., c. 29, s. 726.

915. If it becomes necessary to draw up a formal record, in any case in which an amendment has been made, such record shall be drawn up in the form in which the indictment remained after the amendment, without taking any notice of the fact of such amendment having been made. 55-56 V., c. 29, s. 725.

**Proceedings in Case of Corporations.**

916. Every corporation against which a bill of indictment is found at any court having criminal jurisdiction shall appear by attorney in the court in which such indictment is found and plead or demur thereto. 55-56 V., c. 29, s. 635.

917. No writ of certiorari shall be necessary to remove any such indictment into any superior court with the view of compelling the defendant to plead thereto; nor shall it be necessary to issue any writ of distringas, or other process, to compel the defendant to appear and plead to such indictment. 55-56 V., c. 29, s. 636.

918. The prosecutor, when any such indictment is found against a corporation, or the clerk of the court when such indictment is founded on a presentment of the grand jury, may cause a notice thereof to be served on the mayor or chief officer of such corporation, or upon the clerk or secretary thereof, stating the nature and purport of such indictment, and that, unless such corporation appears and pleads thereto in two days after the service of such notice, a plea of not guilty will be entered thereto for the defendant by the court, and that the trial thereof will be proceeded with in like manner as if the said corporation had appeared and pleaded thereto. 55-56 V., c. 29, s. 637.

919. If such corporation does not appear in the court in which the indictment has been found, and plead or demur thereto within the time specified in the said notice, the judge presiding at such court may, on proof to him by affidavit of the due service of such notice, order the clerk or proper officer of the court to enter a plea of not guilty on behalf of such corporation, and such plea shall have the same force and effect as if such corporation had appeared by its attorney and pleaded such plea. 55-56 V., c. 29, s. 638.

920. The court may, whether such corporation appears and pleads to the indictment, or a plea of not guilty is entered by
by order of the court, proceed with the trial of the indictment in the absence of the defendant in the same manner as if the corporation had appeared at the trial and defended the same; and in case of conviction, may award such judgment and take such other and subsequent proceedings to enforce the same as are applicable to convictions against corporations. 55-56 V., c. 29, s. 639.

Juries.

921. Every person qualified and summoned as a grand or petit juror, according to the laws in force for the time being in any province of Canada shall be duly qualified to serve as such juror in criminal cases in that province.
2. Seven grand jurors, instead of twelve, may find a true bill in any province where the panel of grand jurors is not more than thirteen. 55-56 V., c. 29, s. 662; 57-58 V., c. 57, s. 1.

922. No alien shall be entitled to be tried by a jury de medietale lingua, but shall be tried as if he was a natural born subject. 55-56 V., c. 29, s. 663.

923. In those districts in the province of Quebec in which the sheriff is required by law to return a panel of petit jurors composed, one-half of persons speaking the English language, and one-half of persons speaking the French language, he shall in his return specify separately those jurors whom he returns as speaking the English language, and those whom he returns as speaking the French language respectively; and the names of the jurors so summoned shall be called alternately from such lists. 55-56 V., c. 29, s. 664.

924. Whenever any person who is arraigned before the Court of King’s Bench for Manitoba demands a jury composed, for the one-half at least, of persons skilled in the language of the defence, if such language is either English or French, he shall be tried by a jury composed for the one-half at least of the persons whose names stand first in succession upon the general panel and who, on appearing and not being lawfully challenged, are found, in the judgment of the court, to be skilled in the language of the defence.
2. Whenever, from the number of challenges or any other cause, there is in any such case a deficiency of persons skilled in the language of the defence the court shall fix another day for the trial of such case, and the sheriff shall supply the deficiency by summoning, for the day so fixed, such additional number of jurors skilled in the language of the defence as the court orders, and as are found inscribed next in succession on the list of petit jurors. 55-56 V., c. 29, s. 665.
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925. Either the accused or the prosecutor may challenge the array on the ground of partiality, fraud, or wilful misconduct on the part of the sheriff or his deputies by whom the panel was returned, but on no other ground.

2. Such challenge shall be by way of objection in writing, and shall state that the person returning the panel was partial, or was fraudulent, or wilfully misconducted himself, as the case may be.

3. Such objection may be in form 69, or to the like effect. 55-56 V., c. 29, s. 666.

926. If partiality, fraud or wilful misconduct, as the case may be, is denied, the court shall appoint any two indifferent persons to try whether the alleged ground of challenge is true or not.

2. If the triers find that the alleged ground of challenge is true in fact, or if the party who has not challenged the array admits that the ground of challenge is true in fact, the court shall direct a new panel to be returned. 55-56 V., c. 29, s. 666.

927. The name of each juror on a panel returned, with his number on the panel and the place of his abode, shall be written on a distinct piece of card, and all such pieces of card shall be as nearly as may be of equal size.

2. The cards shall be delivered to the officer of the court by the sheriff or other officer returning the panel, and shall, under the direction and care of the officer of the court, be put together in a box to be provided for that purpose and shall be shaken together.

3. If the array is not challenged or if the triers find against the challenge, the officer of the court shall in open court draw out the said cards, one after another, and shall call out the name and number upon each such card as it is drawn, until such a number of persons have answered to their names as in the opinion of the court will probably be sufficient to provide a full jury after allowing for challenges of jurors and directions to stand by.

4. The officer of the court shall then proceed to swear the jury, each juror being called to swear in the order in which his name is so drawn, until, after subtracting all challenges allowed and jurors directed to stand by, twelve jurors are sworn.

5. If the number so answering is not sufficient to provide a full jury such officer shall proceed to draw further names from the box, and call the same in manner aforesaid, until, after challenges allowed and directions to stand by, twelve jurors are sworn. 55-56 V., c. 29, s. 667.

928. If, by challenges and directions to stand by, the panel is exhausted, without leaving a sufficient number to form a jury, 2670 those
those who have been directed to stand by shall be again called in the order in which they were drawn, and shall be sworn, unless challenged by the accused, or unless the prosecutor challenges them and shows cause why they should not be sworn:

Provided that if before any such juror is sworn other jurymen in the panel become available the prosecutor may require the names of such jurymen to be put into and drawn from the box in the manner hereinbefore prescribed, and such jurors shall be sworn, challenged or ordered to stand by, as the case may be, before the jurors originally ordered to stand by are again called. 55-56 V., c. 29, s. 667.

929. The twelve men who in manner aforesaid are ultimately drawn and sworn shall be the jury to try the issues on the indictment, and the names of the men so drawn and sworn shall be kept apart by themselves until such jury give in their verdict or until they are discharged; and then the names shall be returned to the box, there to be kept with the other names remaining at that time undrawn, and so \textit{toties quoties} as long as any issue remains to be tried.

2. If the prosecutor and accused do not object thereto, the court may try any issue with the same jury that has previously tried or been drawn to try any other issue, without their names being returned to the box and redrawn, or if the parties, or either of them, object to some one or more of the jurors forming such jury, or the court excuses any one or more of them, then the court may order such persons to withdraw, and may direct the requisite number of names to make up a complete jury to be drawn, and the persons whose names are so drawn shall be sworn.

3. An omission to follow the directions of this or the two last preceding sections shall not affect the validity of the proceedings. 55-56 V., c. 29, s. 667.

930. If the ground of challenge is that the jurors' names do not appear on the panel, the issue shall be tried by the court on the \textit{voir dire} by the inspection of the panel, and such other evidence as the court thinks fit to receive. 55-56 V., c. 29, s. 668.

931. If the ground of challenge be other than as last aforesaid, the two jurors last sworn, or if no jurors have then been sworn, then two persons present whom the court may appoint for that purpose shall be sworn to try whether the juror objected to stands indifferent between the King and the accused, or has been convicted as hereinafter specified or is an alien, as the case may be.

2. If the court or the triers find against the challenge, the juror shall be sworn.
3. If they find for the challenge he shall not be sworn.
4. If, after what the court considers a reasonable time, the
triers are unable to agree, the court may discharge them from
giving a verdict, and may direct other persons to be sworn in
their place. 55-56 V., c. 29, s. 668.

932. Every one indicted for treason or for any offence
punishable with death is entitled to challenge twenty jurors
peremptorily.

2. Every one indicted for any offence other than treason,
or an offence punishable with death, for which he may be
sentenced to imprisonment for more than five years, is entitled
to challenge twelve jurors peremptorily.

3. Every one indicted for any other offence is entitled to
challenge four jurors peremptorily. 55-56 V., c. 29, s. 668.

933. The Crown shall have power to challenge four jurors
peremptorily, and may direct any number of jurors not per-
emptorily challenged by the accused to stand by until all the
jurors have been called who are available for the purpose of
trying that indictment.

2. The accused may be called upon to declare whether he
challenges any jurors peremptorily or otherwise, before the
prosecutor is called upon to declare whether he requires such
juror to stand by, or challenges him either for cause or per-
emptorily. 55-56 V., c. 29, s. 668.

934. The right of the Crown to cause any juror to stand
aside until the panel has been gone through shall not be exer-
cised on the trial of any indictment or information by a private
prosecutor for the publication of a defamatory libel. 55-56 V.,
c. 29, s. 669.

935. Every prosecutor and every accused person is entitled
to any number of challenges on the ground,—

(a) that any juror’s name does not appear in the panel:
Provided that no misnomer or misdescription shall be a
ground of challenge if it appears to the court that the
description given in the panel sufficiently designates the
person referred to; or,

(b) that any juror is not indifferent between the King and
the accused; or,

(c) that any juror has been convicted of any offence for
which he was sentenced to death or to any term of impris-
sonment with hard labour or exceeding twelve months;
or,

(d) that any juror is an alien.

2. No other ground of challenge for cause than those men-
tioned in this section shall be allowed. 55-56 V., c. 29.
s. 668.

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936. If a challenge on any of the grounds aforesaid is made, the court may, in its discretion, require the party challenging the accused to put his challenge in writing.

2. The challenge may be in form 70, or to the like effect. Form.

3. The other party may deny that the ground of challenge is true. 55-56 V., c. 29, s. 668.

937. Whenever a person accused of an offence for which he would be entitled to twenty or twelve peremptory challenges as hereinbefore provided, elects to be tried by a jury composed one-half of persons skilled in the language of the defence, under sections nine hundred and twenty-three or nine hundred and twenty-four, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one-half of such number from among the English speaking jurors, and one-half from among the French speaking jurors. 55-56 V., c. 29, s. 670.

938. If several accused persons are jointly indicted and it is proposed to try them together, they or any of them may either join in their challenges, in which case the persons who so join shall have only as many challenges as a single person would be entitled to, or each may make his challenges in the same manner as if he were intended to be tried alone. 55-56 V., c. 29, s. 671.

939. Whenever after the proceedings hereinbefore provided for the panel has been exhausted, and a complete jury cannot be had by reason thereof, then, upon request made on behalf of the Crown, the court may order the sheriff or other proper officer forthwith to summon such number of persons, whether qualified jurors or not, as the court deems necessary and directs in order to make a full jury; and such jurors may, if necessary, be summoned by word of mouth.

2. The names of the persons so summoned shall be added to the general panel, for the purposes of the trial, and the same proceedings shall be taken as to calling and challenging such persons and as to directing them to stand by as are hereinbefore provided for with respect to the persons named in the original panel. 55-56 V., c. 29, s. 672.

Arraignment and Trial.

940. No one shall be tried upon any coroner's inquisition. 55-56 V., c. 29, s. 642.

941. If any person against whom any indictment is found is at the time confined for some other cause in the prison belonging to the jurisdiction of the court by which he is to be tried, the court may by order in writing, without a writ of habeas corpus, direct the warden or gaoler of the prison or sheriff or other prisoner up for arraignment. Bringing prisoner up for arraignment. R.S., 1906.
Right to full defence.

942. Every person tried for any indictable offence shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by counsel learned in the law. 55-56 V., c. 29, s. 659.

Presence of the accused at trial.

943. Every accused person shall be entitled to be present in court during the whole of his trial unless he misconducts himself by so interrupting the proceedings as to render their continuance in his presence impracticable.

2. The court may permit the accused to be out of court during the whole or any part of any trial on such terms as it thinks proper. 55-56 V., c. 29, s. 660.

Prosecutor's right to sum up.

944. If an accused person, or any one of several accused persons being tried together, is defended by counsel, such counsel shall, at the end of the case for the prosecution, declare whether he intends to adduce evidence or not on behalf of the accused person for whom he appears; and if he does not thereupon announce his intention to adduce evidence, the counsel for the prosecution may address the jury by way of summing up.

2. Upon every trial for an indictable offence, the counsel for the accused, or the accused if he is not defended by counsel, shall be allowed, if he thinks fit, to open the case for the defence, and after the conclusion of such opening to examine such witnesses as he thinks fit, and when all the evidence is concluded to sum up the evidence.

3. If no witnesses are examined for the defence the counsel for the accused, or the accused in case he is not defended by counsel, shall have the privilege of addressing the jury last, otherwise such right shall belong to the counsel for the prosecution: Provided, that the right of reply shall be always allowed to the Attorney General or Solicitor General, or to any counsel acting on behalf of either of them. 55-56 V., c. 29, s. 661.

Continuous trial.

945. The trial shall proceed continuously subject to the power of the court to adjourn it.

2. The court may adjourn the trial from day to day, and if in its opinion the ends of justice so require, to any other day in the same sittings.

3. Upon every adjournment of a trial under this section, or under any other section, the court may, if it thinks fit, direct that during the adjournment the jury shall be kept together, and proper provision made for preventing the jury from holding communication with any one on the subject of the trial.

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4. Such direction shall be given in all cases in which the accused may upon conviction be sentenced to death.

5. In other cases, if no such direction is given, the jury shall be permitted to separate.

6. No formal adjournment of the court shall hereafter be required, and no entry thereof in the Crown book shall be necessary. 58-59 V., c. 40, s. 1.

946. Jurors, after having been sworn, shall be allowed at any time before giving their verdict the use of fire and light when out of court, and shall also be allowed reasonable refreshment. 55-56 V., c. 29, s. 674.

947. In any criminal proceeding commenced or prosecuted for publishing any extract from, or abstract of, any paper containing defamatory matter, which has been published by order or under the authority of the Senate, House of Commons or any legislative council, legislative assembly or house of assembly, such paper may be given in evidence, and it may be shown that such extract or abstract was published in good faith and without ill-will to the person defamed, and if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant. 56 V., c. 32, s. 1.

948. In the case of any indictment under section three hundred and ten (b), (c) and (d), no averment or proof of the method in which the sexual relationship charged was entered into, agreed to or consented to, shall be necessary in any such indictment, or upon the trial of the person thereby charged; nor shall it be necessary upon such trial to prove carnal connection had or intended to be had between the persons implicated. 55-56 V., c. 29, s. 706.

949. When the complete commission of an offence charged is not proved but the evidence establishes an attempt to commit the offence, the accused may be convicted of such attempt and punished accordingly. 55-56 V., c. 29, s. 711.

950. When an attempt to commit an offence is charged but the evidence establishes the commission of the full offence, the accused shall not be entitled to be acquitted, but the jury may convict him of the attempt, unless the court before which such trial is had thinks fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for the complete offence.

2. After a conviction for such attempt the accused shall not be liable to be tried again for the offence which he was charged with attempting to commit. 55-56 V., c. 29, s. 712.

951. Every count shall be deemed divisible; and if the commission of the offence charged, as described in the enact- 168\frac{1}{4}^2 2075 ment

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Conviction for manslaughter on charge of murder.

On indictment for murder, conviction may be of concealment of birth.

Charge for stealing, conviction for fraudulently dealing with cattle.

Trial of joint receivers.

Trial for coining offences.

General resemblance sufficient.

2. On a count charging murder, if the evidence proves manslaughter but does not prove murder, the jury may find the accused not guilty of murder but guilty of manslaughter, but shall not on that count find the accused guilty of any other offence. 55-56 V., c. 29, s. 713.

952. If any person tried for the murder of any child is acquitted thereof, the jury by whose verdict such person is acquitted may find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of such child or of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as it might have passed if such person had been convicted upon an indictment for the concealment of birth. 55-56 V., c. 29, s. 714.

953. When an offence under section three hundred and sixty-nine is charged and not proved, but the evidence establishes an offence under section three hundred and ninety-two, the accused may be convicted of such latter offence and punished accordingly. 1 E. VII., c. 42, s. 2.

954. If, upon the trial of two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part or parts of such property, the jury may convict, upon such indictment, such of the said persons as are proved to have received any part or parts of such property. 55-56 V., c. 29, s. 715.

955. Upon the trial of any person accused of any offence respecting the currency or coin, or against the provisions of Part IX. relating to coin, no difference in the date or year, or in any legend marked upon the lawful coin described in the indictment, and the date or year or legend marked upon the false coin counterfeited to resemble or pass for such lawful coin, or upon any die, plate, press, tool or instrument used, constructed, devised, adapted or designed for the purpose of counterfeiting or imitating any such lawful coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence; and it shall, in any case, be sufficient to prove such general resemblance to the lawful coin as will show an intention that the counterfeit should pass for it. 55-56 V., c. 29, s. 718.

956.

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956. On the trial of any indictment or information for the making or publishing of any defamatory libel, on the plea of not guilty pleaded, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information, and shall not be required or directed, by the court or judge before whom such indictment or information is tried, to find the defendant guilty merely on the proof of publication by such defendant of the paper charged to be a defamatory libel, and of the sense ascribed to the same in such indictment or information; but the court or judge before whom such trial is had shall, according to the discretion of such court or judge, give the opinion and direction of such court or judge to the jury on the matter in issue as in other criminal cases; and the jury may, on such or special issue, find a special verdict if they think fit so to do.

2. The defendant, if found guilty, may move in arrest of judgment on such ground and in such manner as heretofore. 55-56 V., c. 29, s. 719.

957. If any false or counterfeit coin is produced on any trial for an offence against the provisions of Part IX. relating to coin, the court shall order the same to be cut in pieces in open court, or in the presence of a justice, and then to be delivered to or for the lawful owner thereof, if such owner claims the same. 55-56 V., c. 29, s. 721.

958. On the trial of any person for an offence against this Act, the court may, if it appears expedient for the ends of justice, at any time after the jurors have been sworn to try the case and before they give their verdict, direct that the jury shall have a view of any place, thing or person, and shall give directions as to the manner in which, and the persons by whom, the place, thing or person shall be shown to such jurors, and may for that purpose adjourn the trial, and the costs occasioned thereby shall be in the discretion of the court.

2. When such view is ordered, the court shall give such directions as seem requisite for the purpose of preventing undue communication with such jurors: Provided that no breach of any such directions shall affect the validity of the proceedings. 55-56 V., c. 29, s. 722.

959. If the jury retire to consider their verdict they shall be kept under the charge of an officer of the court in some private place, and no person other than the officer of the court who has charge of them shall be permitted to speak or to communicate in any way with any of the jury without the leave of the court.

2. Disobedience to the directions of this section shall not affect the validity of the proceedings.
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Empaneling new jury.  3. If such disobedience is discovered before the verdict of the jury is returned the court, if it is of opinion that such disobedience might lead to a miscarriage of justice, may discharge the jury and direct a new jury to be sworn or empanelled during the sitting of the court, or postpone the trial on such terms as justice may require.  55-56 V., c. 29, s. 727.

Jury discharged if unable to agree.

Review.  960. If the court is satisfied that the jury are unable to agree upon their verdict, and that further detention would be useless, it may in its discretion discharge them and direct a new jury to be empanelled during the sittings of the court, or may postpone the trial on such terms as justice may require.  2. It shall not be lawful for any court to review the exercise of this discretion.  55-56 V., c. 29, s. 728.

Proceeding on Sunday, etc., not invalid.  961. The taking of the verdict of the jury or other proceeding of the court shall not be invalid by reason of its happening on Sunday or on any other holiday.  63-64 V., c. 46, s. 3.

Stay by Attorney General after indictment.

Delegation of power.  962. The Attorney General may, at any time after an indictment has been found against any person for any offence and before judgment is given thereon, direct the officer of the court to make on the record an entry that the proceedings are stayed by his direction, and on such entry being made all such proceedings shall be stayed accordingly.

Previous offence charged.  2. The Attorney General may delegate such power in any particular court to any counsel nominated by him.  55-56 V., c. 29, s. 732.

Arraignment on subsequent offence.

Trial as to previous offence.  963. Upon any indictment for committing any offence after a previous conviction or convictions, the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only; and if the jury finds him guilty, or if, on arraignment he pleads guilty, he shall then, and not before, be asked whether he was so previously convicted as alleged in the indictment.

Evidence of character in such case.

964. If upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, the prosecutor may, in answer thereto, give evidence of the conviction

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conviction of such person for the previous offence or offences, before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence. 55-56 V., c. 29, s. 676.

965. Nothing in this Act shall alter, abridge or affect any power or authority which any court or judge has hitherto had, or any existing practice or form in regard to trials by jury, jury process, juries or jurors, except in cases where such power or authority, practice or form is expressly altered by or is inconsistent with the provisions of this Act. 55-56 V., c. 29, s. 675.

Defence of Insanity.

966. Whenever evidence is given upon the trial of any person charged with an indictable offence, that such person was insane at the time of the commission of such offence, the jury, if they acquit such person, shall be required to find, specially, whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by it on account of such insanity.

2. If the jury finds that such person was insane at the time of committing such offence, the court before which such trial is had shall order such person to be kept in strict custody in such place and in such manner as to the court seems fit, until the pleasure of the lieutenant governor is known. 55-56 V., c. 29, s. 736.

967. If at any time after the indictment is found, and before the verdict is given, it appears to the court that there is sufficient reason to doubt whether the accused is then, on account of insanity, capable of conducting his defence, the court may direct that an issue shall be tried whether the accused is or is not then, on account of insanity, unfit to take his trial.

2. If such issue is directed before the accused is given in charge to a jury for trial on the indictment, such issue shall be tried by any twelve jurors.

3. If such issue is directed after the accused has been given in charge to a jury for trial on the indictment, such jury shall be sworn to try this issue in addition to that on which they are already sworn.

4. If the verdict on this issue is that the accused is not then unfit to take his trial, the arraignment or the trial shall proceed as if no such issue had been directed.

5. If the verdict is that he is unfit on account of insanity, the court shall order the accused to be kept in custody till the pleasure of the lieutenant governor of the province shall be known, and any plea pleaded shall be set aside and the jury shall be discharged.
6. No such proceeding shall prevent the accused being afterwards tried on such indictment. 55-56 V., c. 29, s. 737.

968. If any person charged with an indictable offence is brought before any court before which such person might be tried for such offence to be discharged for want of prosecution, and such person appears to be insane, the court shall order a jury to be empanelled to try the sanity of such person, and if the jury so empanelled finds him insane, the court shall order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, until the pleasure of the lieutenant governor is known. 55-56 V., c. 29, s. 739.

969. In all cases of insanity so found, the lieutenant governor may make an order for the safe custody of the person so found to be insane, in such place and in such manner as to him seems fit. 55-56 V., c. 29, s. 740.

970. The lieutenant governor, upon such evidence of the insanity of any person imprisoned in any prison other than a penitentiary for an offence, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, as the lieutenant governor considers sufficient, may order the removal of such insane person to a place of safe keeping; and such person shall remain there, or in such other place of safe keeping as the lieutenant governor from time to time orders, until his complete or partial recovery is certified to the satisfaction of the lieutenant governor, who may then order such insane person back to imprisonment, if then liable thereto, or otherwise to be discharged. 55-56 V., c. 29, s. 741.

**Witnesses and Attendance.**

971. Every witness duly subpoenaed to attend and give evidence at any criminal trial before any court of criminal jurisdiction shall be bound to attend and remain in attendance throughout the trial. 55-56 V., c. 29, s. 677.

972. Upon proof to the satisfaction of the judge of the service of the subpoena upon any witness who fails to attend or remain in attendance, or upon its appearing that any witness at the preliminary examination has entered into a recognizance to appear at the trial, and has failed so to appear, and that the presence of such witness is material to the ends of justice, the judge may, by his warrant, cause such witness to be apprehended and forthwith brought before him to give evidence and to answer for his disregard of the subpoena.

2. Such witness may be detained on such warrant before the judge or in the common gaol, with a view to secure his presence as a witness, or, in the discretion of the judge, he may be released.
released on a recognizance, with or without sureties, conditioned for his appearance to give evidence and to answer for his default in not attending or not remaining in attendance.

3. The judge may, in a summary manner, examine into and dispose of the charge against such witness, who, if he is found guilty thereof, shall be liable to a fine not exceeding one hundred dollars, or to imprisonment, with or without hard labour, for a term not exceeding ninety days, or to both. 55-56 V., c. 29, s. 678.

973. Either before or during the sittings of any court of criminal jurisdiction, the court, or any judge thereof, or any judge of any superior or county court, if satisfied by evidence upon oath that any person within the province likely to give material evidence, either for the prosecution or for the accused, will not attend to give evidence at such sittings without being compelled so to do, may, by his warrant, cause such witness to be apprehended and forthwith brought before such court or judge, and such witness may be detained on such warrant before such court or judge or in the common gaol, with a view to secure his presence as a witness, or, in the discretion of the court or judge, may be released on a recognizance, with or without sureties, conditioned for his appearance to give evidence. 63-64 V., c. 46, s. 3.

974. If any witness in any criminal case, cognizable by indictment in any court of criminal jurisdiction at any term, sessions or sittings of any court in any part of Canada, resides in any part of Canada, not within the ordinary jurisdiction of the court before which such criminal case is cognizable, such court may issue a writ of subpoena, directed to such witness, in like manner as if such witness was resident within the jurisdiction of the court. 55-56 V., c. 29, s. 679.

975. If such witness does not obey such writ of subpoena the court issuing the same may proceed against such witness for contempt or otherwise, or bind over such witness to appear at such days and times as are necessary, and upon default being made in such appearance may cause the recognizances of such witness to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness was resident within the jurisdiction of the court. 55-56 V., c. 29, s. 679.

976. The courts of the several provinces and the judges of the said courts respectively shall be auxiliary to one another for the purposes of this Act; and any judgment, decree or order made by the court issuing such writ of subpoena upon any proceeding against any witness for contempt or otherwise may be enforced or acted upon by any court in the province in which R.S., 1906.
which such witness resides in the same manner and as validly and effectually as if such judgment, order or decree had been made by such last mentioned court. 63-64 V., c. 46, s. 3.

977. When the attendance of any person confined in any prison in Canada, or upon the limits of any gaol, is required in any court of criminal jurisdiction in any case cognizable therein by indictment, the court before whom such prisoner is required to attend, or any judge of such court or of any superior court or county court, or any chairman of General Sessions, may, before or during any such term or sittings at which the attendance of such person is required, make an order upon the warden or gaoler of the prison, or upon the sheriff or other person having the custody of such prisoner,—

(a) to deliver such prisoner to the person named in such order to receive him; or,

(b) to himself convey such prisoner to such place.

2. The warden, gaoler or other person aforesaid, having the custody of such prisoner, when so required by order as aforesaid, upon being paid his reasonable charges in that behalf, or the person to whom such prisoner is required to be delivered as aforesaid, shall, according to the exigency of the order, convey the prisoner to the place at which he is required to attend and there produce him, and then to receive and obey such further order as to the said court seems meet. 63-64 V., c. 46, s. 3.

Evidence on the Trial.

978. Any accused person on his trial for any indictable offence, or his counsel or solicitor, may admit any fact alleged against the accused so as to dispense with proof thereof. 55-56 V., c. 29, s. 690.

979. A certificate containing the substance and effect only, omitting the formal part, of the indictment and trial for any offence, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such clerk or other officer, shall, upon the trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment without proof of the signature or official character of the person appearing to have signed the same. 55-56 V., c. 29, s. 691.

980. When, upon the trial of any person, it becomes necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer or other officer of His Majesty's mint, or other person employed in producing the lawful coin in His Majesty's dominions.
dominions or elsewhere, whether the coin counterfeited is current coin, or the coin of any foreign prince, state or country, not current in Canada, but it shall be sufficient to prove the same to be false or counterfeited by the evidence of any witness. 55-56 V., c. 29, s. 692.

981. On the trial of any person charged with any of the offences mentioned in section five hundred and sixty-nine, any letter, circular, writing or paper offering or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, or concerning any similar scheme or device to defraud the public, shall be prima facie evidence of the fraudulent character of such scheme or device. 55-56 V., c. 29, s. 693.

982. A certificate containing the substance and effect only, omitting the formal part, of any previous indictment and conviction for any indictable offence, or a copy of any summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court before which the offender was first convicted, or to which such summary conviction was returned, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction without proof of the signature or official character of the person appearing to have signed the same. 55-56 V., c. 29, s. 694.

983. The trial of any woman charged with the murder of any issue of her body, male or female, which being born alive would, by law, be bastard, shall proceed and be governed by such and the like rules of evidence and presumption as are by law used and allowed to take place in respect to other trials for murder. 55-56 V., c. 29, s. 697.

984. To prove the age of a boy, girl, child or young person for the purposes of sections two hundred and eleven, two hundred and fifteen, two hundred and forty-two, two hundred and forty-three, two hundred and forty-five, two hundred and ninety-four, three hundred and one, three hundred and two, three hundred and fifteen and three hundred and sixteen, any entry or record by an incorporated society or its officers having had the control or care of the boy, girl, child or young person at or about the time of the boy, girl, child or young person being brought to Canada, if such entry or record has been made before the alleged offence was committed, shall be prima facie evidence of such age.

2. In the absence of other evidence, or by way of corroboration of other evidence, the judge, or, in cases where an offender is tried with a jury, the jury before whom an indictment for 2683

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the offence is tried, or the justice before whom a preliminary inquiry thereinto is held, may infer the age from the appearance of the boy, girl, child or young person. 63-64 V., c. 46, s. 3.

985. When any cards, dice, balls, counters, tables or other instruments of gaming used in playing any unlawful game are found in any house, room or place suspected to be used as a common gaming house, and entered under a warrant or order issued under this Act, or about the person of any of those who are found therein, it shall be prima facie evidence, on the trial of a prosecution under section two hundred and twenty-eight or section two hundred and twenty-nine, that such house, room or place is used as a common gaming house, and that the persons found in the room or place where such instruments of gaming are found were playing therein, although no play was actually going on in the presence of the officer entering the same under such warrant or order, or in the presence of the persons by whom he is accompanied. 63-64 V., c. 46, s. 3.

986. In any prosecution under section two hundred and twenty-eight for keeping a common gaming house, or under section two hundred and twenty-nine for playing or looking on while any other person is playing in a common gaming house, it shall be prima facie evidence that a house, room or place is used as a common gaming house, and that the persons found therein were unlawfully playing therein,—

(a) if any constable or officer authorized to enter such house, room or place, is wilfully prevented from, or obstructed or delayed in entering the same or any part thereof; or,

(b) if any such house, room or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing or destroying any instruments of gaming. 63-64 V., c. 46, s. 3.

987. Whenever, on the trial of a person charged with making an agreement for the sale or purchase of shares, goods, wares or merchandise in the manner set forth in section two hundred and thirty-one, it is established that the person so charged has made or signed any such contract or agreement of sale or purchase, or has acted, aided or abetted in the making or signing thereof, the burden of proof of the bona fide intention to acquire or to sell such goods, wares or merchandise, or to deliver or to receive delivery thereof, as the case may be, shall rest upon the person so charged. 55-56 V., c. 29, s. 704.

988. In any prosecution, proceeding or trial for stealing ores or minerals the possession, contrary to the provisions of any law in that behalf, of any smelted gold or silver, or any gold-bearing quartz, or any unsmelted or otherwise unmanufactured...
factured gold or silver, by any operator, workman or labourer actively engaged in or on any mine, shall be prima facie evidence that the same has been stolen by him. 55-56 V., c. 29, s. 707.

989. In any criminal prosecution, proceeding or trial, the presence upon any cattle of a brand or mark, which is duly recorded or registered under the provisions of any Act, ordinance or law, shall be prima facie evidence that such cattle are the property of the registered owner of such brand or mark.

2. When a person is charged with theft of cattle, or with an offence under paragraph (a) or paragraph (b) of section three hundred and ninety-two respecting cattle, possession by such person or by others in his employ or on his behalf of such cattle bearing such a brand or mark of which the person charged is not the registered owner, shall throw upon the accused the burden of proving that such cattle came lawfully into his possession or into the possession of such others in his employ or on his behalf, unless it appears that such possession by others in his employ or on his behalf was without his knowledge and without his authority, sanction or approval. 1 E. VII., c. 42, s. 2.

990. In any prosecution, proceeding or trial for any offence under section three hundred and ninety-four a timber mark duly registered under the provisions of the Timber Marking Act, on any timber, mast, spar, saw-log or other description of lumber, shall be prima facie evidence that the same is the property of the registered owner of such timber mark.

2. Possession by the accused, or by others in his employ or on his behalf, of any such timber, mast, spar, saw-log or other description of lumber so marked, shall, in all cases, throw upon him the burden of proving that such timber, mast, spar, saw-log or other description of lumber came lawfully into his possession, or into the possession of such others in his employ or on his behalf. 55-56 V., c. 29, s. 708.

991. In any prosecution, proceeding or trial under sections four hundred and thirty-three to four hundred and thirty-seven inclusive for offences relating to public stores, proof that any soldier, seaman or marine was actually doing duty in His Majesty's service shall be prima facie evidence that his enlistment, entry or enrolment has been regular.

2. If the person charged with the offence relating to public stores mentioned in section four hundred and thirty-five was, at the time at which the offence is charged to have been committed, in His Majesty's service or employment, or a dealer in marine stores, or a dealer in old metals, knowledge on his part that the stores to which the charge relates bore the marks described in section four hundred and thirty-two shall be presumed until the contrary is shown. 55-56 V., c. 29, s. 709. 2685

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992. In any prosecution, proceeding or trial for any offence under Part VII. relating to fraudulent marks on merchandise, if the evidence relates to imported goods, evidence of the port of shipment shall be prima facie evidence of the place or country in which the goods were made or produced. 55-56 V., c. 29, s. 710.

993. When proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, evidence may be given, at any stage of the proceedings, that there was found in the possession of such person other property stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property which forms the subject of the proceedings taken against him to be stolen, if not less than three days' notice in writing has been given to the person accused that proof is intended to be given of such other property, stolen within the preceding period of twelve months, having been found in his possession.

2. Such notice shall specify the nature or description of such other property, and the person from whom the same was stolen. 55-56 V., c. 29, s. 716.

994. When proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, and evidence has been given that the stolen property has been found in his possession, then if such person has, within five years inmediately preceding, been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings, and may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen, if not less than three days' notice in writing has been given to the person accused that proof is intended to be given of such previous conviction.

2. It shall not be necessary, for the purposes of this section, to charge in the indictment the previous conviction of the person so accused. 55-56 V., c. 29, s. 717.

Evidence taken apart from Trial.

995. Whenever it is made to appear at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of a judge of a superior court, or a judge of a county court having criminal jurisdiction, that any person who is dangerously ill, and who, in the opinion of some licensed medical practitioner, is not likely to recover from such illness, is able and willing to give material information relating to any indictable offence, or relating to any person accused of any such offence, such judge

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judge may, by order under his hand, appoint a commissioner
to take in writing the statement on oath or affirmation of such
person.

2. Such commissioner shall take such statement and shall
subscribe the same and add thereto the names of the persons
if any, present at the taking thereof, and if the deposition
relates to any indictable offence for which any accused person
is already committed or bailed to appear for trial, shall transmit
the same, with the said addition, to the proper officer of the
court at which such accused person is to be tried.

3. In every other case he shall transmit the same to the clerk
of the peace of the county, division or city in which he has taken
the same, or to such other officer as has charge of the records
and proceedings of a superior court of criminal jurisdiction
in such county, division or city.

4. Such clerk of the peace or other officer shall preserve the
same and file it of record, and upon the order of the court or a
judge transmit the same to the proper officer of the court where
the same shall be required to be used as evidence. 55-56 V.,
c. 29, s. 681.

996. Whenever a prisoner in actual custody is served with
or receives notice of an intention to take the statement mention-
ed in the last preceding section the judge who has appointed
the commissioner may, by an order in writing, direct the officer
or other person having the custody of the prisoner to convey
him to the place mentioned in the said notice for the purpose of
being present at the taking of the statements; and such officer
or other person shall convey the prisoner accordingly, and the
expenses of such conveyance shall be paid out of the funds
applicable to the other expenses of the prison from which the
prisoner has been conveyed. 55-56 V., c. 29, s. 682.

997. Whenever it is made to appear, at the instance of the
Crown, or of the prisoner or defendant, to the satisfaction of
the judge of any superior court, or the judge of a county court
having criminal jurisdiction, that any person who resides out
of Canada is able to give material information relating to any
indictable offence for which a prosecution is pending, or relating
to any person accused of such offence, such judge may, by
order under his hand, appoint a commissioner or commissioners
to take the evidence, upon oath, of such person.

2. Until otherwise provided by rules of court, the practice
and procedure in connection with the appointment of commis-
sioners, under this section, the taking of depositions by such
commissioners, and the certifying and return thereof, and the
use of such depositions as evidence, shall be as nearly as prac-
ticable the same as those which prevail in the respective courts
in connection with like matters in civil causes.

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3. The depositions taken by such commissioners may be used as evidence at the trial.

4. Subject to such rules of court or to the practice or procedure aforesaid, such depositions may, by the direction of the presiding judge, be read in evidence before the grand jury. 55-56 V., c. 29, s. 683; 58-59 V., c. 40, s. 1; 63-64 V., c. 46, s. 3.

Admission on Trial of Evidence Previously Taken.

998. If the statement of a sick person has been taken by a commissioner as provided in section nine hundred and ninety-five, and upon the trial of any offender for any offence to which the same relates, the person who made the statement is proved to be dead, or if it is proved that there is no reasonable probability that such person will ever be able to attend at the trial to give evidence, such statement may, upon the production of the judge's order appointing the commissioner, be read in evidence, either for or against the accused, without further proof thereof, if the same purports to be signed by the commissioner by or before whom it purports to have been taken, and it is proved to the satisfaction of the court that reasonable notice of the intention to take such statement was served upon the person, whether prosecutor or accused, against whom it is proposed to be read in evidence, and that such person or his counsel or solicitor had, or might have had, if he had chosen to be present, full opportunity of cross-examining the person who made the same. 55-56 V., c. 29, s. 686.

999. If upon the trial of an accused person such facts are proved upon oath or affirmation that it can be reasonably inferred therefrom that any person, whose evidence was given at any former trial upon the same charge or whose deposition has been theretofore taken in the investigation of the charge against such accused person, is dead, or so ill as not to be able to travel, or is absent from Canada, and if it is proved that such evidence was given or such deposition was taken in the presence of the person accused, and that he or his counsel or solicitor if present had a full opportunity of cross-examining the witness, then if the evidence or deposition purports to be signed by the judge or justice before whom the same purports to have been taken, it shall be read as evidence in the prosecution, without further proof thereof, unless it is proved that such evidence or deposition was not in fact signed by the judge or justice purporting to have signed the same. 63-64 V., c. 46, s. 3.

1000. Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of such person for any other offence, upon the like proof and in the same manner, in all respects, as they may, according to law, be read in the prosecution of the offence.
offence with which such person was charged when such depositions were taken. 55-56 V., c. 29, s. 688.

1001. The statement made by the accused person before the justice may, if necessary, upon the trial of such person, be given in evidence against him without further proof thereof, unless it is proved that the justice purporting to have signed the same did not in fact sign the same. 55-56 V., c. 29, s. 689.

Corroboration.

1002. No person accused of any offence under any of the hereunder mentioned sections shall be convicted upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused:—

(a) Treason, Part II., section seventy-four;
(b) Perjury, Part IV., section one hundred and seventy-four;
(c) Offences under Part V., sections two hundred and eleven to two hundred and twenty inclusive;
(d) Procuring feigned marriage, Part VI., section three hundred and nine;
(e) Forgery, Part VII., sections four hundred and sixty-eight to four hundred and seventy inclusive. 55-56 V., c. 29, s. 684; 56 V., c. 32, s. 1.

1003. Where, upon the hearing or trial of any charge for carnally knowing or attempting to carnally know a girl under fourteen or of any charge under section two hundred and ninety-two for indecent assault, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the court or justices, understand the nature of an oath, the evidence of such girl or other child of tender years may be received though not given upon oath if, in the opinion of the court or justices, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

2. But no person shall be liable to be convicted of the offence, unless the testimony admitted by virtue of this section and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof implicating the accused.

3. Any witness whose evidence is admitted under this section is liable to indictment and punishment for perjury in all respects as if he or she had been sworn. 55-56 V., c. 29, s. 685.

1004.
Sentence, Arrest of Judgment and Appeal.

1004. If the jury find the accused guilty, or if the accused pleads guilty, the judge presiding at the trial shall ask him whether he has anything to say why sentence should not be passed upon him according to law: Provided that the omission so to ask shall have no effect on the validity of the proceedings. 55-56 V., c. 29, s. 733.

1005. If one sentence is passed upon any verdict of guilty on more counts of an indictment than one, the sentence shall be good if any of such counts would have justified it. 55-56 V., c. 29, s. 626.

1006. When any sentence is passed upon any person after a trial had under an order for changing the place of trial, the court may in its discretion, either direct the sentence to be carried out at the place where the trial was had or order the person sentenced to be removed to the place where his trial would have been had but for such order, so that the sentence may be there carried out. 55-56 V., c. 29, s. 733.

1007. The accused may at any time before sentence move in arrest of judgment on the ground that the indictment does not, after amendment, if any, state any indictable offence.

2. The court may in its discretion either hear and determine the matter during the same sittings or reserve the matter for the court of appeal as hereinafter provided.

3. If the court decides in favour of the accused, he shall be discharged from that indictment.

4. If no such motion is made, or if the court decides against the accused upon such motion, the court may sentence the accused during the sittings of the court, or the court may in its discretion discharge him on his own recognizance, or on that of such sureties as the court thinks fit, or both, to appear and receive judgment at some future court or when called upon.

5. If sentence is not passed during the sittings, the judge of any superior court before which the person so convicted afterwards appears or is brought, or if he was convicted before a court of general or quarter sessions, the court of general or quarter sessions at a subsequent sittings may pass sentence upon him or direct him to be discharged. 55-56 V., c. 29, s. 733.

1008. If sentence of death is passed upon any woman she may move in arrest of execution on the ground that she is pregnant.

2. If such a motion is made the court shall direct one or more registered medical practitioners to be sworn to examine the woman in some private place, either together or successively, and to inquire whether she is with child of a quick child or not.

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3. If upon the report of any of them it appears to the court that she is so with child, execution shall be arrested until she is delivered of a child, or until it is no longer possible in the course of nature that she should be so delivered. 55-56 V., c. 29, s. 730.

1009. No jury de ventre inspiciendo shall be empanelled or sworn. 55-56 V., c. 29, s. 731.

1010. Judgment, after verdict upon an indictment for any offence against this Act, shall not be stayed or reversed,—

(a) for want of a similitur;
(b) by reason that the jury process has been awarded to a wrong officer, upon an insufficient suggestion;
(c) for any misnomer or misdescription of the officer returning such process, or of any of the jurors; or,
(d) because any person has served upon the jury who was not returned as a juror by the sheriff or other officer.

2. Where the offence charged is an offence created by any statute, or subjected to a greater degree of punishment by any statute, the indictment shall, after verdict, be held sufficient, if it describes the offence in the words of the statute creating the offence, or prescribing the punishment, although they are disjunctively stated or appear to include more than one offence, or otherwise. 55-56 V., c. 29, s. 734.

1011. No omission to observe the directions contained in any Act as respects the qualification, selection, balloting or distribution of jurors, the preparation of the jurors' book, the selecting of jury lists, the drafting of panels from the jury lists or the striking of special juries, shall be a ground for impeaching any verdict, or shall be allowed for error upon any appeal to be brought upon any judgment rendered in any criminal case. 55-56 V., c. 29, s. 735; 56 V., c. 32, s. 1.

1012. An appeal upon all issues of law and fact shall lie from any conviction by the judge without the intervention of a jury for any offence mentioned in section four hundred and ninety-eight to the court of appeal in the province where such conviction is made; and the evidence taken upon the trial shall form part of the record in appeal, and, for that purpose, the court before which the case is tried shall take note of the evidence, and of all legal objections thereto. 52 V., c. 41, s. 5.

1013. An appeal from the verdict or judgment of any court or judge having jurisdiction in criminal cases, or of a magistrate proceeding under section seven hundred and seventy-seven, on the trial of any person for an indictable offence, shall lie upon the application of such person if convicted, to the court of R.S., 1906.
of appeal in the cases hereinafter provided for, and in no others.

2. Whenever the judges of the court of appeal are unanimous in deciding an appeal brought before the said court their decision shall be final.

3. If any of the judges dissent from the opinion of the majority, an appeal shall lie from such decision to the Supreme Court of Canada as hereinafter provided. 55-56 V., c. 29, s. 742.

1014. No proceeding in error shall be taken in any criminal case.

2. The court before which any accused person is tried may, either during or after the trial, reserve any question of law arising either on the trial or on any of the proceedings preliminary, subsequent, or incidental thereto, or arising out of the direction of the judge, for the opinion of the court of appeal in manner hereinafter provided.

3. Either the prosecutor or the accused may during the trial, either orally or in writing, apply to the court to reserve any such question as aforesaid, and the court, if it refuses so to reserve it, shall nevertheless take a note of such objection.

4. After a question is reserved the trial shall proceed as in other cases.

5. If the result is a conviction, the court may in its discretion respite the execution of the sentence or postpone sentence till the question reserved has been decided, and shall in its discretion commit the person convicted to prison or admit him to bail with one or two sufficient sureties, in such sums as the court thinks fit, to surrender at such time as the court directs.

6. If the question is reserved, a case shall be stated for the opinion of the court of appeal. 55-56 V., c. 29, s. 743.

1015. If the court refuses to reserve the question, the party applying may move the court of appeal as hereinafter provided.

2. The Attorney General or party so applying may, on notice of motion to be given to the accused or prosecutor, as the case may be, move the court of appeal for leave to appeal.

3. The court of appeal may, upon the motion and upon considering such evidence, if any, as it thinks fit to receive, grant or refuse such leave. 63-64 V., c. 46, s. 3.

1016. If leave to appeal is granted, a case shall be stated for the opinion of the court of appeal as if the question had been reserved.

2. If the sentence is alleged to be one which could not by law be passed, either party may without leave, upon giving notice of motion to the other side, move the court of appeal to pass a proper sentence.

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3. If the court has arrested judgment, and refused to pass any sentence, the prosecutor may without leave make such motion. 55-56 V., c. 29, s. 744.

1017. On any appeal or application for a new trial, the court before which the trial was had shall, if it thinks necessary, or if the court of appeal so desires, send to the court of appeal a copy of the whole or of such part as may be material of the evidence or the notes taken by the judge or presiding justice at the trial.

2. The court of appeal may, if only the judge's notes are sent and it considers such notes defective, refer to such other evidence of what took place at the trial as it thinks fit.

3. The court of appeal may, in its discretion, send back any case to the court by which it was stated to be amended or restated. 55-56 V., c. 29, s. 745.

1018. Upon the hearing of any appeal under the powers hereinbefore contained, the court of appeal may,—

(a) confirm the ruling appealed from; or,

(b) if of opinion that the ruling was erroneous, and that there has been a mis-trial in consequence, direct a new trial; or,

(c) if it considers the sentence erroneous or the arrest of judgment erroneous, pass such sentence as ought to have been passed or set aside any sentence passed by the court below, and remit the case to the court below with a direction to pass the proper sentence; or,

(d) if of opinion in a case in which the accused has been convicted that the ruling was erroneous, and that the accused ought to have been acquitted, direct that the accused shall be discharged, which order shall have all the effects of an acquittal, or direct a new trial; or,

(e) make such other order as justice requires. 55-56 V., c. 29, s. 746.

1019. No conviction shall be set aside nor any new trial directed, although it appears that some evidence was improperly admitted or rejected, or that something not according to law was done at the trial or some misdirection given, unless, in the opinion of the court of appeal, some substantial wrong or miscarriage was thereby occasioned on the trial: Provided that if the court of appeal is of opinion that any challenge for the defence was improperly disallowed, a new trial shall be granted. 55-56 V., c. 29, s. 746.

1020. If it appears to the court of appeal that such wrong or miscarriage affected some count only of the indictment, the court may give separate directions as to each count, and may pass sentence on any count unaffected by such wrong or miscarriage. 2693

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Order of court of appeal.

Leave to apply for new trial.

May grant new trial.

Leave by person presiding at sessions.

New trial by order of Minister of Justice.

Suspension of sentence in case of appeal.

Suspension in case of sentence of death or whipping.

Bail.

Appeal to Supreme Court of Canada.

Proviso.

None if court unanimous.

Carriage which stands good, or may remit the case to the court below with directions to pass such sentence as justice may require.

2. The order or direction of the court of appeal shall be certified under the hand of the presiding chief justice or senior puisné judge to the proper officer of the court before which the case was tried, and such order or direction shall be carried into effect. 55-56 V., c. 29, s. 746.

1021. After the conviction of any person for any indictable offence the court before which the trial takes place may, either during the sitting or afterwards, give leave to the person convicted to apply to the court of appeal for a new trial on the ground that the verdict was against the weight of evidence.

2. The court of appeal may, upon hearing such motion, direct a new trial if it thinks fit.

3. In the case of a trial before a court of general or quarter sessions such leave may be given, during or at the end of the session, by the judge or other person who presided at the trial. 55-56 V., c. 29, s. 747.

1022. If upon any application for the mercy of the Crown on behalf of any person convicted of an indictable offence, the Minister of Justice entertains a doubt whether such person ought to have been convicted, he may, instead of advising His Majesty to remit or commute the sentence, after such inquiry as he thinks proper, by an order in writing direct a new trial at such time and before such court as he may think proper. 55-56 V., c. 29, s. 748.

1023. The sentence of a court shall not be suspended by reason of any appeal, unless the court expressly so directs, except where the sentence is that the accused suffer death or whipping.

2. The production of a certificate from the officer of the court that a question has been reserved, or that leave has been given to apply for a new trial, or of a certificate from the Minister of Justice that he has directed a new trial, shall be a sufficient warrant to suspend the execution of any sentence of death or whipping.

3. In all cases it shall be in the discretion of the court of appeal in directing a new trial to order the accused to be admitted to bail. 55-56 V., c. 29, s. 749.

1024. Any person convicted of any indictable offence, whose conviction has been affirmed on an appeal taken under section ten hundred and thirteen may appeal to the Supreme Court of Canada against the affirmance of such conviction: Provided that no such appeal can be taken if the court of appeal is unanimous in affirming the conviction, nor unless notice of appeal

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appeal in writing has been served on the Attorney General within fifteen days after such affirmance or such further time as may be allowed by the Supreme Court of Canada or a judge thereof.

2. The Supreme Court of Canada shall make such rule or order thereon, either in affirmance of the conviction or for granting a new trial, or otherwise, or for granting or refusing such application, as the justice of the case requires, and shall make all other necessary rules and orders for carrying such rule or order into effect.

3. Unless such appeal is brought on for hearing by the appellant at the session of the Supreme Court during which such affirmance takes place, or the session next thereafter if the said court is not then in session, the appeal shall be held to have been abandoned, unless otherwise ordered by the Supreme Court or a judge thereof.

4. The judgment of the Supreme Court shall, in all cases, be final and conclusive. 55-56 V., c. 29, s. 750.

1025. Notwithstanding any royal prerogative, or anything contained in the Interpretation Act or in the Supreme Court Act, no appeal shall be brought in any criminal case from any judgment or order of any court in Canada to any court of appeal or authority, by which in the United Kingdom appeals or petitions to His Majesty in Council may be heard. 55-56 V., c. 29, s. 751.

PART XX.

PUNISHMENTS, FINES, FORFEITURES, COSTS, AND RESTITUTION OF PROPERTY.

Interpretation.

1026. In the sections of this Part relating to suspended sentence, unless the context otherwise requires, 'court' means and includes any superior court of criminal jurisdiction, any judge or court within the meaning of Part XVIII. and any magistrate within the meaning of Part XVI. 55-56 V., c. 29, s. 974.

Punishment Generally.

1027. Whenever a person doing a certain act is declared to be guilty of any offence, and to be liable to punishment therefor, it shall be understood that such person shall only be deemed guilty of such offence and liable to such punishment after being duly convicted of such act. 55-56 V., c. 29, s. 931.
Degrees in punishment.

1028. Whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, the punishment to be inflicted shall, subject to the limitations contained in the enactment, be in the discretion of the court or tribunal before which the conviction takes place. 55-56 V., c. 29, s. 932.

Discretion.

1029. Whenever a fine may be awarded or a penalty imposed for any offence, the amount of such fine or penalty shall, within such limits, if any, as are prescribed in that behalf, be in the discretion of the court or person passing sentence or convicting, as the case may be. 55-56 V., c. 29, s. 934.

Fine or penalty in discretion of court.

Outlawry.

1030. Outlawry in criminal cases is abolished. 55-56 V., c. 29, s. 962.

Solitary confinement or pillory.

1031. The punishment of solitary confinement or of the pillory shall not be awarded by any court. 55-56 V., c. 29, s. 963.

Deodand.

1032. There shall be no forfeiture of any chattels, which have moved to or caused the death of any human being, in respect of such death. 55-56 V., c. 29, s. 964.

Attainder.

1033. No confession, verdict, inquest, conviction or judgment of or for any treason or indictable offence or felo de se shall cause any attainder or corruption of blood, or any forfeiture or escheat: Provided that nothing in this section shall affect any penalty or fine imposed on any person by virtue of his sentence, or any forfeiture in relation to which special provision is made by any Act of the Parliament of Canada. 55-56 V., c. 29, s. 965.

Penalty.

Forfeiture.

Disabilities.

1034. If any person hereafter convicted of treason or any indictable offence for which he is sentenced to death, or imprisonment for a term exceeding five years, holds at the time of such conviction any office under the Crown or other public employment, or is entitled to any pension or superannuation allowance payable by the public, or out of any public fund, such office or employment shall forthwith become vacant, and such pension or superannuation allowance or emolument shall forthwith determine and cease to be payable, unless such person receives a free pardon from His Majesty, within two months after such conviction, or before the filling up of such office or employment, if given at a later period.

2. Every such person sentenced to imprisonment as aforesaid or on whom sentence of death has been passed which has been commuted to imprisonment, shall become, and, until he undergoes...

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goes the imprisonment aforesaid or suffers such other punish-
ment as by competent authority is substituted for the same, or
receives a free pardon from His Majesty, shall continue incap-
able of holding any office under the Crown, or other public
employment, or of being elected, or sitting, or voting, as a
member of either House of Parliament, or of exercising any
right of suffrage or other parliamentary or municipal franchise.

3. The setting aside of a conviction by competent authority
shall remove the disability by this section imposed. 55-56 V.,
c. 29, s. 961.

Fines and Forfeitures.

1035. Any person convicted by any magistrate under Part
XVI. or by any court of an indictable offence punishable with
imprisonment for five years or less may be fined in addition to,
or in lieu of any punishment otherwise authorized, in which case
the sentence may direct that in default of payment of his fine
the person so convicted shall be imprisoned until such fine is
paid, or for a period not exceeding five years, to commence at
the end of the term of imprisonment awarded by the sentence,
or forthwith as the case may require.

2. Any person convicted of an indictable offence punishable
with imprisonment for more than five years may be fined, in
addition to, but not in lieu of, any punishment otherwise
ordered, and in such case, also, the sentence may in like manner
direct imprisonment in default of payment of any fine imposed.
63-64 V., c. 46, s. 3.

1036. Whenever no other provision is made by any law of
Canada for the application of any fine, penalty or forfeiture
imposed for the violation of any law or of the proceeds
of an estreated recognizance, the same shall be paid over by the
magistrate or officer receiving the same to the treasurer of the
province in which the same is imposed or recovered, to be by
him paid over to the municipal or local authority, if any, which
wholly or in part bears the expenses of administering the law
under which the same was imposed or recovered, or to be applied
in any other manner deemed best adapted to attain the objects
of such law and secure its due administration, except that,—

(a) all fines, penalties and forfeitures imposed in respect of
the breach of any of the revenue laws of Canada, or im-
posed upon any officer or employee of the Government of
Canada in respect of any breach of duty or malfeasance in
his office or employment, and the proceeds of all recogniz-
ances estreated in connection with proceedings for the
prosecution of persons charged with such breaches or
malfeasance; and,

(b) all fines, penalties and forfeitures imposed for whatever
cause in any proceeding instituted at the instance of the
Government of Canada or of any department thereof in
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which that Government bears the cost of prosecution, and the proceeds of all recognizances estreated in connection with such proceedings, shall belong to His Majesty for the public uses of Canada, and shall be paid by the magistrate or officer receiving the same to the Minister of Finance and form part of the Consolidated Revenue Fund of Canada.

2. Nothing in this section contained shall affect any right of a private person suing as well for His Majesty as for himself, to the moiety of any fine, penalty or forfeiture recovered in his suit. 63-64 V., c. 46, s. 3.

1037. The Governor in Council may, from time to time, direct that any fine, penalty or forfeiture, or any portion thereof, which would otherwise belong to the Crown for the public uses of Canada, be paid to any provincial, municipal or local authority, which wholly or in part bears the expenses of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law and to secure its due administration. 55-56 V., c. 29, s. 928.

1038. Whenever any pecuniary penalty or any forfeiture is imposed for any violation of any Act, and no other mode is prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable or enforceable, with costs, in the discretion of the court, by civil action or proceeding at the suit of His Majesty only, or of any private party suing as well for His Majesty as for himself in any form of action allowed in such case by the law of the province in which it is brought, and before any court having jurisdiction to the amount of the penalty in cases of simple contract.

2. If no other provision is made for the appropriation of any penalty or forfeiture so recovered or enforced, one moiety shall belong to His Majesty, and the other moiety shall belong to the private party suing for the same, if any, and if there is none, the whole shall belong to His Majesty. 55-56 V., c. 29, s. 929.

1039. Any goods or things forfeited under any provision of Part VII. relating to forgery of trade marks and the fraudulent marking of merchandise, may be destroyed or otherwise disposed of in such manner as the court, by which the same are declared forfeited, directs; and the court may, out of any proceeds realized by the disposition of such goods, after all trade marks and trade descriptions are obliterated, award to any innocent party any loss he may have innocently sustained in dealing with such goods. 51 V., c. 41, s. 15.

1040. On any prosecution under this Act relating to the said last mentioned provisions, the court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the
the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively. 51 V., c. 41, s. 16.

1041. A moiety of any of the penalties imposed under sections five hundred and sixty-seven, six hundred and twenty-four, six hundred and twenty-five and six hundred and twenty-six, shall belong to the informer or person who sues for the same, and the other moiety shall belong to His Majesty for the public uses of Canada. R.S., c. 167, s. 34.

1042. One moiety of the amount of any penalty recovered under sections eighty-two, eighty-three, four hundred and thirty-eight, four hundred and thirty-nine or six hundred and fifty-seven, shall be paid over to the prosecutor or person by whose means the offender has been convicted, and the other moiety shall belong to the Crown. R.S., c. 169, s. 9.

1043. One moiety of every pecuniary penalty recovered with respect to any offence under section five hundred and forty-two or five hundred and forty-three shall be paid over to the corporation of the city, town, village, township, parish, or place in which the offence was committed, and the other moiety, with full costs, to the person who informed and prosecuted for the same, or to such other person as to the justices seems proper. R.S., c. 172, s. 7.

Costs, Pecuniary Compensation and Restitution of Property.

1044. Any court by which and any judge under Part XVIII., or magistrate under Part XVI., by whom judgment is pronounced or recorded, upon the conviction of any person for treason or any indictable offence, in addition to such sentence as may otherwise by law be passed, may condemn such person to the payment of the whole or any part of the costs or expenses incurred in and about the prosecution and conviction for the offence of which he is convicted, if to such court or judge it seems fit so to do.

2. Such court or judge may include in the amount to be paid such moderate allowance for loss of time as the court or judge, by affidavits or other inquiry and examination, ascertains to be reasonable.

3. The payment of such costs and expenses, or any part thereof, may be ordered by the court or judge to be made out of any moneys taken from such person on his apprehension, if such moneys are his own, or may be enforced at the instance of any person liable to pay or who has paid the same in such and the same manner, subject to the provisions of this Act, as the payment of any costs ordered to be paid by the judgment or R.S., 1906.
or order of any court of competent jurisdiction in any civil action or proceeding may for the time being be enforced.

4. In the meantime, until the recovery of such costs and expenses from the person so convicted as aforesaid, or from his estate, the same shall be paid and provided for in the same manner as if this section had not been passed; and any money which is recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses have been paid or defrayed. 63-64 V., c. 46, s. 3.

1045. In the case of an indictment or information by a private prosecutor for the publication of a defamatory libel, if judgment is given for the defendant, he shall be entitled to recover from the prosecutor the costs incurred by him by reason of such indictment or information, either by warrant of distress issued out of the said court, or by action or suit as for an ordinary debt. 55-56 V., c. 29, s. 833.

1046. If a person convicted on an indictment for assault, whether with or without battery and wounding, is ordered to pay costs as aforesaid, he shall be liable, unless the said costs are sooner paid, to three months' imprisonment, in addition to the term of imprisonment, if any, to which he is sentenced for the offence, and the court may, by warrant in writing, order the amount of such costs to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and the surplus, if any, arising from such sale, to the owner.

2. If such sum is so levied, the offender shall be released from such imprisonment. 55-56 V., c. 29, s. 834.

1047. Any costs ordered to be paid by a court pursuant to the foregoing provisions shall, in case there is no tariff of fees provided with respect to criminal proceedings, be taxed by the proper officer of the court according to the lowest scale of fees allowed in such court in a civil suit.

2. If such court has no civil jurisdiction, the fees shall be those allowed in civil suits in a superior court of the province according to the lowest scale. 55-56 V., c. 29, s. 835.

1048. A court on the trial of any person on an indictment may, if it thinks fit, upon the application of any person aggrieved and immediately after the conviction of the offender, award any sum of money, not exceeding one thousand dollars, by way of satisfaction or compensation for any loss of property suffered by the applicant through or by means of the offence of which such person is so convicted.

2. The amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to
to receive the same from the person so convicted, and the order for payment of such amount may be enforced in such and the same manner as in the case of any costs aforesaid ordered by the court to be paid. 55-56 V., c. 29, s. 836.

1049. When any prisoner has been convicted, either summarily or otherwise, of any theft or other offence, including the stealing or unlawfully obtaining any property, and it appears to the court, by the evidence, that the prisoner sold such property or part of it to any person who had no knowledge that it was stolen or unlawfully obtained, and that money has been taken from the prisoner on his apprehension, the court may, on application of such purchaser and on restitution of the property to its owner, order that out of the money so taken from the prisoner, if it is his, a sum not exceeding the amount of the proceeds of the sale be delivered to such purchaser. 55-56 V., c. 29, s. 837.

1050. If any person who is guilty of any indictable offence in stealing, or knowingly receiving, any property, is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, or is tried before a judge or justice for such offence under any of the foregoing provisions and convicted thereof, the property shall be restored to the owner or his representative.

2. In every such case the court or tribunal before which such person is tried for any such offence, shall have power to award, from time to time, writs of restitution for the said property or to order the restitution thereof in a summary manner.

3. The court or tribunal may also, if it sees fit, award restitution of the property taken from the prosecutor, or any witness for the prosecution, by such offence, although the person indicted is not convicted thereof, if the jury declares, as it may do, or if, in case the offender is tried without a jury, it is proved to the satisfaction of the court or tribunal by whom he is tried, that such property belongs to such prosecutor or witness, and that he was unlawfully deprived of it by such offence.

4. If it appears before any award or order is made, that any valuable security has been bona fide paid or discharged by any person liable to the payment thereof, or being a negotiable instrument, has been bona fide taken or received by transfer or delivery, by any person, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had, by any indictable offence, been stolen, or if it appears that the property stolen has been transferred to an innocent purchaser for value who has acquired a lawful title thereto, the court or tribunal shall not award or order the restitution of such security or property.

5. Nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, 2701 factor, R.S., 1906.
factor, broker or other agent entrusted with the possession of goods or documents of title to goods, for any indictable offence under sections three hundred and fifty-eight or three hundred and ninety of this Act. 55-56 V., c. 29, s. 838; 56 V., c. 32, s. 1.

**Imprisonment.**

1051. Every one who is convicted of any offence not punishable with death, shall be punished in the manner, if any, prescribed by the statute especially relating to such offence. 55-56 V., c. 29, s. 950.

1052. Every person convicted of any indictable offence for which no punishment is specially provided, shall be liable to imprisonment for five years.

2. Every one who is summarily convicted of any offence for which no punishment is specially provided, shall be liable to a penalty not exceeding fifty dollars, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both. 55-56 V., c. 29, s. 951; 56 V., c. 32, s. 1.

1053. Every one who is convicted of an indictable offence not punishable with death, committed after a previous conviction for an indictable offence, is liable to imprisonment for ten years, unless some other punishment is directed by any statute for the particular offence.

2. In such latter case the offender shall be liable to the punishment directed, and not to any other. 55-56 V., c. 29, s. 952.

1054. Every one who is liable to imprisonment for life, or for any term of years, or other term, may be sentenced to imprisonment for any shorter term: Provided that no one shall be sentenced to any shorter term of imprisonment than the minimum term, if any, prescribed for the offence of which he is convicted. 55-56 V., c. 29, s. 953.

1055. When an offender is convicted of more offences than one, before the same court or person at the same sitting, or when any offender, under sentence or undergoing punishment for one offence, is convicted of any other offence, the court or person passing sentence may, on the last conviction, direct that the sentences passed upon the offender for his several offences shall take effect one after another. 55-56 V., c. 29, s. 954.

1056. Every one who is sentenced to imprisonment for a term less than two years shall, if no other place is expressly mentioned, be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or if there is no common gaol there, then in that common gaol which is nearest to such locality, or in some lawful prison or place of confinement, other than a penitentiary, in which

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which the sentence of imprisonment may be lawfully executed:

Provided that,—

(a) when any one is sentenced to imprisonment in a penitentiary, and at the same sittings or term of the court trying him is sentenced for one or more other offences to a term or terms of imprisonment less than two years each, he may be sentenced for such shorter terms to imprisonment in the same penitentiary, such sentences to take effect from the termination of his other sentence; and,

(b) when any one is sentenced for any offence who is, at the date of such sentence, serving a term of imprisonment in a penitentiary for another offence, he may be sentenced for a term shorter than two years to imprisonment in the same penitentiary, such sentence to take effect from the termination of his existing sentence or sentences;

(c) in the province of Manitoba, any one sentenced to imprisonment for a term less than two years may be sentenced to imprisonment in any one of the common gaols in that province unless a special prison is provided by law. 55-56 V., c. 29, s. 955; 63-64 V., c. 46, s. 3; 1 E. VII., c. 42, s. 2.

1057. Imprisonment in a common gaol, or a public prison, other than a penitentiary or the Central Prison for the province of Ontario, the Andrew Mercer Ontario Reformatory for females or any reformatory prison for females in the province of Quebec, shall be with or without hard labour, in the discretion of the court or person passing sentence, if the offender is convicted on indictment, or under the provisions of Parts XVI. or XVIII., or, in the province of Saskatchewan or Alberta, before a judge of a superior court, or in the Northwest Territories, before a stipendiary magistrate or in the Yukon Territory, before a judge of the Territorial Court.

2. In other cases such imprisonment may be with hard labour, if hard labour is part of the punishment for the offence of which such offender is convicted, and if such imprisonment is to be with hard labour, the sentence shall so direct. 55-56 V., c. 29, s. 955.

Provisions as to Sureties.

1058. Every magistrate under Part XVI. and every court of criminal jurisdiction before whom any person is convicted of an offence and is not sentenced to death, shall have power, in addition to any sentence imposed upon such person, to require him forthwith to enter into his own recognizances, or to give security to keep the peace, and be of good behaviour for any term not exceeding two years, and that such person in default shall be imprisoned for not more than one year after the expiry of his imprisonment under his sentence, or until such recognizances are sooner entered into or such security sooner given.

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2. Any such recognizance may be in form 49. 63-64 V., c. 46, s. 3.

1059. Whenever any person who has been required to enter into a recognizance with sureties, to keep the peace and be of good behaviour, or not to engage in any prize-fight has, on account of his default therein, remained imprisoned for two weeks, the sheriff, gaoler or warden shall give notice, in writing, of the facts, to a judge of a superior court, or to a judge of the county court of the county or district in which such gaol or prison is situate, or, in the cities of Montreal and Quebec, to a judge of the sessions of the peace for the district, or, in the Northwest Territories, to a stipendiary magistrate.

2. Such judge or magistrate may order the discharge of such person, thereupon or at a subsequent time, upon notice to the complainant or otherwise, or may make such other order as he sees fit, respecting the number of sureties, the sum in which they are to be bound and the length of time for which such person may be bound. 55-56 V., c. 29, s. 960.

Whipping.

1060. Whenever whipping may be awarded for any offence, the court may sentence the offender to be once, twice or thrice whipped, within the limits of the prison, under the supervision of the medical officer of the prison, or if there be no such officer, or if the medical officer be for any reason unable to be present, then, under the supervision of a surgeon or physician to be named by the Minister of Justice, in the case of prisons under the control of the Dominion, and in the case of other prisons by the attorney general of the province in which such prison is situated.

2. The number of strokes shall be specified in the sentence; and the instrument to be used for whipping shall be a cat-o'-nine-tails unless some other instrument is specified in the sentence.

3. Whenever practicable, every whipping shall take place not less than ten days before the expiration of any term of imprisonment to which the offender is sentenced for the offence.

4. Whipping shall not be inflicted on any female. 63-64 V., c. 46, s. 3.

Capital Punishment.

1061. Every one who is indicted as principal or accessory for any offence made capital by any statute, shall be liable to the same punishment, whether he is convicted by verdict or on confession, and this as well in the case of accessories as of principals. 55-56 V., c. 29, s. 935.

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1062. In all cases where an offender is sentenced to death, the sentence or judgment to be pronounced against him shall be that he be hanged by the neck until he is dead. 55-56 V., c. 29, s. 936.

1063. In the case of any prisoner sentenced to the punishment of death, the judge before whom such prisoner has been convicted shall forthwith make a report of the case to the Secretary of State, for the information of the Governor General; and the day to be appointed for carrying the sentence into execution shall be such as, in the opinion of the judge, will allow sufficient time for the signification of the Governor's pleasure before such day.

2. If the judge thinks such prisoner ought to be recommended for the exercise of the royal mercy, or if, from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution, he, or any other judge of the same court, or any judge who might have held or sat in such court, may, from time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as are necessary for any of the purposes aforesaid. 55-56 V., c. 29, s. 937.

1064. Every one who is sentenced to suffer death shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners; and no person except the gaoler and his servants, the medical officer or surgeon of the prison and a chaplain or a minister of religion, shall have access to any such convict, without permission, in writing, of the court or judge before whom such convict has been tried, or of the sheriff. 55-56 V., c. 29, s. 938.

1065. Judgment of death to be executed on any prisoner shall be carried into effect within the walls of the prison in which the offender is confined at the time of execution. 55-56 V., c. 29, s. 939.

1066. The sheriff charged with the execution, and the gaoler and medical officer or surgeon of the prison, and such other officers of the prison and such persons as the sheriff requires, shall be present at the execution. 55-56 V., c. 29, s. 940.

1067. Any justice for the district, county or place to which the prison belongs, and such relatives of the prisoner or other persons as it seems to the sheriff proper to admit within the prison for the purpose, and any minister of religion who desires to attend, may also be present at the execution. 55-56 V., c. 29, s. 941.

1068. R.S., 1906.
1068. As soon as may be after judgment of death has been executed on the offender, the medical officer or surgeon of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof, in form 71, and deliver the same to the sheriff.

2. The sheriff and the gaoler of the prison, and such justices and other persons present, if any, as the sheriff requires or allows, shall also sign a declaration in form 72 to the effect that judgment of death has been executed upon the offender. 55-56 V., c. 29, s. 942.

1069. The duties imposed upon the sheriff, gaoler, medical officer or surgeon by the three sections last preceding, may be, and, in his absence, shall be performed by his lawful deputy or assistant, or other officer or person ordinarily acting for him, or conjointly with him, or discharging the duties of any such officer. 63-64 V., c. 46, s. 3.

1070. A coroner of a district, county or place to which the prison belongs wherein judgment of death is executed on any offender shall, within twenty-four hours after the execution, hold an inquest on the body of the offender.

2. The jury at the inquest shall inquire into and ascertain the identity of the body, and whether judgment of death was duly executed on the offender.

3. The inquisition shall be in duplicate, and one of the originals shall be delivered to the sheriff.

4. No officer of the prison and no prisoner confined therein shall, in any case, be a juror on the inquest. 55-56 V., c. 29, s. 944.

1071. The body of every offender executed shall be buried within the walls of the prison within which judgment of death is executed on him, unless the Lieutenant Governor in Council orders otherwise. 55-56 V., c. 29, s. 945.

1072. Every certificate and declaration, and a duplicate of the inquest required by this Part shall in every case be sent with all convenient speed by the sheriff to the Secretary of State, or to such other officer as is, from time to time, appointed for the purpose by the Governor in Council.

2. Printed copies of such several instruments shall as soon as possible, be exhibited and shall, for twenty-four hours at least, be kept exhibited on or near the principal entrance of the prison within which judgment of death has been executed. 55-56 V., c. 29, s. 946.

1073. The omission to comply with any provision of the preceding sections of this Part shall not make the execution of judgment of death illegal in any case in which such execution would otherwise have been legal. 55-56 V., c. 29, s. 947.
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1074. Except in so far as is hereby otherwise provided, judgment of death shall be carried into effect in the same manner as if the above provisions had not been passed. 55-56 V., c. 29, s. 948.

1075. The Governor in Council may, from time to time, make such rules and regulations to be observed on the execution of judgment of death in every prison, as he, from time to time, deems expedient for the purpose, as well of guarding against any abuse in such execution, as of giving greater solemnity to the same, and of making known without the prison walls the fact that such execution is taking place.

2. All such rules and regulations shall be laid upon the tables of both Houses of Parliament within six weeks after the making thereof, or, if Parliament is not then sitting, within fourteen days after the next meeting thereof. 55-56 V., c. 29, s. 949.

**Pardon.**

1076. The Crown may extend the royal mercy to any person sentenced to imprisonment by virtue of any statute, although such person is imprisoned for non-payment of money to some other person than the Crown.

2. Whenever the Crown is pleased to extend the royal mercy to any offender convicted of an indictable offence punishable with death or otherwise, and grants to such offender either a free or conditional pardon, by warrant under the royal sign manual, countersigned by one of the principal Secretaries of State, or by warrant under the hand and seal-at-arms of the Governor General, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall, as to the offence of which he has been convicted, have the same effect as a pardon of such offender under the great seal.

3. No free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any offence other than that for which the pardon was granted. 55-56 V., c. 29, s. 966.

1077. The Crown may commute the sentence of death passed upon any person convicted of a capital offence to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in any gaol or other place of confinement for any period less than two years, with or without hard labour.

2. An instrument under the hand and seal-at-arms of the Governor General, declaring such commutation of sentence, or a R.S., 1906.
and seal of Governor, or letter, etc., from Secretary of State sufficient for commutation.

a letter or other instrument under the hand of the Secretary of State or of the Under Secretary of State, shall be sufficient authority to any judge or justice, having jurisdiction in such case, to any sheriff or officer to whom such letter or instrument is addressed, to give effect to such commutation, and to do all such things and to make such orders, and to give such directions, as are requisite for the change of custody of such convict, and for his conduct to and delivery at such gaol or place of confinement or penitentiary, and his detention therein, according to the terms on which his sentence has been commuted. 55-56 V., c. 29, s. 967.

1078. When any offender has been convicted of an offence not punishable with death, and has endured the punishment adjudged, or has been convicted of an offence punishable with death and the sentence of death has been commuted, and the offender has endured the punishment to which his sentence was commuted, the punishment so endured shall, as to the offence whereof the offender was so convicted, have the like effect and consequences as a pardon under the great seal.

2. Nothing in this section contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any other offence. 55-56 V., c. 29, s. 968.

1079. When any person convicted of any offence has paid the sum adjudged to be paid, together with costs, if any, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been discharged from his conviction by the justice in any case in which such justice may discharge such person, he shall be released from all further or other criminal proceedings for the same cause. 55-56 V., c. 29, s. 969.

1080. Nothing in this Part shall in any manner limit or affect His Majesty's royal prerogative of mercy. 55-56 V., c. 29, s. 970.

Suspended Sentence.

1081. In any case in which a person is convicted before any court of any offence punishable with not more than two years' imprisonment, and no previous conviction is proved against him, if it appears to the court before which he is so convicted, that, regard being had to the age, character, and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering
entering into a recognizance, with or without sureties, and during such period as the court directs, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour.

2. Where the offence is punishable with more than two years' imprisonment the court shall have the same power as aforesaid with the concurrence of the counsel acting for the Crown in the prosecution of the offender.

3. The court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as the court directs. 63-64 V., c. 46, s. 3.

1082. The court, before directing the release of an offender under the last preceding section, shall be satisfied that the offender or his surety has a fixed place of abode or regular occupation in the county or place for which the court acts, or in which the offender is likely to live during the period named for the observance of the conditions. 55-56 V., c. 29, s. 972.

1083. If a court having power to deal with such offender in respect of his original offence or any justice is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, such court or justice may issue a warrant for his apprehension.

2. An offender, when apprehended on any such warrant, shall, if not brought forthwith before the court having power to sentence him, be brought before the justice issuing such warrant or before some other justice in and for the same territorial division, and such justice shall either remand him by warrant until the time at which he was required by his recognizance to appear for judgment, or until the sitting of a court having power to deal with his original offence, or admit him to bail, with a sufficient surety, conditioned on his appearing for judgment.

3. The offender when so remanded may be committed to a Committal prison, either for the county or place in or for which the justice remanding him acts, or for the county or place where he is bound to appear for judgment; and the warrant of remand shall order that he be brought before the court before which he was bound to appear for judgment, or to answer as to his conduct since his release. 55-56 V., c. 29, s. 973.

Remitting Penalties.

1084. The Governor in Council may at any time remit, in whole or in part, any pecuniary penalty, fine or forfeiture imposed by any Act of the Parliament of Canada, whether such penalty, fine or forfeiture is payable to His Majesty or to some other person, or in part to His Majesty and in part to some other person, and whether it is recoverable on indictment, information

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Terms of remission.

Costs.

1085. Such remission may, in the discretion of the Governor in Council, be on terms as to the payment of costs or otherwise: Provided that where proceedings have been instituted by private persons costs already incurred shall not be remitted. 2 E. VII., c. 26, s. 2.

PART XXI.

RENDER BY SURETIES AND RECOGNIZANCES.

Interpretation.

1086. In the sections of this Part relating exclusively to the province of Quebec, unless the context otherwise requires, 'cognizor' includes any number of cognizors in the recognizance whether as principals or sureties. 55-56 V., c. 29, s. 926.

Division of Part.

1087. Sections ten hundred and eighty-eight to eleven hundred and one inclusive are general in their application. Sections eleven hundred and two to eleven hundred and twelve inclusive do not apply to the province of Quebec. Sections eleven hundred and thirteen to eleven hundred and nineteen inclusive apply to the province of Quebec only. 55-56 V., c. 29, s. 926.

General.

1088. Any surety for any person charged with any indictable offence may, upon affidavit showing the grounds therefor, with a certified copy of the recognizance, obtain from a judge of a superior court or from a judge of a county court having criminal jurisdiction, or in the province of Quebec from a district magistrate, an order in writing under his hand, to render such person to the common gaol of the county where the offence is to be tried.

2. The sureties, under such order, may arrest such person and deliver him, with the order, to the gaoler named therein, who shall receive and imprison him in the said gaol, and shall be charged with the keeping of such person until he is discharged by due course of law. 55-56 V., c. 29, s. 910.

1089. The person rendered may apply to a judge of a superior court, or in cases in which a judge of a county court may admit to bail, to a judge of a county court, to be again admitted

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admitted to bail, who may on examination allow or refuse the same, and make such order as to the number of the sureties and the amount of recognizance as he deems meet.

2. Such order shall be dealt with in the same manner as the first order for bail, and so on as often as the case requires. 55-56 V., c. 29, s. 911.

1090. On due proof of such render, and certificate of the sheriff, proved by the affidavit of a subscribing witness, that such person has been so rendered, a judge of a superior or county court, as the case may be, shall order an entry of such render to be made on the recognizance by the officer in charge thereof, which shall vacate the recognizance, and may be pleaded or alleged in discharge thereof. 55-56 V., c. 29, s. 912.

1091. The sureties may bring the person charged as aforesaid into the court at which he is bound to appear, during the sitting thereof, and then, by leave of the court, render him in discharge of such recognizance at any time before trial, and such person shall be committed to gaol, there to remain until discharged by due course of law; but such court may admit such person to bail for his appearance at any time it deems meet. 55-56 V., c. 29, s. 913.

1092. The arraignment or conviction of any person charged and bound as aforesaid, shall not discharge the recognizance, but the same shall be effectual for his appearance for trial or sentence, as the case may be.

2. The court may nevertheless commit such person to gaol upon his arraignment or trial, or may require new or additional sureties for his appearance for trial or sentence, as the case may be, notwithstanding such recognizance.

3. Such commitment shall be a discharge of the sureties. Effect. 55-56 V., c. 29, s. 914.

1093. Nothing in the foregoing provisions shall limit or restrict any right which a surety now has of taking and rendering to custody any person charged with any such offence, and for whom he is such surety. 55-56 V., c. 29, s. 915.

1094. If any person bound by recognizance for his appearance to prosecute or give evidence on the trial of any indictable offence, or to answer for any common assault, or to articles of the peace, or for whose appearance any other person has become so bound, makes default, the officer of the court by whom estreates are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety, was so bound, together with the residence, trade, profession or calling of every such person and surety. 2711

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2. Such officer shall, in such list, distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of the non-appearance of such person, the ends of justice have been defeated or delayed. 55-56 V., c. 29, s. 917.

1095. Every such officer shall, before any such recognizance is estreated, lay such list before the judge or one of the judges who presided at the court, or if such court was not presided over by a judge, before two justices who attended at such court, and such judge or justices shall examine such list, and make such order touching the estreating or putting in process any such recognizance as appears just, subject, in the province of Quebec, to the provisions hereinafter contained.

2. No officer of any such court shall estreat or put in process any such recognizance without the written order of the judge or justices before whom respectively such list has been laid. 55-56 V., c. 29, s. 918.

1096. The like proceedings may be had for enforcing the condition of a recognizance taken under section eleven hundred and twenty-six as might be had for enforcing the condition of a recognizance taken under the Act of the Parliament of the United Kingdom, passed in the fifth year of the reign of His Majesty King George the Second, and chaptered nineteen. 55-56 V., c. 29, s. 893.

1097. Whenever a person gives security by or is discharged upon recognizance and does not afterwards appear at the time and place mentioned in the recognizance, or whenever the conditions or any of them in any recognizance entered into by an applicant to whom a case stated by a justice under this Act has been delivered, have not been complied with, the justice who took the recognizance, or any justice who is then present, having certified upon the back of the recognizance the non-appearance of the person or the non-compliance with the condition, as the case may be, may transmit such recognizance to the proper officer in the province appointed by law to receive the same, to be proceeded upon in like manner as other recognizances.

2. Such certificate shall be prima facie evidence of such non-appearance or non-compliance.

3. Such certificate shall be in form 73. 55-56 V., c. 29, ss. 805, 878 and 900; 58-59 V., c. 40, s. 3; 63-64 V., c. 46, s. 3.

Clerk of the peace the proper officer in Ontario.

1098. The proper officer to whom the recognizance and certificate of default are to be transmitted in the province of Ontario, shall be the clerk of the peace of the county for which such justice is acting.
2. The court of general sessions of the peace for such county shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforce and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such court. 58-59 V., c. 40, s. 3; 63-64 V., c. 46, s. 3.

1099. In the province of British Columbia, such proper officer shall be the clerk of the county court having jurisdiction at the place where such recognizance is taken, and such recognizance shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such county court.

2. In the other provinces of Canada such proper officer shall be the officer to whom like recognizances have been heretofore accustomed to be transmitted under the law heretofore in force; and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been enforced and collected. 58-59 V., c. 40, s. 3; 63-64 V., c. 46, s. 3.

1100. All recognizances taken or entered into under any provision of this Act which are forfeited or in respect to which the conditions of such recognizances, or any of them, have not been complied with, shall be liable to be estreated in the same manner as any forfeited recognizance to appear is by law liable to be estreated by the court before which the principal party thereto was bound to appear. 55-56 V., c. 29, ss. 598 and 900.

1101. The sheriff or other officer shall, without delay, pay over all moneys collected under the provisions of this Part by him, to the Minister of Finance, or other authority or person entitled to receive the same. 55-56 V., c. 29, s. 925.

Provisions not Applicable to the Province of Quebec.

1102. Unless otherwise provided, all fines, issues, amerce-ments and forfeited recognizances, the disposal of which is within the legislative authority of the Parliament of Canada, set, imposed, lost or forfeited before any court of criminal jurisdiction shall, within twenty-one days after the adjournment of such court be fairly entered and extracted on a roll by the clerk of the court, or in case of his death or absence, by any other person, under the direction of the judge who presided at such court, which roll shall be made in duplicate and signed by the clerk of the court, or in case of his death or absence, by such judge. 55-56 V., c. 29, s. 916.

1103. The clerk of the court shall, at the foot of each roll Affidavit, made out as herein directed, make and take an affidavit in the following form, that is to say:

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'I,
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Form.

'I, A. B. (describing his office), make oath that this roll is truly and carefully made up and examined, and that all fines, issues, amercements, recognizances and forfeitures which were set, lost, imposed or forfeited, at or by the court therein mentioned, and which, in right and due course of law, ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful discharge, omission, misnomer or defect whatsoever. So help me God.'

2. Any justice for the county is hereby authorized to administer such oath. 55-56 V., c. 29, s. 916.

1104. If such court is a superior court having criminal jurisdiction, one of such rolls shall be filed with the clerk, prothonotary, registrar or other proper officer,—

(a) in the province of Ontario, of the High Court of Justice;
(b) in the provinces of Nova Scotia, New Brunswick and British Columbia, of the Supreme Court of the province;
(c) in the province of Prince Edward Island, of the Supreme Court of Judicature of that province;
(d) in the province of Manitoba, of the Court of King's Bench of that province;
(e) in the province of Saskatchewan or Alberta, of the Supreme Court of the Northwest Territories pending the abolition of that court by the legislature of the province, and thereafter, of such court in either of the said provinces as may in respect of that province be substituted by the legislature thereof for the Supreme Court of the Northwest Territories; and,
(f) in the Yukon Territory, of the Territorial Court;
on or before the first day of the term next succeeding the court by or before which such fines or forfeitures were imposed or forfeited. 55-56 V., c. 29, s. 916; 63-64 V., c. 46, s. 3.

1105. If such court is a court of general sessions of the peace, or a county court, one of such rolls shall remain deposited in the office of the clerk of such court.

2. The other of such rolls aforesaid shall, as soon as the same is prepared, be sent by the clerk of the court making the same, or in case of his death or absence, by such judge as aforesaid, with a writ of fieri facias and capias, according to form 74, to the sheriff of the county in and for which such court was holden. 55-56 V., c. 29, s. 916.

1106. Such writ shall be authority to the sheriff for proceeding to the immediate levying and recovering of such fines, issues, amercements and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein,
therein, or for taking into custody the bodies of such persons. Arrest under respectively, in case sufficient goods and chattels, lands or writ. tenements cannot be found, whereof the sums required can be made.

2. Every person so taken shall be lodged in the common gaol of the county, until satisfaction is made, or until the court into which such writ is returnable, upon cause shown by the party, as hereinafter mentioned, makes an order in the case and until such order has been fully complied with. 55-56 V., c. 29, s. 916.

1107. If upon any writ issued under section eleven hundred and five, the sheriff takes lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place in less than twelve months from the time the writ comes to the hands of the sheriff. 55-56 V., c. 29, s. 920.

1108. Except in the case of persons bound by recognizance for their appearance, or for whose appearance any other person has become bound to prosecute or give evidence on the trial of any indictable offence, or to answer for any common assault, or to articles of the peace, in every case of default whereby a recognizance becomes forfeited, if the cause of absence is made known to the court in which the person was bound to appear, the court, on consideration of such cause, and considering also, whether, by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated.

2. With respect to all recognizances estreated, if it appears to the satisfaction of the judge who presided at such court that the absence of any person for whose appearance any recognizance was entered into, was owing to circumstances which rendered such absence justifiable, such judge may make an order directing that the sum forfeited upon such estreated recognizance shall not be levied.

3. The clerk of the court shall, for such purpose, before sending to the sheriff any roll, with a writ of fieri facias and capias, as directed by section eleven hundred and five, submit the same to the judge who presided at the court, and such judge may make a minute on the said roll and writ of any such forfeited recognizances and fines as he thinks fit to direct not to be levied.

4. The sheriff shall observe the direction in such minute written upon such roll and writ, or endorsed thereon, and shall forbear accordingly to levy any such forfeited recognizance or fine so directed not to be levied. 55-56 V., c. 29, s. 919.

1109. If any person on whose goods and chattels a sheriff, bailiff or other officer is authorized to levy any such forfeited recognizance, 2715 R.S., 1906.
on giving security.

Writ of fieri facias and capias on non-appearance.

Discharge of forfeited recognizance.

Return of writ by sheriff.

Roll and return to Minister of Finance.

Estreat on default.

Minute made when recognizance oral.

1110. The court, into which any writ of fieri facias and capias issued under the provisions of this Part is returnable, may inquire into the circumstances of the case, and may in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as to such court appears just; and such order shall accordingly be a discharge to the sheriff, or to the party, according to the circumstances of the case. 55-56 V., c. 29, s. 922.

1111. The sheriff, to whom any writ is directed under this Part, shall return the same on the day on which the same is made returnable, and shall state, on the back of the roll attached to such writ, what has been done in the execution thereof; and such return shall be filed in the court into which such return is made. 55-56 V., c. 29, s. 923.

1112. A copy of such roll and return, certified by the clerk of the court into which such return is made, shall be forthwith transmitted to the Minister of Finance, with a minute thereon of any of the sums therein mentioned, which have been remitted by order of the court, in whole or in part, or directed to be forborne, under the authority of section eleven hundred and eight. 55-56 V., c. 29, s. 924.

Provisions Applicable only to the Province of Quebec.

1113. Whenever default is made in the condition of any recognizance lawfully entered into or taken in any criminal case, proceeding or matter, in the province of Quebec, within the legislative authority of the Parliament of Canada, so that the penal sum therein mentioned becomes forfeited and due to the Crown, such recognizance shall thereupon be estreated or withdrawn from any record or proceeding in which it then is, or, where the recognizance has been entered into orally in open court, a certificate or minute of such recognizance, under the seal of the court, shall be made from the records of such court. 55-56 V., c. 29, s. 926.
1114. Such recognizance, certificate or minute, as the case may be, shall be transmitted by the court, recorder, justice, magistrate or other functionary before whom the cognizor, or the principal cognizor, where there is a surety or sureties, was bound to appear, or to do by his default to do which the condition of the recognizance is broken, to the Superior Court in the district in which the place where such default was made is included for civil purposes, with the certificate of the court, recorder, justice, magistrate or other functionary as aforesaid, of the breach of the condition of such recognizance, of which, and of the forfeiture to the Crown of the penal sum therein mentioned, such certificate shall be conclusive evidence. 55-56 V., c. 29, s. 926.

1115. The date of the receipt of such recognizance or minute and certificate by the prothonotary of the said court shall be endorsed thereon by him, and he shall enter judgment in favour of the Crown against the cognizor for the penal sum mentioned in such recognizance, and execution may issue therefor after the same delay as in other cases, which shall be reckoned from the time the judgment is entered by the prothonotary of the said court. 55-56 V., c. 29, s. 926.

1116. Such execution shall issue upon fiat or præcipe of the Attorney General, or of any person thereunto authorized in writing by him; and the Crown shall be entitled to the costs of execution and to costs on all proceedings in the case subsequent to execution, and to such costs, in the discretion of the court, for the entry of the judgment, as are fixed by any tariff.

2. The cognizor shall be liable to coercive imprisonment for the payment of the judgment and costs. 55-56 V., c. 29, s. 926; 57-58 V., c. 57, s. 1.

1117. When sufficient goods and chattels, lands or tenements cannot be found to satisfy the judgment against a cognizor and the same is certified in the return to the writ of execution or appears by the report of distribution, a warrant of commitment addressed to the sheriff of the district may issue upon the fiat or præcipe of the Attorney General, or of any person thereunto authorized in writing by him, and such warrant shall be authority to the sheriff to take into custody the body of the cognizor so in default and to lodge him in the common gaol of the district until satisfaction is made, or until the court which issued such warrant, upon cause shown as hereinafter mentioned, makes an order in the case and such order has been fully complied with.

2. Such warrant shall be returned by the sheriff on the day on which it is made returnable and the sheriff shall state in his return what has been done in execution thereof.

3. On petition of the cognizor, of which notice shall be given to the clerk of the Crown of the district, the court may inquire into R.S., 1906.
into the circumstances of the case and may in its discretion order the discharge of the amount for which he is liable or make such order with respect thereto and to his imprisonment as may appear just, and such order shall be carried out by the sheriff. 57-58 V., c. 57, s. 1.

1118. When a person has been arrested in any district for an offence committed within the limits of the province of Quebec, and a justice has taken recognizances from the witnesses heard before him or another justice, for their appearance at the next session or term of the court of competent criminal jurisdiction, before which such person is to undergo his trial there to testify and give evidence on such trial and such recognizances have been transmitted to the office of the clerk of such court, the said court may proceed on the said recognizances in the same manner as if they had been taken in the district in which such court is held. 55-56 V., c. 29, s. 926.

1119. Whenever any sum forfeited by the non-performance of the conditions of a recognizance cannot for any reason be recovered in the manner provided in the last four preceding sections, the same shall be recoverable, with costs, by action in any court having jurisdiction in civil cases to the amount, at the suit of the Attorney General of Canada or of Quebec, or other person or officer authorized to sue for the Crown; and in any such action it shall be held that the person suing for the Crown is duly empowered so to do, and that the conditions of the recognizance were not performed, and that the sum therein mentioned is, therefore, due to the Crown, unless the defendant proves the contrary.

2. The cognizor for the recovery of the judgment in any such action shall be liable to coercive imprisonment in the same manner as a surety is in the case of judicial suretyship in civil matters. 55-56 V., c. 29, s. 926; 57-58 V., c. 57, s. 1.

PART XXII.

EXTRAORDINARY REMEDIES.

1120. Whenever any person in custody charged with an indictable offence has taken proceedings before a judge or criminal court having jurisdiction in the premises by way of certiorari, habeas corpus or otherwise, to have the legality of his imprisonment inquired into, such judge or court may, with or without determining the question, make an order for the further detention of the person accused, and direct the judge or justice, under whose warrant he is in custody, to take any proceedings, hear such evidence, or do such further act as in the
the opinion of the court or judge may best further the ends of justice. 55-56 V., c. 29, s. 752.

1121. No conviction or order made on summary conviction which has been affirmed, or affirmed and amended, in appeal, shall be quashed for want of form, or be removed by certiorari into any superior court, and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the defendant has been convicted, and there is a good and valid conviction to sustain the same. 55-56 V., c. 29, s. 886.

1122. No writ of certiorari shall be allowed to remove any conviction or order had or made before any justice if the defendant has appealed from such conviction or order to any court to which an appeal from such conviction or order is authorized by law, or shall be allowed to remove any conviction or order made upon such appeal. 55-56 V., c. 29, s. 887.

1123. No conviction under Part XVII. shall be quashed for want of form or be removed by certiorari or otherwise into any court of record; and no warrant of commitment under the said Part shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted and there is a good and valid conviction to sustain the same. 55-56 V., c. 29, s. 820.

1124. No conviction or order made by any justice, and no warrant for enforcing the same, shall, on being removed by certiorari, be held invalid for any irregularity, informality or insufficiency therein, if the court or judge before which or whom the question is raised, upon perusal of the deposits, is satisfied that an offence of the nature described in the conviction, order or warrant, has been committed, over which such justice has jurisdiction, and that the punishment imposed is not in excess of that which might have been lawfully imposed for the said offence: Provided that the court or judge, where so satisfied, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just as are by section seven hundred and fifty-four conferred upon the court to which an appeal is taken under the provisions of section seven hundred and forty-nine.

2. Any statement which, under this Act or otherwise, would be sufficient if contained in a conviction, shall also be sufficient if contained in an information, summons, order or warrant. 55-56 V., c. 29, s. 889.

1125. The following matters amongst others shall be held to be within the provisions of the last preceding section:—

\( (a) \)

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(a) The statement of the adjudication, or of any other matter or thing, in the past tense instead of in the present;
(b) The punishment imposed being less than the punishment by law assigned to the offence stated in the conviction or order, or to the offence which appears by the depositions to have been committed;
(c) The omission to negative circumstances, the existence of which would make the act complained of lawful, whether such circumstances are stated by way of exception or otherwise in the section under which the offence is laid, or are stated in another section.

2. Nothing in this section contained shall be construed to restrict the generality of the wording of the last preceding section. 55-56 V., c. 29, s. 890.

1126. The court having authority to quash any conviction, order or other proceeding by or before a justice may prescribe by general order that no motion to quash any conviction, order or other proceeding by or before a justice, brought before such court by certiorari, shall be entertained unless the defendant is shown to have entered into a recognizance with one or more sufficient sureties, before a justice or justices of the county or place within which such conviction or order has been made, or before a judge or other officer, as may be prescribed by such general order, or to have made a deposit to be prescribed in like manner, with a condition to prosecute such writ of certiorari at his own costs and charges, with effect, without any willful or affected delay, and, if ordered so to do, to pay the person in whose favour the conviction, order or other proceeding is affirmed, his full costs and charges to be taxed according to the course of the court where such conviction, order or proceeding is affirmed. 55-56 V., c. 29, s. 892.

1127. If a motion or rule to quash a conviction, order or other proceeding is refused or discharged, it shall not be necessary to issue a writ of procedendo, but the order of the court refusing or discharging the application shall be a sufficient authority for the registrar or other officer of the court forthwith to return the conviction, order or proceeding to the court or justice from which or whom they were removed, and for proceedings to be taken thereon for the enforcement thereof, as if a procedendo had issued, which shall forthwith be done. 55-56 V., c. 29, s. 895.

1128. No order, conviction or other proceeding made by any justice or stipendiary magistrate shall be quashed or set aside, and no defendant shall be discharged, by reason of any objection that evidence has not been given of a proclamation or order of the Governor in Council, or of any rules, regulations, or by-laws made by the Governor in Council in pursuance of

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of a statute of Canada, or of the publication of such proclamation, order, rules, regulations or by-laws in the Canada Gazelle.

2. Such proclamation, order, rules, regulations and by-laws and the publication thereof shall be judicially noticed. 55-56 V., c. 29, s. 894.

1129. Whenever it appears by any conviction made by a justice or stipendiary magistrate that the defendant has appeared and pleaded, and the merits have been tried, and the defendant has not appealed against the conviction, where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case. 55-56 V., c. 29, s. 896.

1130. No conviction, sentence or proceeding under Part XVI. shall be quashed for want of form; and no warrant of commitment upon a conviction under the said Part shall be held void by reason of any defect therein, if it is therein alleged that the offender has been convicted and there is a good and valid conviction to sustain the same. 55-56 V., c. 29, s. 800.

1131. If an application is made to quash a conviction, order or other proceeding made or had by or before a justice or stipendiary magistrate, on the ground that such justice or stipendiary has exceeded his jurisdiction, the court or judge to which or whom the application is made, may, as a condition of quashing the conviction, order or other proceeding, if the court or judge thinks fit so to do, provide that no action shall be brought against the justice or stipendiary by or before whom such conviction, order or other proceeding was made or had, or against any officer acting thereunder or under any warrant issued to enforce any such conviction or order. 55-56 V., c. 29, s. 891.

1132. No action or other proceeding, warrant, judgment, order or other instrument or writing, authorized by any provisions of Part XII. relating to Part III. or necessary to carry out its provisions, shall be held void or be allowed to fail for defect of form. R.S., c. 151, s. 23.

PART XXIII.

RETURNS.

1133. Every justice shall, quarterly, on or before the Returns second Tuesday in each of the months of March, June, September and December in each year, make to the clerk of the 171 2721 peace R.S., 1906.
peace or other proper officer of the court having jurisdiction in appeal, as herein provided, a return in writing, under his hand, of all convictions made by him, and of the receipt and application by him of the moneys received from the defendants.

2. Such return shall include all convictions and other matters not included in some previous return, and shall be in form 75.

3. If two or more justices are present, and join in the conviction, they shall make a joint return.

4. Every justice, to whom any such moneys are afterwards paid, shall make a return of the receipt and application thereof, to the court having jurisdiction in appeal as hereinbefore provided, which shall be filed by the clerk of the peace or the proper officer of such court with the records of his office.

5. In the province of Prince Edward Island such return shall be made to the clerk of the court of assize of the county in which the convictions are made, and on or before the fourteenth day next before the sitting of the said court next after such convictions are so made.

6. Every such return shall be made in the district of Nipissing, in the province of Ontario, to the clerk of the peace for the county of Renfrew, in the said province. 55-56 V., c. 29, s. 902.

Every justice, before whom any conviction takes place, or who receives any such moneys, who neglects or refuses to make such return thereof, or wilfully makes a false, partial or incorrect return, or wilfully receives a larger amount of fees than by law he is authorized to receive, and every justice who upon or in connection with, or under colour or pretense of, any information, complaint or judicial proceeding or inquiry had or taken before him, wilfully exacts, receives, appropriates or retains any fees, moneys or payments which he is not by law authorized to receive or to be paid, shall incur a penalty of eighty dollars, together with costs of suit, in the discretion of the court, which may be recovered by any person who sues for the same by action of debt or information in any court of record in the province in which such return ought to have been or is made.

2. One moiety of such penalty shall belong to the person suing, and the other moiety to His Majesty for the public uses of Canada.

3. Nothing in this section shall have the effect of preventing any person aggrieved from prosecuting, by indictment, any justice, for any offence, the commission of which would have subjected him to indictment immediately before the first day of July, one thousand eight hundred and ninety-three. 55-56 V., c. 29, ss. 902 and 905; 4 E. VII., c. 9, s. 1.

When any certificate is granted under section one hundred and eighteen of this Act, the justice granting it shall forthwith
forthwith make a return thereof to the proper officer in the county, district or place in which such certificate has been granted for receiving returns under this Part III.

2. On default of making such return within ninety days after a certificate is granted, the justice shall be liable, on summary conviction, to a penalty of not more than ten dollars. 55-56 V., c. 29, s. 105.

1136. Every commissioner under Part III. of this Act shall make a monthly return to the Secretary of State of all weapons delivered to him, and by him detained under Part III. R.S., c. 151, s. 12.

1137. The clerk of the peace of the district or county to whom returns under this Part are made, or the proper officer, other than the clerk of the peace, to whom such returns are made, shall, within seven days after the adjournment of the then next ensuing general or quarter sessions, or of the term or sitting of such other court having jurisdiction in appeal as aforesaid, cause the said returns to be posted up in the courthouse of the district or county, and also in a conspicuous place in the office of such clerk of the peace, or other proper officer, for public inspection, and the same shall continue to be so posted up and exhibited until the end of the next ensuing general or quarter sessions of the peace, or for the term or sitting of such other court as aforesaid.

2. For every schedule so made and exhibited by such clerk or officer, he shall be allowed such fee as is fixed by competent authority.

3. Such clerk of the peace or other officer of each district or county, within twenty days after the end of each general or quarter sessions of the peace, or the sitting of such court as aforesaid, shall transmit to the Minister of Finance a true copy of all such returns made within his district or county. 55-56 V., c. 29, s. 903.

1138. No return purporting to be made by any justice under this Act shall be vitiated by the fact of its including, by mistake, any convictions or orders had or made before him in any matter over which any provincial legislature has exclusive jurisdiction, or with respect to which he acted under the authority of any provincial law. 55-56 V., c. 29, s. 906.

1139. Every clerk of the peace or other proper officer shall transmit to the Minister of Agriculture a quarterly return of the names of offenders, the offences and punishments mentioned in convictions transmitted to him under Part XVII. of this Act. 55-56 V., c. 29, s. 823.

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PART XXIV.

LIMITATION OF ACTIONS.

Prosecutions for Crimes.

1140. No prosecution for an offence against this Act, or action for penalties or forfeiture, shall be commenced,—

(a) after the expiration of three years from the time of its commission if such offence be

(i) treason, except treason by killing His Majesty, or where the overt act alleged is an attempt to injure the person of His Majesty—section seventy-four,

(ii) treasonable offences—section seventy-eight,

(iii) any offence against Part VII. relating to the fraudulent marking of merchandise; or,

(b) after the expiration of two years from its commission if such offence be

(i) a fraud upon the government—section one hundred and fifty-eight,

(ii) a corrupt practice in municipal affairs—section one hundred and sixty-one,

(iii) unlawfully solemnizing marriage—section three hundred and eleven; or,

(c) after the expiration of one year from its commission if such offence be

(i) opposing reading of Riot Act and continuing together after proclamation—section ninety-two,

(ii) refusing to deliver weapon to justice—section one hundred and twenty-six,

(iii) coming armed near public meeting—section one hundred and twenty-seven,

(iv) lying in wait near public meeting—section one hundred and twenty-eight,

(v) seduction of girl under sixteen—section two hundred and eleven,

(vi) seduction under promise of marriage—section two hundred and twelve,

(vii) seduction of a ward or employee—section two hundred and thirteen,

(viii) parent or guardian procuring defilement of girl—section two hundred and fifteen,

(ix) unlawfully defiling women, procuring, etc.—section two hundred and sixteen,

(x) householder permitting defilement of girls on their premises—section two hundred and seventeen; or,

(d) after the expiration of six months from its commission if the offence be

(i) unlawful drilling—section ninety-eight,

(ii) being unlawfully drilled—section ninety-nine,

(iii) having possession of offensive weapons for purposes of danger

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dangerous to the public peace—section one hundred and fifteen,
(iv) proprietor of newspaper publishing advertisement 
offering reward for recovery of stolen property—section 
one hundred and eighty-three, paragraph (d); or,
(e) after the expiration of three months from its commission Three 
if the offence be 
(i) cruelty to animals—sections five hundred and forty-
two and five hundred and forty-three,
(ii) railways and vessels violating provisions relating to 
conveyance of cattle—section five hundred and forty-
four,
(iii) refusing peace officer or constable admission— 
section five hundred and forty-five; or,
(f) after the expiration of one month from its commission One month. 
if the offence be improper use of offensive weapons under 
sections one hundred and sixteen and one hundred and 
eighteen to one hundred and twenty-four inclusive.

2. No person shall be prosecuted, under the provisions of Six days. 
section seventy-four or seventy-eight of this Act, for any overt 
act of treason expressed or declared by open and advised 
speaking unless information of such overt act, and of the 
words by which the same was expressed or declared, is given 
upon oath to a justice within six days after the words are 
spoken and a warrant for the apprehension of the offender is 
issued within ten days after such information is given. 55-56 
V., c. 29, s. 551.

1141. No action, suit or information shall be brought or laid for any penalty or forfeiture under any Act, except within two years after the cause of action arises or after the offence for which such penalty or forfeiture is imposed is committed, unless the time is otherwise limited by any Act or by law. 55-56 V., c. 29, s. 930.

1142. In the case of any offence punishable on summary conviction, if no time is specially limited for making any 
complaint, or laying any information, in the Act or law 
relating to the particular case, the complaint shall be made, or 
the information shall be laid, within six months from the time 
when the matter of complaint or information arose, except in the provinces of Saskatchewan and Alberta, the Northwest Territories and the Yukon Territory, where the time within which such complaint may be made, or such information laid, is extended to twelve months from the time when the matter of the complaint or information arose. 55-56 V., c. 29, s. 841; R.S., c. 50, s. 81; 61 V., c. 6, s. 9.

Actions against Persons Administering the Criminal Law.

1143. Every action and prosecution against any person for Time and anything purporting to be done in pursuance of any Act of the place of Parliament
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Parliament of Canada relating to criminal law, shall, unless otherwise provided, be laid and tried in the district, county or other judicial division, where the act was committed, and not elsewhere, and shall not be commenced except within six months next after the act committed. 55-56 V., c. 29, s. 975.

**1144.** Notice in writing of such action and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action. 55-56 V., c. 29, s. 976.

**1145.** In any such action the defendant may plead the general issue, and give the provisions of this title and the special matter in evidence at any trial had thereupon. 55-56 V., c. 29, s. 977.

**1146.** No plaintiff shall recover in any such action if tender of sufficient amends is made before such action brought, or if a sufficient sum of money is paid into court by or on behalf of the defendant after such action brought. 55-56 V., c. 29, s. 978.

**1147.** If such action is commenced after the time limited as aforesaid for bringing the same, or is brought or the venue laid in any other place than as aforesaid, a verdict shall be found or judgment shall be given for the defendant; and thereupon, or if the plaintiff becomes nonsuit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall, in the discretion of the court, recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases.

2. Although a verdict or judgment is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial is had certifies his approval of the action. 55-56 V., c. 29, s. 979.

**1148.** Nothing herein shall prevent the effect of any Act in force in any province of Canada, for the protection of justices or other officers from vexatious actions for things purporting to be done in the performance of their duty. 55-56 V., c. 29, s. 980.

**1149.** Every action brought against any commissioner under Part III. of this Act or any justice, constable, peace officer or other person, for anything done in pursuance of the said Part, shall be commenced within six months next after the alleged cause of action arises; and the venue shall be laid or the action instituted in the district or county or place where the cause of action arose; and the defendant may plead the general issue and give this Act and the special matter in evidence.

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2. If such action is brought after the time limited, or the judgment if action not brought in time, etc. shall be given for the defendant; and in such case, or if the judgment or verdict is given for the defendant on the merits, or if the plaintiff becomes non-suit or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the defendant shall be entitled to recover double costs. R.S., c. 151, s. 24.

1150. All actions for penalties arising under the provisions of section eleven hundred and thirty-four shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the district, county or place wherein such penalties have been incurred; and if a verdict or judgment passes for the defendant, or the plaintiff becomes non-suit, or discontinues the action after issue joined, or if, upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall, in the discretion of the court, recover his costs of suit, as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases. 55-56 V., c. 29, s. 904.

1151. No action or proceeding shall be commenced or had against a justice for enforcing a conviction, order or determination affirmed, amended or made by the court under section seven hundred and sixty-five. 55-56 V., c. 29, s. 900.

PART XXV.

FORMS.

1152. The several forms in this Part, varied to suit the case, or forms to the like effect, shall be deemed good, valid and sufficient in the cases thereby respectively provided for; and may, when made for one class of officials, be varied so as to apply to any other class having the same jurisdiction. 55-56 V., c. 29, ss. 541 and 982.

Form 1.

(Section 629.)

Information to obtain a Search Warrant.

Canada,
Province of
County of
The information of A. B., of county (yeoman), taken this day of in the said year before me, J. S., Esquire, a justice R.S., 1906.
justice of the peace, in and for the district (or county, etc.) of
who says that (describe things to be searched for and offence in respect of which search is made), and that he has just and reasonable cause to suspect, and suspects, that the said goods and chattels, or some part of them are concealed in the (dwelling-house, etc.) of C. D., of in the said district (or county, etc.) (here add the causes of suspicion, whatever they may be): Wherefore (he) prays that a search warrant may be granted to him to search the (dwelling-house, etc.), of the said C. D., as aforesaid, for the said goods and chattels so stolen, taken and carried away as aforesaid (or as the case may be).

Sworn (or affirmed) before me the day and year first above mentioned, at in the said county of

J. S.,
J. P., (name of district or county, etc.)

63-64 V., c. 46, form J.

Form 2.

(Section 630.)

Warrant to Search.

Canada, Province of
County of

To all or any of the constables and other peace officers in the said county of

Whereas it appears on the oath of A. B., of , that there is reason to suspect that (describe things to be searched for and offence in respect of which search is made) are concealed in at

This is, therefore, to authorize and require you to enter between the hours of (as the justice shall direct) into the said premises, and to search for the said things, and to bring the same before me or some other justice.

Dated at , in the said county of this day of , in the year

J. S.,
J. P., (name of county.)

To of

55-56 V., c. 29, sch. 1, form I.

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Form 3.

Information and Complaint for an Indictable Offence.

Canada,
Province of
County of
The information and complaint of C. D. of (yeoman), taken this day of , in the year , before the undersigned (one) of His Majesty's justices of the peace in and for the said county of , who saith that (etc., stating the offence).

Sworn before (me), the day and year first above mentioned, at .

J. S.,
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form C.

Form 4.

Warrant to Apprehend a Person Charged with an Indictable Offence Committed on the High Seas or Abroad.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed 'on the high seas, out of the body of any district or county of Canada and within the jurisdictiion of the Admiralty of England.'

For offences committed abroad for which the parties may be indicted in Canada, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed 'on land out of Canada, to wit: at in the Kingdom of , or, at , in the Island of , in the West Indies, or at , in the East Indies,' or as the case may be.

55-56 V., c. 29, sch. 1, form D.

Form 5.

Summons to a Person charged with an Indictable Offence.

Canada,
Province of
County of
To A. B., of , (labourer):
Whereas you have this day been charged before the undersigned , a justice of the peace in and for the said county 2729 R.S., 1906.
55-56 V., c. 29, sch. 1, form E.
Form 7.

Warrant when the Summons is disobeyed.

Canada,
Province of 
County of 

To all or any of the constables and other peace officers in the said county of 

Whereas on the day of , (instant or last past) A. B., of , was charged before (me or us,) the undersigned (or name the justice or justices, or as the case may be), (a) justice of the peace in and for the said county of , for that (etc., as in the summons); and whereas I (or he the said justice of the peace, or we or they the said justices of the peace) did then issue (my, our, his or their) summons to the said A. B., commanding him, in His Majesty's name, to be and appear before (me) on at o'clock in the (fore) noon, at , or before such other justice or justices of the peace as should then be there, to answer to the said charge and to be further dealt with according to law; and whereas the said A. B. has neglected to be or appear at the time and place appointed in and by the said summons, although it has now been proved to (me) upon oath that the said summons was duly served upon the said A. B.: These are therefore to command you in His Majesty's name, forthwith to apprehend the said A. B., and to bring him before (me) or some other justice of the peace in and for the said county of , to answer the said charge, and to be further dealt with according to law.

Given under (my) hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form G.

Form 8.

Endorsement in Backing a Warrant.

Canada,
Province of 
County of 

Whereas proof upon oath has this day been made before me , a justice of the peace in and for the said county of , that the name of J. S. to the within warrant 2731 subscribed.

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subscribed, is of the handwriting of the justice of the peace within mentioned: I do therefore hereby authorize W. T. who brings to me this warrant and all other persons to whom this warrant was originally directed, or by whom it may be lawfully executed, and also all peace officers of the said county of , to execute the same within the said last mentioned county.

Given under my hand, this day of , in the year , at , in the county aforesaid.

J. L.,
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form H.

Form 9.

(Section 665.)

Warrant to convey before a Justice of another County.

Canada, Province of ,
County of ,

To all or any of the constables and other peace officers in the said county of .

Whereas information upon oath was this day made before the undersigned that A .B., of , on the day of , in the year , at , in the county of (state the charge).

And whereas I have taken the deposition of X. Y. as to the said offence.

And whereas the charge is of an offence committed in the county of .

This is to command you to convey the said (name of accused), of , before some justice of the last-mentioned county, near the above place, and to deliver to him this warrant and the said deposition.

Dated at , in the said county of , this day of , in the year .

J. S.,
J. P., (name of county.)

To of .

55-56 V., c. 29, sch. 1, form A.

R.S., 1906.
(Section 666.)

Receipt to be given to the Constable by the Justice for the County in which the Offence was committed.

Canada,
Province of 
County of 

I, J. L., a justice of the peace in and for the county of , hereby certify that W. T., peace officer of the county of , has, on this day of , in the year , by virtue of and in obedience to a warrant of J. S., Esquire, a justice of the peace in and for the county of , produced before me one A. B., charged before the said J. S. with having (etc., stating shortly the offence) and delivered him into the custody of , by my direction to answer to the said charge, and further to be dealt with according to law, and has also delivered unto me the said warrant, together with the information (if any) in that behalf, and the deposition (s) of C. D. (and of ), in the said warrant mentioned, and that he has also proved to me, upon oath, the handwriting of the said J. S., subscribed to the same.

Dated the day and year first above mentioned, at in the said county of 

J. L.,
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form B.

Form 11.

(Section 671.)

Summons to a Witness.

Canada,
Province of 
County of 

To E. F., of , (labourer):

Whereas information has been laid before the undersigned , a justice of the peace in and for the said county of , that A. B. (etc., as in the summons or warrant against the accused), and it has been made to appear to me that you are likely to give material evidence for (the prosecution or for the accused): These are therefore to require you to be and to appear before me, on next, at o’clock in the (fore) noon, at , or before such other justice or 

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or justices of the peace of the said county of , as shall then be there, to testify what you know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form K; 58-59 V., c. 40, s. 1.

Form 12.

_Warrant when a Witness has not obeyed the Summons._

Canada,
Province of
County of

To all or any of the constables and other peace officers in the said county of

Whereas information having been laid before , a justice of the peace, in and for the said county of , that A. B. (etc., as in the summons); and it having been made to appear to (me) upon oath that E. F. of (labourer), was likely to give material evidence for (the prosecution), (I) duly issued (my) summons to the said E. F., requiring him to be and appear before (me) on , or before such other justice or justices of the peace for the said county, as should then be there, to testify what he knows respecting the said charge so made against the said A. B., as aforesaid; and whereas proof has this day been made upon oath before (me) of such summons having been duly served upon the said E. F.; and whereas the said E. F. has neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: These are therefore to command you to bring and have the said E. F. before (me) on at o'clock in the (fore) noon, at , or before such other justice or justices for the said county, as shall then be there, to testify what he knows concerning the said charges so made against the said A. B. as aforesaid.

Given under (my) hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form L.

R.S., 1906.
Form 13.

Conviction for Contempt.

Canada, Province of , County of

Be it remembered that on the day of , in the year , in the county of , E. F. is convicted before me, for that he the said E. F. did not attend before me to give evidence on the trial of a certain charge against one A. B. of theft (or as the case may be), although duly subpoenaed (or bound by recognizance to appear and give evidence in that behalf, as the case may be) but made default therein, and has not shown before me any sufficient excuse for such default, and I adjudge the said E. F., for his said offence, to be imprisoned in the common gaol of the county of at , for the space of , there to be kept with (or without) hard labour (as may be authorized and determined, and in case a fine is also intended to be imposed, then proceed) and I also adjudge that the said E. F. do forthwith pay to and for the use of His Majesty a fine of dollars, and in default of payment, that the said fine, with the cost of collection, be levied by distress and sale of the goods and chattels of the said E. F. (or in case a fine alone is imposed, then the clause of imprisonment is to be omitted).

Given under my hand at , in the said county of , the day and year first above mentioned.

O. K., Judge.

55-56 V., c. 29, sch. 1, form PP.

Form 14.

Warrant for a Witness in the First Instance.

Canada, Province of , County of

To all or any of the constables and other peace officers in the said county of

Whereas information has been laid before the undersigned , a justice of the peace, in and for the said county of , that (etc., as in the summons); and it having been

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been made to appear to (me) upon oath, that E. F. of
(labourer), is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence unless compelled to do so: These are therefore to command you to bring and have the said E. F. before (me) on , at o'clock in the (fore) noon, or before such other justice or justices of the peace for the same county, as shall then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid.

Given under my hand and seal, this day of in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form M.

FORM 15.

(Section 677.)

Warrant when a witness has not obeyed the subpoena.

Canada, 
Province of , 
County of ,

To all or any of the constables and other peace officers in the said county of .

Whereas information having been laid before , a justice of the peace, in and for the said county, that A. B. (etc., as in the summons); and there being reason to believe that E. F., of , in the province of , (labourer), was likely to give material evidence for (the prosecution), a writ of subpoena was issued by order of , judge of (name of court), to the said E. F., requiring him to be and appear before (me) on at or before such other justice or justices of the peace for the same county, as should then be there, to testify what he knows respecting the said charge so made against the said A. B., as aforesaid; and whereas proof has this day been made upon oath before (me) of such writ of subpoena having been duly served upon the said E. F.; and whereas the said E. F. has neglected to appear at the time and place appointed by the said writ of subpoena, and no just excuse has been offered for such neglect: These are therefore to command you to bring and have the said E. F. before (me) on , at o'clock in the (fore) noon, or before such other justice or justices for the said county as shall then be there, to testify what he knows.

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knows concerning the said charge so made against the said A. B. as aforesaid.

Given under (my) hand and seal, this day of , in the year , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 20, sch. 1, form N.

FORM 16.

Warrant of Commitment of a Witness for Refusing to be Sworn or to Give Evidence.

Canada, Province of , County of .

To all or any of the constables and other peace officers in the county of , and to the keeper of the common gaol at , in the said county of ,

Whereas A. B. was lately charged before , a justice of the peace in and for the said county of , for that (etc., as in the summons); and it having been made to appear to (me) upon oath that E. F. of was likely to give material evidence for the prosecution, (I) duly issued (my) summons to the said E. F., requiring him to be and appear before me on , at , or before such other justice or justices of the peace for the said county as should then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (me) (or being brought before (me) by virtue of a warrant in that behalf), to testify as aforesaid, and being required to make oath or affirmation as a witness in that behalf, now refuses so to do (or being duly sworn as a witness now refuses to answer certain questions concerning the premises which are now here put to him, and more particularly the following ) without offering any just excuse for such refusal: These are therefore to command you, the said constables or peace officers, or any one of you, to take the said E. F. and him safely to convey to the common gaol at , in the county aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol to receive the said E. F. into your custody in the said common gaol, and him there safely keep for the space of days, for the said contempt, unless in the meantime he consents to be examined

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examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient warrant.

Given under (my) hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form O.

**Form 17.**

(Section 679.)

**Warrant Remanding a Prisoner.**

Canada,
Province of ,
County of ,

To all or any of the constables and other peace officers in the said county of , and to the keeper of the common gaol at , in the said county.

Whereas A. B. was this day charged before the undersigned , a justice of the peace in and for the said county of , for that (etc., as in the warrant to apprehend), and it appears to (me) to be necessary to remand the said A. B.: These are therefore to command you, the said constables and peace officers, or any of you, in His Majesty's name, forthwith to convey the said A. B. to the common gaol at , in the said county, and there to deliver him to the keeper thereof, together with this precept: And I hereby command you the said keeper to receive the said A. B. into your custody in the said common gaol, and there safely keep him until the day of (instant), when I hereby command you to have him at , at o'clock in the (fore) noon of the same day before (me) or before such other justice or justices of the peace for the said county as shall then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under (my) hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form P.

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R.S., 1906.
Recognizance of Bail instead of Remand on an Adjournment of Examination.

Canada,
Province of
County of

Be it remembered that on the day of in the year , A. B., of (labourer), L. M. of (grocer), and N. O., of (butcher), personally came before me, a justice of the peace for the said county, and severally acknowledged themselves to owe to our Sovereign Lord the King, his heirs and successors, the several sums following, that is to say: The said A. B. the sum of , and the said L. M., and N. O., the sum of , each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lord the King, his heirs and successors, if he, the said A. B., fails in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned, at before me.

J. S.,
J. P., (name of county.)

Condition.

The condition of the within (or above written recognizance is such that whereas the within bounden A. B. was this day (or on last past) charged before me for that (etc., as in the warrant); and whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of (instant): If therefore, the said A. B. appears before me on the said day of (instant), at o'clock in the (fore) noon, or before such other justice or justices of the peace for the said county as shall then be there, to answer (further) to the said charge, and to be further dealt with according to law, the said recognizance to be void, otherwise to stand in full force and virtue.

55-56 V., c. 29, sch. 1, form Q.

Form
(Section 682.)

Deposition of a Witness.

Canada,
Province of
County of

The deposition of X. Y., of , taken before the
undersigned, a justice of the peace for the said county of ,
this day of , in the year , at (or
after notice to C. D. who stands committed for )
in the presence and hearing of C. D., who stands charged that
(state the charge). The said deponent saith on his (oath or
affirmation) as follows: (Insert deposition as nearly as possible
in words of witness.)

(If depositions of several witnesses are taken at the same
time, they may be taken and signed as follows):

The depositions of X. of , Y. of , Z. of ,
etc., taken in the presence and hearing of C. D., who stands
charged that

The deponent X. (on his oath or affirmation) says as follows:

The deponent Y. (on his oath or affirmation) says as follows:

The deponent Z. (on his oath, etc., etc.)

(The signature of the justice may be appended as follows):

The depositions of X., Y., Z., etc., written on the several
sheets of paper, to the last of which my signature is annexed,
were taken in the presence and hearing of C. D., and signed by
the said X., Y., Z., etc., respectively in his presence. In witness
whereof I have in the presence of the said C. D. signed my
name.

J. S.,
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form S.

(Form 20.)

Statement of the Accused.

Canada,
Province of
County of

A. B. stands charged before the undersigned
a justice of the peace in and for the county aforesaid,
this day of , in the year , for that
the said A. B., on , at (etc., as in
the captions of the depositions); and the said charge being
read

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read to the said A. B., and the witnesses for the prosecution, C. D. and E. F., being severally examined in his presence, the said A. B. is now addressed by me as follows:

"Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to induce you to make any admission or confession of guilt, but whatever you now say may be given in evidence against you upon your trial, notwithstanding such promise or threat." Whereupon the said A. B. says as follows: (Here state whatever the prisoner says and in his very words, as nearly as possible. Get him to sign it if he will).

A. B.

Taken before me, at , the day and year first above mentioned.

J. S., [seal.]

J. P., (name of county.)

55-56 V., c. 29, sch. 1, form T.

Form 21.

(Section 688.)

Form of Recognizance where the Prosecutor requires the Justice to bind him over to prosecute after the charge is dismissed.

Canada, Province of ,
County of .

Whereas C. D. was charged before me upon the information of E. F. that C. D. (state the charge), and upon the hearing of the said charge I discharged the said C. D., and the said E. F. desires to prefer an indictment against the said C. D. respecting the said charge, and has required me to bind him over to prefer such an indictment at (here describe the next practicable sitting of the court by which the person discharged would be tried if committed).

The undersigned E. F. hereby binds himself to perform the following obligation, that is to say, that he will prefer and prosecute an indictment respecting the said charge against the said C. D. at (as above). And the said E. F. acknowledges .

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himself bound to forfeit to the Crown the sum of $ in case he fails to perform the said obligation.

E. F.

Taken before me.

J. S.,

J. P., (name of county.)

55-56 V., c. 29, sch. 1, form U.

Form 22.

(Section 690.)

Warrant of Commitment.

Canada, Province of ,
County of .

To all or any of the constables and other peace officers of at , and to the keeper of the (common gaol) in the said county of .

Whereas A. B. was this day charged before me, J. S., one of His Majesty's justices of the peace in and for the said county of , on the oath of C. D. of (farmer), and others, for that (etc., stating shortly the offence): These are therefore to command you the said constable to take the said A. B., and him safely to convey to the (common gaol) at aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you the said keeper of the said (common gaol) to receive the said A. B. into your custody in the said (common gaol), and there safely keep him until he shall be thence delivered by due course of law.

Given under my hand and seal, this day of in the year , at , in the county aforesaid.

J. S., [seal.]

J. P., (name of county.)

55-56 V., c. 29, sch. 1, form V.

Form 23.

(Section 692.)

Recognizance to Prosecute.

Canada, Province of ,
County of .

Be it remembered that on the day of , in the year , C. D. of , in the of said 2742 said
said county of (farmer), personally came before me, a justice of the peace in and for the said county of, and acknowledged himself to owe to our Sovereign Lord the King, his heirs and successors, the sum of, of good and lawful current money of Canada, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Sovereign Lord the King, his heirs and successors, if the said C. D. fails in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned at, before me.

J. S.,
J. P., (name of county.)

Condition to Prosecute.

The condition of the within (or above) written recognizance is such that whereas one A. B. was this day charged before me, J. S., a justice of the peace within mentioned, for that (etc., as in the caption of the depositions); if, therefore, he the said C. D. appears at the court by which the said A. B. is or shall be tried * and there duly prosecutes such charge then the said recognizance to be void, otherwise to stand in full force and virtue.

55-56 V., c. 29, sch. 1, form W.

Form 24.

(Section 692.)

Recognizance to Prosecute and Give Evidence.

(Same as the last form, to the asterisk,* and then thus):—And there duly prosecutes such charge against the said A. B. for the offence aforesaid, and gives evidence thereon, as well to the jurors who shall then inquire into the said offence, as also to them who shall pass upon the trial of the said A. B., then the said recognizance to be void, or else to stand in full force and virtue.

55-56 V., c. 29, sch. 1, form X.

Form 25.

(Section 692.)

Recognizance to Give Evidence.

(Same as form 23 to the asterisk,* and then thus):—And there gives such evidence as he knows upon the charge to be then and there preferred against the said A. B. for the offence aforesaid, then the said recognizance to be void, otherwise to remain in full force and virtue.

55-56 V., c. 29, sch. 1, form Y.

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Form R.S., 1906.
(Section 694.)

Commitment of a Witness for Refusing to Enter into the Recognizance.

Canada,
Province of
County of

To all or any of the peace officers in the said county of ,
and to the keeper of the common gaol of the said county of , at , in the said county of .

Whereas A. B. was lately charged before the undersigned (name of the justice of the peace), a justice of the peace in and for the said county of , for that (etc., as in the summons to the witness), and it having been made to appear to (me) upon oath that E. F., of , was likely to give material evidence for the prosecution, (I) duly issued (my) summons to the said E. F., requiring him to be and appear before (me) on , at or before such other justice or justices of the peace as should then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (me) (or being 1.ought before (me) by virtue of a warrant in that behalf to testify as aforesaid), has been now examined before (me) touching the premises, but being by (me) required to enter into a recognizance conditioned to give evidence against the said A. B., now refuses so to do: These are therefore to command you the said peace officers, or any one of you, to take the said E. F. and him safely convey to the common gaol at , in the county aforesaid, and there deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said E. F. into your custody in the said common gaol, there to imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime the said E. F. duly enters into such recognizance as aforesaid, in the sum of before some one justice of the peace for the said county, conditioned in the usual form to appear at the court by which the said A. B. is or shall be tried, and there to give evidence upon the charge which shall then and there be preferred against the said A. B. for the offence aforesaid.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]

J. P., (name of county.)

55-56 V., c. 29, sch. 1, form Z.

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Part XXV. Criminal Code. Chap. 146. 327

FORM 27.

Order Discharging Witness, when Accused Discharged.

Canada,
Province of ,
County of .

To the keeper of the common gaol at , in the county of , aforesaid.

Whereas by (my) order dated the day of (instant) reciting that A. B. was lately before then charged before (me) for a certain offence therein mentioned, and that E. F. having appeared before (me) and being examined as a witness for the prosecution on that behalf, refused to enter into recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such recognizance as aforesaid; and whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody: These are therefore to order and direct you the said keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him to go at large.

Given under my hand and seal this day of in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 v., c. 29, sch. 1, form AA.

FORM 28.

(Section 696.)

Recognizance of Bail.

Canada,
Province of ,
County of .

Be it remembered that on the day of , in the year , A. B. of , (labourer), L. M. of , (grocer), and N. O. of , (butcher), personally came before (us) the undersigned, (two) justices of the peace for the county of , and severally acknowledged themselves to owe to our Sovereign Lord the King, his heirs 2745 and R.S., 1906.
and successors, the several sums following, that is to say: the said A. B., the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful current money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Sovereign Lord the King, his heirs and successors, if he, the said A. B., fails in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned, at , before us.

J. S.,
J. N.,
J. P., (name of county.)

The condition of the within (or above) written recognizance is such that whereas the said A. B. was this day charged before (us), the justices within mentioned for that (etc., as in the warrant): if, therefore, the said A. B. appears at the next superior court of criminal jurisdiction (or court of general or quarter sessions of the peace) to be held in and for the county of , and there surrenders himself into the custody of the keeper of the common gaol (or lock-up house) there, and pleads to such indictment as may be found against him by the grand jury, for and in respect to the charge aforesaid, and takes his trial upon the same, and does not depart the said court without leave, then the said recognizance to be void, otherwise to stand in full force and virtue.

63-64 V., c. 46, form BB.

Form 29.

(Section 698.)

Warrant of Deliverance on Bail being given for a Prisoner already committed.

Canada,
Province of
County of

To the keeper of the common gaol of the county of , at , in the said county.

Whereas A. B., late of , (labourer), has before (us) (two) justices of the peace in and for the said county of , entered into his own recognizance, and found sufficient sureties for his appearance at the next superior court of criminal jurisdiction (or court of general or quarter sessions of the peace), to be held in and for the county of , to answer our Sovereign Lord the King, for that (etc., as in the

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the commitment), for which he was taken and committed to your said common gaol: These are therefore to command you, in His Majesty's name, that if the said A. B. remains in your custody in the said common gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands and seals, this day of , in the year , in the county aforesaid.

J. S. [seal.]
J. N. [seal.]
J. P. (name of county.)

63-64 V., c. 46, form CC.

Form 30.

Gaoler's Receipt to the Constable for the Prisoner.

I hereby certify that I have received from W. T., constable, of the county of , the body of A. B., together with a warrant under the hand and seal of J. S., Esquire, justice of the peace for the said county of , and that the said A. B. was sober, (or as the case may be), at the time he was delivered into my custody.

P. K.,
Keeper of the common gaol of the said county.

55-56 V., c. 29, sch. 1, form DD.

Form 31.

Conviction for a Penalty to be Levied by Distress and in Default of Sufficient Distress, by Imprisonment.

Canada,
Province of •
County of •

Be it remembered that on the day of , in the year , at , in the said county, A. B. is convicted before the undersigned, •, a justice of the peace for the said county, for that the said A. B. (etc., stating the offence, and the time and place when and where committed), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of $ (stating the penalty, and also the compensation, if any), to be paid and applied according to law, and also to pay to the said C. D. the sum of R.S., 1906.
of, for his costs in this behalf; and if the said several sums are not paid forthwith, (or on or before the next), * I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B. to be imprisoned in the common gaol of the said county, at (there to be kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of, unless the said several sums and all costs and charges of the said distress and of the commitment and of the conveying of the said A. B. to the said gaol are sooner paid.

Given under my hand and seal, the day and year first above mentioned, at, in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

*Or when the issuing of a distress warrant would be ruinous to the defendant and his family; or it appears he has no goods whereon to levy a distress, then instead of the words between the asterisks ** say, 'inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family,' (or, 'that the said A. B. has no goods or chattels whereon to levy the said sums by distress').

55-56 V., c. 29, sch. 1, form VV.

Form 32.

(Section 727.)

Conviction for a Penalty, and in Default of Payment, Imprisonment.

Canada, Province of,
County of.

Be it remembered that on the day of, in the year, at, in the said county, A. B. is convicted before the undersigned, a justice of the peace for the said county, for that he the said A. B. (etc., stating the offence, and the time and place when and where it was committed), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of (stating the penalty and the compensation, if any) to be paid and applied according to law; and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said

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several sums are not paid forthwith (or, on or before next), I adjudge the said A. B. to be imprisoned in the common gaol of the said county, at , in the said county of (and there to be kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of , unless the said sums and the costs and charges of the commitment and of the conveying of the said A. B. to the said common gaol are sooner paid.

Given under my hand and seal, the day and year first above mentioned at , in the county aforesaid.

J. S. [seal.]

J. P., (name of county.)

Form 33.

Conviction when the Punishment is by Imprisonment, etc.

Province of .
County of .

Be it remembered that on the day of , in the year , at , in the said county, A. B. is convicted before the undersigned, a justice of the peace in and for the said county, for that he the said A. B. (etc., stating the offence, and the time and place when and where it was committed); and I adjudge the said A. B. for his said offence to be imprisoned in the common gaol of the said county, at , in the county of , (and there to be kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of ; and I also adjudge the said A. B. to pay to the said C. D. the sum of for his costs in this behalf, and if the said sum for costs is not paid forthwith (or on or before next), then I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf,* I adjudge the said A. B. to be imprisoned in the said common gaol (and kept there at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of , to commence at and from the expiration of the term of his imprisonment aforesaid, unless the said sum for costs and the costs and charges of the commitment and of the conveying of the said A. B. to gaol are sooner paid.

Given under my hand and seal, the day and year first above mentioned at , in the county aforesaid.

J. S. [seal.]

J. P., (name of county.)

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*Or when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks * * say, 'inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family,' (or, 'that the said A. B. has no goods or chattels whereon to levy the said sum for costs by distress').

55-56 V., c. 29, sch. 1, form XX.

**Form 34.**

(Section 727.)

Order for Payment of Money to be Levied by Distress, and in Default of Distress, Imprisonment.

Canada,
Province of 
County of 

Be it remembered that on , a complaint was made before the undersigned, , a justice of the peace in and for the said county of , for that (stating the facts entitling the complainant to the order, with the time and place when and where they occurred), and now at this day, to wit, on , at , the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me on oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here on this day before me or such justice or justices of the peace for the county, as should now be here, to answer the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of forthwith (or on or before next, or as the Act or law requires), and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before next), then, * I hereby order that the same be levied by distress and sale of the goods and chattels of the said A. B. and in default of sufficient distress in that behalf * I adjudge the said A. B. to be imprisoned in the common gaol of the said county, at , in the said county of , (and there kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of , unless the said several sums and all costs and charges of the said distress and of the commitment and of the

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the conveying of the said A. B. to the said common gaol are sooner paid.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

*Or when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks ** say, ‘inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said A. B. and his family,’ (or ‘that the said A. B. has no goods or chattels whereon to levy the said sums by distress’).

55-56 V., c. 29, sch. 1, form YY.

Form 35.

Order for Payment of Money, and in Default of Payment, Imprisonment.

Canada, Province of , County of , complaint was made before the undersigned, a justice of the peace in and for the said county of , for that (stating the facts entitling the complainant to the order, with the time and place when and where they occurred), and now on this day, to wit, on , at , the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me upon oath that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here this day before me, or such justice or justices of the peace for the said county, as should now be here, to answer to the said complaint, and to be further dealt with according to law), and now having heard the matter of the said complaint, I do adjudge the said A. B. to pay to the said C. D. the sum of forthwith (or on or before next, or as the Act or law requires), and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums are not paid forthwith (or on or before next), then I adjudge the said A. B. to be imprisoned in the common gaol of the said county at 2751

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in the said county of , (there to be kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of , unless the said several sums and the costs and charges of the commitment and of the conveying of the said A. B. to the said common gaol are sooner paid.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. I, form ZZ.

**FORM 36.**

*Order for any other Matter where the Disobeying of it is punishable with Imprisonment.*

Canada, County of ,
Province of ,

Be it remembered that on , a justice of the peace in and for the said county of , for that (stating the facts entitling the complainant to the order, with the time and place where and when they occurred); and now on this day, to wit, on , at , the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice, but the said A. B., although duly called, does not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me, upon oath, that the said A. B. was duly served with the summons in this behalf, which required him to be and appear here this day before me, or such justice or justices of the peace for the said county, as should now be here, to answer to the said complaint and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. to (here state the matter required to be done), and if, upon a copy of the minute of this order being served upon the said A. B., either personally or by leaving the same for him at his last or most usual place of abode, he neglects or refuses to obey the same, in that case I adjudge the said A. B., for such his disobedience, to be imprisoned in the common gaol of the said county, at , in the said county of , (there to be kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of , unless the said order is sooner obeyed, and I do also adjudge the said A. B. to pay to the said C. D. the sum of for his costs

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costs in this behalf, and if the said sum for costs is not paid forthwith (or on or before next), I order the same to be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress in that behalf I adjudge the said A. B. to be imprisoned in the said common gaol (there to be kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the space of , to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs is sooner paid.

Given under my hand and seal, this day of in the year , at , in the county aforesaid.

J. S., [seal.]

J. P., (name of county.)

55-56 V., c. 29, sch. 1, form AAA.

Form 37.

Form of Order of Dismissal of an Information or Complaint.

Canada, Province of , County of .

Be it remembered that on , information was laid (or complaint was made) before the undersigned, a justice of the peace in and for the said county of , for that (etc., as in the summons of the defendant) and now at this day, to wit, on , at , (if at any adjournment insert here: ‘to which day the hearing of this case was duly adjourned, of which the said C. D. had due notice,’) both the said parties appear before me in order that I should hear and determine the said information (or complaint) (or the said A. B. appears before me, but the said C. D., although duly called, does not appear); [whereupon the matter of the said information (or complaint) being by me duly considered, it manifestly appears to me that the said information (or complaint) is not proved, and] (if the informant or complainant does not appear, these words may be omitted,) I do therefore dismiss the same, and do adjudge that the said C. D. do pay to the said A. B. the sum of , for his costs incurred by him in defence in his behalf; and if the said sum for costs is not paid forthwith (or on or before ), I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the common gaol of the said county of at R.S., 1906.
at (and there kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of , unless the said sum for costs, and all costs and charges of the said distress and of the commitment and of the conveying of the said C. D. to the said common gaol are sooner paid.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form BBB.

Form 38.

(Section 730.)

Form of Certificate of Dismissal.

Canada, [ ]
Province of [ ]
County of [ ]

I hereby certify that an information (or complaint) preferred by C. D. against A. B. for that (etc., as in the summons) was this day considered by me, a justice of the peace in and for the said county of , and was by me dismissed (with costs).

Dated at , this day of , in the year .

J. S.,
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form CCC.

Form 39.

(Section 741).

Warrant of Distress upon a Conviction for a Penalty.

Canada, [ ]
Province of [ ]
County of [ ]

To all or any of the constables and other peace officers in the said county of .

Whereas A. B., late of , (labourer), was on this day (or on last past) duly convicted before , a justice of the peace, in and for the said county of , for that

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that (stating the offence, as in the conviction), and it was thereby adjudged that the said A. B. should for such his offence, forfeit and pay (etc., as in the conviction), and should also pay to the said C. D. the sum of , for his costs in that behalf; and it was thereby ordered that if the said several sums were not paid (forthwith) the same should be levied by distress and sale of the goods and chattels of the said A. B., and it was thereby also adjudged that the said A. B., in default of sufficient distress, should be imprisoned in the common gaol of the said county, at , in the said county of (and there kept at hard labour if the conviction so adjudges) for the space of , unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said common gaol were sooner paid; *And whereas the said A. B., being so convicted as aforesaid, and being (now) required to pay the said sums of and has not paid the same or any part thereof, but therein has made default: These are, therefore, to command you in His Majesty's name forthwith to make distress of the goods and chattels of the said A. B.; and if within days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, are not paid, then to sell the said goods and chattels so by you detained, and to pay the money arising from such sale unto me, the convicting justice (or one of the convicting justices), that I may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A. B.: and if no such distress is found, then to certify the same unto me, that such further proceedings may be had thereon as to law appertain.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form DDD.

Form 40.

(Warrant of Distress upon an Order for the Payment of Money.)

Canada,
Province of ,
County of ,

To all or any of the constables and other peace officers in the said county of ,

Whereas on , last past, a complaint was made before , a justice of the peace in and for the said county, 173 ½ 2755

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county, for that \( \textit{etc., as in the order} \), and afterwards, to wit, on \( \textit{[omitted]} \), at \( \textit{[omitted]} \), the said parties appeared before \( \textit{[omitted]} \) \( \textit{as in the order} \), and thereupon the matter of the said complaint having been considered, the said A. B. was adjudged to pay to the said C. D. the sum of \( \textit{[omitted]} \), on or before \( \textit{[omitted]} \), then next, and also to pay to the said C. D. the sum of \( \textit{[omitted]} \), for his costs in that behalf; and it was ordered that if the said several sums were not paid on or before the said \( \textit{[omitted]} \) then next, the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was adjudged that in default of sufficient distress in that behalf, the said A. B. should be imprisoned in the common gaol of the said county, at \( \textit{[omitted]} \), in the said county of \( \textit{[omitted]} \) \( \textit{[and there kept at hard labour \textit{if the order so directs} for the term of \textit{[omitted]} \}, unless the said several sums and all costs and charges of the distress (and of the commitment and conveying of the said A. B. to the said common gaol) were sooner paid; * And whereas the time in and by the said order appointed for the payment of the said several sums of \( \textit{[omitted]} \) and \( \textit{[omitted]} \) has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, in His Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of \( \textit{[omitted]} \) days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale unto me \( \textit{(or some other of the convicting justices, as the case may be)} \), that I \( \textit{(or he)} \) may pay or apply the same as by law directed, and may render the overplus, if any, on demand to the said A. B.; and if no such distress can be found, then to certify the same unto me, to the end that such proceedings may be had therein, as to law appertain.

Given under my hand and seal, this \( \textit{[omitted]} \) day of \( \textit{[omitted]} \), in the year \( \textit{[omitted]} \), at \( \textit{[omitted]} \), in the county aforesaid.

\( \text{J. S., [seal.]} \)

\( \text{J. P., (name of county.)} \)

55-56 V., c. 29, sch. 1, form EEF.
Form 41.

Warrant of Commitment upon a Conviction for a Penalty in the first instance.

Canada, Province of County of

To all or any of the constables and other peace officers in the said county of , and to the keeper of the common gaol of the said county of , at , in the said county of .

Whereas A. B., late of , (labourer), was on this day convicted before the undersigned, , a justice of the peace in and for the said county, for that (slating the offence, as in the conviction), and it was thereby adjudged that the said A. B., for his offence, should forfeit and pay the sum of (etc., as in the conviction), and should pay to the said C. D. the sum of , for his costs in that behalf; and it was thereby further adjudged that if the said several sums were not paid (forthwith) the said A. B. should be imprisoned in the common gaol of the county, at , in the said county of (and there kept at hard labour if the conviction so adjudges) for the term of , unless the said several sums and the costs and charges of the commitment and of the conveying of the said A. B. to the said common gaol were sooner paid; And whereas the time in and by the said conviction appointed for the payment of the said several sums has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, the said peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at , and there to deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour if the conviction so adjudges) for the term of , unless the said several sums and the costs and charges of the commitment and of the conveying of the said A. B. to the said common gaol are sooner paid unto you, the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]

J. P., (name of county.)
(Section 741.)

Warrant of Commitment on an Order in the first instance.

Canada,
Province of ,
County of .

To all or any of the constables and other peace officers in the said county of , and to the keeper of the common gaol of the county of , at , in the said county of .

Whereas, on last past, complaint was made before the undersigned , a justice of the peace in and for the said county of , for that (etc., as in the order), and afterwards, to wit, on the day of , at A. B. and C. D. appeared before me, the said justice (or as it is in the order), and thereupon having considered the matter of the complaint, I adjudged the said A. B. to pay the said C. D. the sum of , on or before the day of , then next, and also to pay to the said C. D. the sum of , for his costs in that behalf; and I also thereby adjudged that if the said several sums were not paid on or before the day of then next, the said A. B. should be imprisoned in the common gaol of the county of , at , in the said county of (and there be kept at hard labour if the order so directs) for the term of , unless the said several sums and the costs and charges of the commitment and of the conveying of the said A. B. to the said common gaol, were sooner paid: And whereas the time in and by the said order appointed for the payment of the said several sums of money has elapsed, but the said A. B. has not paid the same, or any part thereof, but therein has made default: These are, therefore, to command you, the said peace officers, or any of you, to take the said A. B. and him safely to convey to the said common gaol, at aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him (and keep him at hard labour if the order so directs) for the term of unless the said several sums and the costs and charges of the commitment and of conveying him to the said common gaol are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form GGG.

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(Section 741.)

**Constable’s Return to a Warrant of Distress.**

I, W. T., constable, of [County], hereby certify to J. S., Esquire, a justice of the peace in and for the county of [County], that by virtue of this warrant I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

Witness my hand, this [Day] day of [Month], one thousand nine hundred and [Year].

55-56 V., c. 29, sch. 1, form III.

(Section 741.)

**Warrant for Commitment for Want of Distress.**

Canada, [Province], [County].

To all or any of the constables and other peace officers in the county of [County], and to the keeper of the common gaol of the said county, at [Place], in the said county.

Whereas (etc., as in either of the foregoing distress warrants 39 or 40, to the asterisk, * and then thus): And whereas, afterwards on the [Day] day of [Month], in the year aforesaid, I, the said justice, issued a warrant to all or any of the peace officers of the county of [County], commanding them, or any of them, to levy the said sums of [Amount] by distress and sale of the goods and chattels of the said A. B.: And whereas it appears to me, as well by the return of the said warrant of distress by the peace officer who had the execution of the same, as otherwise, that the said peace officer has made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sums above mentioned could be found: These are, therefore, to command you, the said peace officers, or any one of you, to take the said A. B., and him safely to convey to the common gaol at [Place] aforesaid, and there deliver him to the said keeper, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody, in the said common gaol, there to imprison him (and keep him at hard labour if 2759 the...}
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the order so directs) for the term of unless the said several sums, and all the costs and charges of the said distress and of the commitment and of the conveying of the said A. B. to the said common gaol are sooner paid unto you, the said keeper; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form JJJ.

Form 45.

Warrant of Distress for Costs upon an Order for Dismissal of an Information or Complaint.

To all or any of the constables and other peace officers in the said county of

Canada,

Province of

County of

Whereas on last past, information was laid (or complaint was made) before , a justice of the peace in and for the said county of , for that (etc., as in the order of dismissal) and afterwards, to wit, on , at , both parties appearing before (me) , in order that (I) should hear and determine the same, and the several proofs adduced to (me) in that behalf, being by (me) duly heard and considered, and it manifestly appearing to (me) that the said information (or complaint) was not proved, (I) therefore dismissed the same and adjudged that the said C. D. should pay to the said A. B. the sum of , for his costs incurred by him in his defence in that behalf; and (I) ordered that if the said sum for costs was not paid (forthwith) the same should be levied on the goods and chattels of the said C. D., and (I) adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the common gaol of the said county of , at , in the said county of (and there kept at hard labour if the order so directed) for the space of unless the said sum for costs, and all costs and charges of the said distress and of the commitment and of the conveying of the said A. B. to the said common gaol, were sooner paid; * And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, has not paid the same, or any part thereof, but

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therein has made default: These are, therefore, to command you, in His Majesty's name, forthwith to make distress of the goods and chattels of the said C. D., and if within the term of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale to (me) that (I) may pay and apply the same as by law directed, and may render the overplus (if any) on demand to the said C. D., and if no distress can be found, then to certify the same unto (me) (or to any other justice of the peace for the said county), that such proceedings may be had therein as to law appertain.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form KKK.

Form 46.

(Warrant of Commitment for Want of Distress.)

Canada, {Province of }
County of { }

To all or any of the constables and other peace officers in the said county of , and to the keeper of the common gaol of the said county of , at , in the said county of .

Whereas (etc., as in form 45 to the asterisk, * and then thus): And whereas afterwards, on the day of , in the year aforesaid, I, the said justice, issued a warrant to all or any of the peace officers of the said county, commanding them, or any one of them, to levy the said sum of , for costs, by distress and sale of the goods and chattels of the said C. D.: And whereas it appears to me, as well by the return to the said warrant of distress of the peace officer charged with the execution of the same, as otherwise, that the said peace officer has made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found: These are, therefore, to command you, the said peace officers, or any one of you, to take the said C. D., and him safely convey to the common gaol of the said county, at aforesaid, and

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and there deliver him to the keeper thereof, together with this precept: And I hereby command you, the said keeper of the said common gaol, to receive the said C. D. into your custody in the said common gaol, there to imprison him (and keep him at hard labour if the order so directed) for the term of
unless the said sum, and all the costs and charges of the said distress and of the commitment and of the conveying of the said C. D. to the said common gaol are sooner paid unto you the said keeper; and for your so doing, this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year , at in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form LLL.

FORM 47.

(Section 743.)

Endorsement in Backing a Warrant of Distress.

Canada, 
Province of 
County of 

Whereas proof upon oath has this day been made before me , a justice of the peace in and for the said county, that the name of J. S. to the within warrant subscribed is of the handwriting of the justice of the peace within mentioned, I do therefore authorize W. T., who brings me this warrant, and all other persons to whom this warrant was originally directed, or by whom the same may be lawfully executed, and also all peace officers in the said county of , to execute the same within the said county.

Given under my hand, this day of , one thousand nine hundred and

O. K.,
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form IIHHH.
Form 48.

Complaint by the Party Threatened, for Sureties for the Peace.

The information (or complaint) of C. D., of in the said county of , (labourer), (if preferred by an attorney or agent, say—by D. E., his duly authorized agent (or attorney), in this behalf), taken upon oath, before me, the undersigned, a justice of the peace, in and for the said county of , at in the said county of this day of in the year , who says that A. B., of , in the said county, did, on the day of (instant or last past), threaten the said C. D. in the words or to the effect following, that is to say: (set them out, with the circumstances under which they were used); and that from the above and other threats used by the said A. B. towards the said C. D., he, the said C. D., is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient sureties to keep the peace and be of good behaviour towards him, the said C. D.; and the said C. D. also says that he does not make this complaint against nor require such sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

Form 49.

(Sections 748 and 1058.)

Form of Recognizance to Keep the Peace.

Be it remembered that on the day of in the year , A. B. of , (labourer), L. M. of , (grocer), and N. O. of , (butcher), personally came before (us) the undersigned, (two) justices of the peace for the county of , and severally acknowledged themselves to owe to our Lord the King the several sums following, that is to say: the said A. B. the sum of , and the said L. M. and N. O. the sum of , each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to 2763 the R.S., 1906.
the use of our said Lord the King, his heirs and successors, if he, the said A. B., fail in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned at before us.

J. S.,
J. T.,
J. P., (name of county.)

The condition of the within (or above) written recognizance is such that if the within bound A. B. (of, etc.), keeps the peace and is of good behaviour towards His Majesty and his liege people, and specially towards C. D. (of, etc.) for the term of now next ensuing, then the said recognizance to be void, otherwise to stand in full force and virtue.

55-56 V., c. 29, sch. 1, form XXX.

FORM 50.

(Section 748.)

Form of Commitment in Default of Sureties.

Canada, Province of County of

To all or any of the constables and other peace officers in the county of , and to the keeper of the common gaol of the said county, at , in the said county.

Whereas on the day of (instant), complaint on oath was made before the undersigned (or J. L., Esquire), a justice of the peace in and for the said county of , by C. D., of , in the said county, (labourer), that A. B., of (etc.), on the day of , at aforesaid, did threaten (etc., follow to the end of complaint, as in form above, in the past tense, then): And whereas the said A. B. was this day brought and appeared before me, the said justice (or J. L., Esquire, a justice of the peace in and for the said county of ), to answer unto the said complaint; and having been required by me to enter into his own recognizance in the sum of , with two sufficient sureties in the sum of each, to keep the peace and be of good behaviour towards His Majesty and his liege people, and especially towards the said C. D., has refused and neglected, and still refuses and neglects, to find such sureties: These are, therefore, to command you, and each of you, to take the said A. B., and him safely to convey to the common

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common gaol at aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him for the space of , or until he shall otherwise be discharged in due course of law, unless he, in the meantime, finds sufficient sureties to keep the peace as aforesaid.

Given under my hand and seal, this day of , in the year , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form YYY.

Form 51.
(Section 750.)

Form of Recognizance to try the Appeal.

Canada,
Province of ,
County of .

Be it remembered that on , A. B., of (labourer), and L. M., of (grocer), and N. O., of (yeoman), personally came before the undersigned , a justice of the peace in and for the said county of , and severally acknowledged themselves to owe to our Sovereign Lord the King, the several sums following, that is to say, the said A. B. the sum of , and the said L. M. and N. O. the sum of each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lord the King, his heirs and successors, if he the said A. B. fails in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above mentioned at , before me.

J. S.,
J. P., (name of county.)

The condition of the within (or the above) written recognizance is such that if the said A. B. personally appears at the (next) General Sessions of the Peace (or other court discharging the functions of the Court of General Sessions, as the case may be), to be holden at , on the day of , next, in and for the said county of , and

2765 tries

R.S., 1906.
tries an appeal against a certain conviction, bearing date the
day of ______, (instant), and made by (me) the said
justice, whereby he, the said A. B., was convicted, for that he,
the said A. B., did, on the day of ______, at
in the said county of ______, (here set out the
offence as stated in the conviction); and also abides by the
judgment of the court upon such appeal and pays such costs
as are by the court awarded, then the said recognizance to be
void, otherwise to remain in full force and virtue.

Form of Notice of such Recognizance to be given to the Appel-
ant and his Sureties.

Take notice, that you, A. B., are bound in the sum of ______,
and you, L. M. and N. O., in the sum of ______, each, that
you the said A. B. will personally appear at the next General
Sessions of the Peace to be holden at ______, in and for
the said county of ______, and try an appeal against a
conviction (or order) dated the day of ______,
(instant), whereby you A. B. were convicted of (or ordered,
etc.), (stating offence or the subject of the order shortly), and
abide by the judgment of the court upon such appeal and pay
such costs as are by the court awarded, and unless you the said
A. B. personally appear and try such appeal and abide by such
judgment and pay such costs accordingly, the recognizance
entered into by you will forthwith be levied on you, and each
of you.

Dated at ______, this ______ day of ______, one
thousand nine hundred and ______.

55-56 V., c. 29, sch. 1, form OOO.

Form 52.

(Section 759.)

Certificate of Clerk of the Peace that the Costs of an Appeal
are not paid.

Office of the clerk of the peace for the county of ______

Title of the Appeal.

I hereby certify that at a Court of General Sessions of the
Peace, (or other court discharging the functions of the Court
of General Sessions, as the case may be), holden at
in and for the said county, on ______ last past, an appeal
by A. B. against a conviction (or order) of J. S., Esquire, a
justice of the peace in and for the said county, came on to be
tried, and was there heard and determined, and the said Court
of General Sessions (or other court, as the case may be) there-
upon ordered that the said conviction (or order) should be con-
2766
firmed

R.S., 1906.
firmed (or quashed), and that the said (appellant) should pay to the said (respondent) the sum of , for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the clerk of the peace for the said county, on or before the day of (instant), to be by him handed over to the said (respondent), and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated at , this day of , one thousand nine hundred and

G. H.,
Clerk of the Peace.

55-56 V., c. 29, sch. 1, form PPP.

(Form 53.)

Warrant of Distress for Costs of an Appeal against a Conviction or Order.

Canada, 
Province of 
County of 

To all or any of the constables and other peace officers in the said county of

Whereas (etc., as in the warrants of distress, forms 39 or 40, and to the end of the statement of the conviction or order, and then thus): And whereas the said A. B. appealed to the Court of General Sessions of the Peace (or other court discharging the functions of the Court of General Sessions, as the case may be), for the said county, against the said conviction or order, in which appeal the said A. B. was the appellant, and the said C. D. (or J. S., Esquire, the justice of the peace who made the said conviction (or order) was the respondent, and which said appeal came on to be tried and was heard and determined at the last General Sessions of the Peace (or other court, as the case may be) for the said county, holden at , on ; and the said court thereupon ordered that the said conviction (or order) should be confirmed (or quashed) and that the said (appellant) should pay to the said (respondent) the sum of , for his costs incurred by him in the said appeal, which said sum was to be paid to the clerk of the peace for the said county, on or before the day of , one thousand nine hundred and , to be by him handed over to the said C. D.; and whereas the clerk of the peace of the said county has, on the day of 2767 of R.S., 1906.
of (instant), duly certified that the said sum for costs had not been paid: * These are, therefore, to command you, in His Majesty's name, forthwith to make distress of the goods and chattels of the said A. B., and if, within the term of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale to the clerk of the peace for the said county of , that he may pay and apply the same as by law directed; and if no such distress can be found, then to certify the same unto me or any other justice of the peace for the said county, that such proceedings may be had therein as to law appertain.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

O. K., [seal.]

J. P., (name of county.)

55-56 V., c. 29, sch. 1, form QQQ.

Form 54.

(Section 759.)

Warrant of Commitment for want of Distress in the last case.

Canada,
Province of ,
County of .

To all or any of the constables and other peace officers in the said county of , and to the keeper of the common gaol of the said county at , in the said county.

Whereas (etc., as in form 53, to the asterisk * and then thus): And whereas, afterwards, on the day of , in the year aforesaid, I, the undersigned, issued a warrant to all or any of the peace officers in the said county of , commanding them, or any of them, to levy the said sum of , for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said warrant of distress of the peace officer who was charged with the execution of the same, as otherwise, that the said peace officer has made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found: These are, therefore, to command you, the said peace officers, or any one of you, to take the said A.B., and him safely to convey to the common gaol of the said county of , at 2768 .
at aforesaid, and there deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the said A. B. into your custody in the said common gaol, there to imprison him for the term of , unless the said sum and all costs and charges of the said distress and of the commitment and of the conveying of the said A. B. to the said common gaol, are sooner paid unto you, the said keeper; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, this day of , in the year , at , in the county aforesaid.

O. K., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form RRR.

Form 55.

(Section 799.)

Conviction.

Canada,
Province of ,
County of .

Be it remembered that on the day of , in the year , at , A. B., being charged before me, the undersigned, of the said (city) (and consenting to my trying the charge summarily), is convicted before me, for that he, the said A. B., (etc., stating the offence, and the time and place when and where committed), and I adjudge the said A. B., for his said offence, to be imprisoned in the (and there kept at hard labour, if it is so adjudged) for the term of .

Given under my hand and seal, the day and year first above mentioned, at aforesaid.

G. F., [seal.]
Police magistrate
for .
(or as the case may be).

55-56 V., c. 29, sch. 1, form QQ.

174 2769 Form

R.S., 1906.
Form 56.

Conviction upon a Plea of Guilty.

Canada,  
Province of  
County of  

Be it remembered that on the day of , in the year , A. B. being charged before me, the undersigned, of the said (city) (and consenting to my trying the charge summarily), for that he, the said A. B., (etc., stating the offence, and the time and place when and where committed), and pleading guilty to such charge, he is thereupon convicted before me of the said offence; and I adjudge him, the said A. B., for his said offence, to be imprisoned in the (and there kept at hard labour, if it is so adjudged) for the term of .

Given under my hand and seal, the day and year first above mentioned, at .

G. F., [seal.]  
Police magistrate for .

(or as the case may be).

55-56 V., c. 29, sch. 1, form RR.

Form 57.

Certificate of Dismissal.

Canada,  
Province of  
County of  

I, the undersigned, , of the city (or as the case may be) of , certify that on the day of , in the year , A. B., being charged before me (and consenting to my trying the charge summarily), for that he, the said A. B., (etc., stating the offence charged, and the time and place when and where alleged to have been committed), I did, after having summarily tried the said charge, dismiss the same.

Given under my hand and seal, this day of , in the year , at .

G. F., [seal.]  
Police magistrate for .

(or as the case may be).

55-56 V., c. 29, sch. 1, form SS.
FORM 58.

Certificate of Dismissal.

Canada, 
Province of
County of

, justices of the peace for the , (or if a recorder, etc., I a of the
of , as the case may be), do hereby certify that on the day of , in the year , at , in the said of , A. B. was brought before us, the said justices (or me, the said ), charged with the following offence, that is to say (here state briefly the particulars of the charge), and that we, the said justices, (or I, the said ) thereupon dismissed the said charge.

Given under our hands and seals (or my hand and seal), this day of , in the year , at aforesaid.

J. P. [seal.]
J. R. [seal.]
or S. J. [seal.]

55-56 V., c. 29, sch. 1, form TT.

FORM 59.

Conviction.

Canada, 
Province of
County of

Be it remembered that on the day of , in the year , at , in the county of , A. B. is convicted before us, J. P. and J. R., justices of the peace for the said county (or me, S. J., recorder, of the , of , or as the case may be) for that he, the said A. B., did (specify the offence and the time and place when and where the same was committed, as the case may be, but without setting forth the evidence), and we, the said J. P. and J. R. (or I, the said S. J.), adjudge the said A. B., for his said offence, to be imprisoned in the with (or without) hard labour (in the discretion of the justice) for the space of , (or we) (or I) adjudge the said A. B., for his said offence, to

174½ 2771

forfeit

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forfeit and pay (here state the penalty actually imposed), and in default of immediate payment of the said sum, to be imprisoned in the with (or without) hard labour (in the discretion of the justice) for the term of , unless the said sum is sooner paid.

Given under our hands and seals (or my hand and seal), the day and year first above mentioned.

J. P. [seal.]
J. R. [seal.]
or S. J. [seal.]

55-56 V., c. 29, sch. 1, form UU.

Form 60.

(Section 827.)

Form of Record when the Prisoner Pleads Guilty.

Canada,
Province of
County of

Be it remembered that A. B., being a prisoner in the gaol of the said county, on a charge of having on the day of , in the year , stolen, etc., (one cow. the property of C. D., or as the case may be, stating briefly the offence), and being brought before me (describe the judge) on the day of , in the year , and asked by me if he consented to be tried before me without the intervention of a jury, consented to be so tried; and that the said A. B. being then arraigned upon the said charge, he pleaded guilty thereof, whereupon I sentenced the said A. B. to (here insert such sentence as the law allows and the judge thinks right).

Witness my hand this day of , in the year .

O. K., Judge.

55-56 V., c. 29, sch. 1, form NN.

Form 61.

(Section 833.)

Form of Record when the Prisoner Pleads Not Guilty.

Canada,
Province of
County of

Be it remembered that A. B. being a prisoner in the gaol of the said county, committed for trial on a charge of having 2772 on

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on day of , in the year stolen.
etc., (one cow, the property of C. D., or as the case may be,
slating briefly the offence) and having been brought before me
(describe the judge) on the day of , in the year , and asked by me if he consented to be tried
before me without the intervention of a jury, consented to be so
tried; and that upon the day of , in the year , the said A. B., being again brought before me
for trial, and declaring himself ready, was arraigned upon
the said charge and pleaded not guilty; and after hearing the
evidence adduced, as well in support of the said charge as for
the prisoner's defence (or as the case may be), I find him to be
guilty of the offence with which he is charged as aforesaid, and
I accordingly sentence him to (here insert such sentence as the
law allows and the judge thinks right), (or I find him not
guilty of the offence with which he is charged, and discharge
him accordingly).

Witness my hand at , in the county of ,
this day of , in the year .

O. K.,
Judge.

55-56 V., c. 29, sch. 1, form MM.

Form 62.

(Section 842.)

Warrant to apprehend Witness.

Canada,
Province of 
County of

To all or any of the constables and other peace officers in the
said county of

Whereas it having been made to appear before me, that
E. F., of , in the said county of , is
likely to give material evidence on behalf of the prosecu-
tion (or defence, as the case may be) on the trial of a certain
charge of (as theft, or as the case may be), against A. B., and
that the said E. F. was duly subpoenaed (or bound under recog-
nizance) to appear on the day of , in the
year , at , in the said county at
o'clock (forenoon or afternoon, as the case may be), before me,
to testify what he knows concerning the said charge against
the said A. B.

And whereas proof has this day been made before me, upon
oath of such subpoena having been duly served upon the said
E. F., (or of the said E. F. having been duly bound under
recognizance to appear before me, as the case may be); and

2773 whereas

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whereas the said E. F. has neglected to appear at the trial and place appointed, and no just excuse has been offered for such neglect: These are, therefore, to command you to take the said E. F., and to bring him and have him forthwith before me, to testify what he knows concerning the said charge against the said A. B., and also to answer his contempt for such neglect.

Given under my hand this day of , in the year .

O. K.,
Judge.

55-56 V., c. 29, sch. 1, form OO.

FORM 63.

(Sections 845 and 856.)

Headings of Indictment.

In the (name of the court in which the indictment is found). The jurors for our Lord the King present that (Where there are more counts than one, add at the beginning of each count):

’The said jurors further present that .’

55-56 V., c. 29, sch. 1, form EE.

FORM 64.

(Section 852.)

Examples of the manner of stating offences.

(a) A. murdered B. at , on
(b) A. stole a sack of flour from a ship called the , at , on
(c) A. obtained by false pretenses from B., a horse, a cart and the harness of a horse at , on .
(d) A. committed perjury with intent to procure the conviction of B. for an offence punishable with penal servitude, namely robbery, by swearing on the trial of B. for the robbery of C. at the Court of Quarter Sessions for the county of Carleton, held at Ottawa, on the day of , 190 ; first, that he, A. saw B. at Ottawa, on the day of ; secondly, that B. asked A. to lend B. money on a watch belonging to C.; thirdly, etc.

(e) The said A. committed perjury on the trial of B. at a Court of Quarter Sessions held at Ottawa, on for an assault alleged to have been committed by the said B. on C. 2774 at

R.S., 1906.
at Ottawa, on the day of by swearing to the effect that the said B. could not have been at Ottawa, at the time of the alleged assault, inasmuch as the said A. had seen him at that time in Kingston.

(f) A., with intent to maim, disfigure, disable or do grievous bodily harm to B. or with intent to resist the lawful apprehension or detainer of A. (or C.), did actual bodily harm to B. (or D.).

(g) A., with intent to injure or endanger the safety of persons on the Canadian Pacific Railway, did an act calculated to interfere with an engine, a tender, and certain carriages on the said railway on at by (describe with so much detail as is sufficient to give the accused reasonable information as to the acts or omissions relied on against him, and to identify the transaction).

(h) A. published a defamatory libel on B. in a certain newspaper, called the , on the day of 190 , which libel was contained in an article headed or commencing (describe with so much detail as is sufficient to give the accused reasonable information as to the part of the publication to be relied on against him), and which libel was written in the sense of imputing that the said B. was (as the case may be).

55-56 V., c. 29, sch. 1, form FF.

Form 65.

Certificate of Indictment being Found.

Canada, Province of County of

I hereby certify that at a Court of (Oyer and Terminer, or General Gaol Delivery, or General Sessions of the Peace) holden in and for the county of , at in the said (county), on , a bill of indictment was found by the grand jury against A. B., therein described as A. B., late of , (labourer), for that he (etc., stating shortly the offence), and that the said A. B. has not appeared or pleaded to the said indictment.

Dated this day of , in the year Z. X.

55-56 V., c. 29, sch. 1, form GG.

Form R.S., 1906.
Chap. 146.  
Criminal Code.  
Part XXV.  

FORM 66.

Warrant to Apprehend a Person Indicted.

(Section 880.)

Canada,  
Province of  
County of  

To all or any of the constables and other peace officers in the said county of  

Whereas it has been duly certified by J. D., clerk of the (name the court) (or E. G., deputy clerk of the Crown or clerk of the peace, or as the case may be), in and for the county of  

These are, therefore, to command you in His Majesty's name forthwith to apprehend the said A. B., and to bring him before (me) or some other justice or justices of the peace in and for the said county, to be dealt with according to law.

Given under my hand and seal, this day of  

in the year  

in the county aforesaid.  

J. S., [seal.]  
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form HH.

FORM 67.

Warrant of Commitment of a Person Indicted.

(Section 881.)

Canada,  
Province of  
County of  

To all or any of the constables and other peace officers in the said county of  

Whereas by a warrant under the hand and seal of  

(a) justice of the peace in and for the said county of  

, after reciting that it had been certified by J. D. (etc., as in the certificate), the said justice of the peace commanded all or any of the constables or peace officers of the said county, in His Majesty's name, forthwith to apprehend the said A. B., and to bring him before (him) the said justice of the peace or before some other justice or justices in and for the said county of  

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the said county, to be dealt with according to law; and whereas the said A. B. has been apprehended under and by virtue of the said warrant, and being now brought before (me) it is hereupon duly proved to (me) upon oath that the said A. B. is the same person who is named and charged as aforesaid in the said indictment: These are therefore to command you, the said constables and peace officers, or any of you, in His Majesty's name, forthwith to take and convey the said A. B. to the said common gaol at , in the said county of , and there to deliver him to the keeper thereof, together with this precept: And (I) hereby command you the said keeper to receive the said A. B. into your custody in the said gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (my) hand and seal, this day of , in the year , at , in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

Form 68.

(Section 882.)

Warrant to detain a Person indicted who is already in Custody for another Offence.

Canada, Province of 
County of .

To the keeper of the common gaol at , in the said county of .

Whereas it has been duly certified by J. D., clerk of the (name the court) (or deputy clerk of the Crown or clerk of the peace of and for the county of , (or as the case may be), that (etc., stating the certificate); And whereas (I am) informed that the said A. B. is in your custody in the said common gaol at aforesaid, charged with some offence, or other matter; and it being now duly proved upon oath before (me) that the said A. B., so indicted as aforesaid, and the said A. B., in your custody, as aforesaid, are one and the same person: These are therefore to command you, in His Majesty's name, to detain the said A. B. in your custody in the common gaol aforesaid, until by a writ of habeas corpus he shall be removed therefrom, for the purpose of being tried upon the R.S., 1906.
the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under (my) hand and seal, this day of , in the year , at in the county aforesaid.

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, form JJ.

Form 69.

(Section 925.)

Challenge to Array.

Canada,
Province of ,
County of .

The King v. The said A. B., who prosecutes for our Lord
C. D. challenges the array of the panel on the ground that it was returned by X. Y., sheriff of the county of (or E. F., deputy of X. Y., sheriff of the county of (as the case may be), and that the said X. Y. (or E. F., as the case may be) was guilty of partiality (or fraud, or wilful misconduct) on returning said panel.

55-56 V., c. 29, sch. 1, form KK.

Form 70.

(Section 936.)

Challenge to Poll.

Canada,
Province of ,
County of .

The King v. The said A. B., who prosecutes, etc. (or the
C. D. challenges G. II., said C. D., as the case may be) challenges G. II.,
on the ground that his name does not appear in the panel, [or that he is not indifferent between the King and the said C. D., or that he was convicted and sentenced to (death, or penal servitude, or imprisonment with hard labour, or exceeding twelve months, or that he is disqualified as an alien.]

55-56 V., c. 29, sch. 1, form LL.

R.S., 1906. 2778 Form
(Section 1068.)

Certificate of Execution of Judgment of Death.

I, A. B., surgeon (or as the case may be) of the (describe the prison), hereby certify that I, this day, examined the body of C. D. on whom judgment of death was this day executed in the said prison; and that on such examination I found that the said C. D. was dead.

(Signed). A. B.

Dated this day of , in the year .

55-56 V., c. 29, sch. 1, form UUU.

Form 72.

(Section 1068.)

Declaration of Sheriff and Others.

We, the undersigned, hereby declare that judgment of death was this day executed on C. D., in the (describe the prison) in our presence.

Dated this day of , in the year E. F., Sheriff of——
L. M., Justice of the Peace for——
G. H., Gaoler of——
etc., etc.

55-56 V., c. 29, sch. 1, form VVV.

Form 73.

(Section 1097.)

Certificate of Non-appearance to be endorsed on the Defendant's Recognizance.

I hereby certify that the said A. B. has not appeared at the time and place in the said condition mentioned, but therein has made default, by reason whereof the within written recognizance is forfeited.

Dated at

J. S., [seal.]
J. P., (name of county.)

55-56 V., c. 29, sch. 1, forms R and MMM.

Form 74.

(Section 1105.)

Writ of Fieri Facias.

Edward VII., by the Grace of God, etc.

To the sheriff of , greeting:

You are hereby commanded to levy of the goods and chattels, lands and tenements, of each of the persons mentioned in the 2779 roll

R.S., 1906.
roll or extract to this writ annexed, all and singular the debts and sums of money upon them severally imposed and charged, as therein is specified; and if any of the said several debts cannot be levied, by reason that no goods or chattels, lands or tenements can be found belonging to the said persons, respectively, then, and in all such cases, that you take the bodies of such persons, and keep them safely in the gaol of your county, there to abide the judgment of our court (as the case may be) upon any matter to be shown by them, respectively, or otherwise to remain in your custody as aforesaid, until such debt is satisfied unless any of such persons respectively gives sufficient security for his appearance at the said court, on the return day hereof, for which you will be held answerable; and what you do in the premises make appear before us in our court (as the case may be) on the day of term next. and have then and there this writ. Witness, etc., G. H., clerk (as the case may be).

55-56 V., c. 29, sch. 1, form TTT.

Form 75.

(Section 1133.)

Justices' Return.

Return of convictions made by me (or us, as the case may be). during the quarter ending , 19 .

<table>
<thead>
<tr>
<th>Name of the Prosecutor</th>
<th>Name of the Defendant</th>
<th>Nature of the Charge</th>
<th>Date of Conviction</th>
<th>Name of Convicting Justice</th>
<th>Amount of Penalty or Damage</th>
<th>Time when paid or to be paid to the said Justice</th>
<th>To whom paid over by the said Justice</th>
<th>If not paid, why not, and general observations if any</th>
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</table>

J. S., Convicting Justice.

or

J. S. and O. K., Convicting Justices (as the case may be).

55-56 V., c. 29, sch. 1, form SSS.
CHAPTER 147.

An Act respecting Penitentiaries.

SHORT TITLE.

1. This Act may be cited as the Penitentiary Act. 6 E. VII., Short title. c. 38, s. 1.

INTERPRETATION.

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

(a) 'Minister' means the Minister of Justice;
(b) 'Inspectors' means the Inspectors of Penitentiaries appointed under this Act;
(c) 'officer' means and includes any officer, or employee of any of the classes mentioned in the schedule to this Act, or any servant in the employ of the penitentiary;
(d) 'trade instructors' includes bakers, blacksmiths, carpenters, masons, millers, shoemakers, stonecutters, tailors and persons employed to superintend any industrial department or to direct and instruct convicts in any branch of labour.

2. Where by this Act any power or duty is conferred upon the Inspectors of Penitentiaries, such power may be executed or such duty discharged by the Inspectors or either of them. 6 E. VII., c. 38, ss. 2 and 17.

CONTROL OF PENITENTIARIES.

3. All the penitentiaries in Canada and such other prisons and public institutions as are, from time to time, designated for that purpose by the Governor in Council, by proclamation in the Canada Gazette, and all prisoners and other persons confined therein and inmates thereof, shall be under the control of the Minister, who shall exercise over them complete administrative power. 6 E. VII., c. 38, s. 3.

4. The Minister shall submit to the Governor in Council an Annual report upon the penitentiaries, prisons and other institutions under his control, to be laid before both Houses of Parliament within the first twenty-one days of each session thereof, showing the state of each penitentiary, prison or other R.S., 1906.
other institution, and the amounts received and expended in respect thereof, with such further information as he deems requisite. 6 E. VII., c. 38, s. 4.

PENITENTIARIES AND THEIR LIMITS, ETC.

5. The penitentiary situate near the city of Kingston, in the province of Ontario, known as the Kingston Penitentiary; The penitentiary situate at St. Vincent de Paul, in the province of Quebec, known as the St. Vincent de Paul Penitentiary; The penitentiary situate at Dorchester, in the province of New Brunswick, known as the Dorchester Penitentiary; The penitentiary situate in the county of Lisgar, in the province of Manitoba, known as the Manitoba Penitentiary; The penitentiary situate in the district of New Westminster, in the province of British Columbia, known as the British Columbia Penitentiary; and, The penitentiary situate in the city of Edmonton, in the province of Alberta, known as the Alberta Penitentiary; together with all lands appertaining to the said penitentiaries respectively, according to the respective metes and bounds thereof as now known and defined, and all the buildings and property thereon belonging to the same, are hereby declared to be and continue to be penitentiaries of Canada. 6 E. VII., c. 38, s. 5.

6. The Kingston Penitentiary, for the province of Ontario; The St. Vincent de Paul Penitentiary, for the province of Quebec; The Dorchester Penitentiary, for the provinces of Nova Scotia, New Brunswick and Prince Edward Island; The Manitoba Penitentiary, for the province of Manitoba, and all that part of the territories of Canada situate east of the province of Saskatchewan and the one hundred and second west meridian; The British Columbia Penitentiary, for the province of British Columbia; and, The Alberta Penitentiary, for the provinces of Alberta and Saskatchewan, and for all that part of the territories of Canada, except the Yukon Territory, situate west of the one hundred and second west meridian; shall each be maintained as a prison for the confinement and reformation of persons lawfully convicted of crime before the courts of criminal jurisdiction of the province, territory or district for which it is the penitentiary and sentenced to confinement for life, or for any term not less than two years. 6 E. VII., c. 38, s. 6.

7. The portion of Canada for which a penitentiary is the penitentiary shall be subject to alteration from time to time by proclamation.
proclamation of the Governor in Council, and by such proclamation the Governor in Council may attach to the territory or province for which any one of the above named penitentiaries is the penitentiary, any tract or territory forming a portion of the whole of the territory or province, for which some other of the said penitentiaries is the penitentiary.

2. Any person thereafter convicted of crime and sentenced as aforesaid by any court within the limits of the tract or territory so attached shall undergo in the former penitentiary the imprisonment to which he is sentenced. 6 E. VII., c. 38, s. 7.

8. Every lock-up, guard-room, guard-house or place of confinement provided by or for or under the direction of the Royal Northwest Mounted Police, or the regular military force, or a municipal body, or by the Commissioner or Commissioner in Council of the Yukon Territory, shall be a penitentiary, gaol, and place of confinement for all persons sentenced to imprisonment in the Territory.

2. The Commissioner of the Territory shall direct in which such penitentiary, gaol or place of confinement any person sentenced to imprisonment shall be imprisoned. 6 E. VII., c. 38, s. 8.

9. The Governor in Council may declare, from time to time, by proclamation, to be published in the Canada Gazette, that any tract of land within Canada, of which the boundaries shall be described in the proclamation, is a penitentiary, and is to be so held within the meaning of this Act, and by such proclamation may declare for what part of Canada the same shall be a penitentiary.

2. The Governor in Council, by any proclamation published as aforesaid, may declare that any tract of land established as a penitentiary under the provisions of this Act, or by any other law, or by proclamation under this section, from and after a certain day to be named in such proclamation, shall cease to be a penitentiary, or a penitentiary for a part of Canada named in such proclamation, and such tract of land shall cease to be a penitentiary, or a penitentiary for such part of Canada, accordingly. 6 E. VII., c. 38, s. 9.

10. Every penitentiary now established, or hereafter established by virtue of this Act, shall be deemed to include,—

(a) all carriages, wagons, sleighs and other vehicles for land carriage, and all boats, seows and other vessels for water carriage, which belong to such penitentiary, or are employed by hire or otherwise in its service; and,

(b) every wharf at or near the penitentiary, which, although not within the limits mentioned in the proclamation establishing the penitentiary, is used for the accommodation of such boats, seows or other vessels, when the same are R.S., 1906.
Penitentiaries.

are employed in or about any work or labour connected with the penitentiary. 6 E. VII., c. 38, s. 10.

11. Every street, highway or thoroughfare of any kind along or across which it is necessary or convenient that convicts should pass in going to or returning from their work, or upon which it may be deemed necessary or expedient that convicts should be employed, shall be considered, while so used, as a portion of the tract of land forming the penitentiary.

2. Every escape, or attempt at escape, and every rescue, or aid in rescue, which takes place on such street, highway or thoroughfare, while so used, or on or from any wharf, boat, scow or other vessel which a penitentiary is by this Act declared to include, shall have the same effect as if such escape, or attempt at escape, or such rescue, or aid in rescue, had taken place within the prison walls or penitentiary limits. 6 E. VII., c. 38, s. 11.

12. The Minister may authorize the warden of any penitentiary to construct rail or tram roads to communicate between any one part of the penitentiary and any other part, and to carry the same across, upon or along any public road or street intervening, in such manner as to cause the least possible inconvenience to passengers or carriages using such road or street; but the warden of such penitentiary shall not break ground upon any public road or street for the purpose of constructing such rail or tram roads, in virtue of such authority, until after the lapse of one month after a copy of the writing giving such authority, certified by the warden, together with a plan showing the line which such rail or tram roads are to occupy, has been served upon the officer or person charged with the care or supervision of such public road. 6 E. VII., c. 38, s. 12.

13. The construction and repairs of buildings and other works in the penitentiaries shall be under the control of the Minister. 6 E. VII., c. 38, s. 13.

Inspectors.

14. The Governor in Council may appoint two inspectors of penitentiaries and of such other prisons and public institutions as are, from time to time, designated by the Governor in Council; and each of the Inspectors shall hold office during pleasure, and shall be an officer of the Department of Justice, and, as inspector, shall act as the representative of the Minister. 6 E. VII., c. 38, s. 14.

15. The Minister may, from time to time, assign to the Inspectors respectively such of the duties by this Act required to be performed by the Inspectors as he may think proper; and

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he may at any time require either of the Inspectors to perform any duty assigned to or usually performed by the other of them. 6 E. VII., c. 38, s. 16.

16. The Inspectors, under direction from the Minister, shall visit, examine and report to him, upon the state and management of all the penitentiaries, and the suggestions which the wardens thereof make for the improvement of the penitentiaries. 6 E. VII., c. 38, s. 18.

17. The Inspectors, by virtue of their office, without any property qualification, shall be justices of the peace for every district, county, city or town of Canada, but shall have power to act in matters connected with the criminal law of Canada only. 6 E. VII., c. 38, s. 19.

18. The Inspectors shall, subject to the approval of the Minister, make rules and regulations for the administration, management, discipline and police of the penitentiaries; and the wardens of the penitentiaries, and every other officer employed in or about the same, shall be bound to obey such rules and regulations. 6 E. VII., c. 38, s. 20.

19. The Inspectors shall make an annual report to the Minister on or before the first day of September in each year, which shall contain a full and accurate statement of the state, condition and management of the penitentiaries under their control and supervision for the preceding fiscal year, together with such suggestions for the improvement of the same as they deem necessary and expedient, accompanied by copies of the annual reports of the officers of the penitentiaries, and by such financial and statistical statements and tables as they deem useful or as the Minister directs. 6 E. VII., c. 38, s. 21.

20. If the Inspectors at any time find that any penitentiary is out of repair, or does not possess the proper and requisite sanitary arrangements, or has become unsafe or unfit for the confinement of prisoners, or that it does not afford sufficient accommodation for the number of prisoners confined therein, or the requisite accommodation for the proper industrial employment of the prisoners, they shall forthwith report the facts to the Minister. 6 E. VII., c. 38, s. 22.

EXAMINATIONS AND INVESTIGATIONS.

21. The Inspectors may, at all times, enter into and remain within any penitentiary or other public institution placed under their control as aforesaid, and have access to every part of the same, and examine all papers, documents, vouchers, records and books of every kind belonging thereto.

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2. The Inspectors may at any time assume control of any penitentiary and exercise the powers and functions of warden with respect to the control and management of such penitentiary and of all its concerns. 6 E. VII., c. 38, s. 23.

22. The Inspectors may investigate the conduct of any officer or servant employed in or about any penitentiary, or other such public institution, as aforesaid, or of any person found within the precincts thereof; and, for that purpose, may summon by subpoena any person, and examine such person upon oath, and may compel the production of papers and writings.

2. If any person duly summoned neglects or refuses to appear at the time and place specified in the subpoena legally served upon him, or refuses to give evidence or to produce the papers demanded of him, the Inspectors may cause the said person, by their warrant, to be taken into custody and to be imprisoned in the common gaol of the locality, as for contempt of court, for a period not exceeding fourteen days. 6 E. VII., c. 38, s. 24.

23. The Minister, at any time when he deems it necessary, may appoint one or more persons to make a special report on the state and management of any penitentiary, and in such case the person or persons so appointed, in order to enable him or them to make such special report, shall have the powers given to the Inspectors by the two sections last preceding. 6 E. VII., c. 38, s. 25.

DEPARTMENTAL STAFF.

24. The Governor in Council may appoint a parole officer, an accountant, an architect, and such other officers as are necessary, to perform the work in connection with the penitentiary branch of the Department of Justice, who shall be officers of the Department, and perform such duties as the Minister directs. 6 E. VII., c. 38, s. 26.

WARDENS AND OTHER OFFICERS.

25. The Governor in Council may appoint, for any penitentiary, a warden and a deputy warden, who shall hold their offices during pleasure.

2. The Minister may appoint, or authorize the appointment, of such other officers as may be necessary for the proper administration and police of any penitentiary. 6 E. VII., c. 38, s. 27.

26. The Inspectors may suspend any officer of a penitentiary, and the warden may suspend any officer of inferior rank, pending the decision of the Minister in each case. 6 E. VII., c. 38, s. 27.

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27. The warden of a penitentiary shall be the chief executive officer of the same; and as such shall have the entire executive control and management of all its concerns, subject to the rules and regulations duly established, and the written instructions of the Inspectors, or of the Minister.

2. In all cases not provided for, and where the Inspectors cannot readily be consulted, the warden shall act in such manner as he deems most advantageous for the penitentiary.

3. He shall be responsible for the faithful and efficient administration of the affairs of every department of the penitentiary, and he shall reside at the penitentiary. 6 E. VII., c. 38, s. 28.

28. In the absence or during the incapacity of the warden, the deputy warden shall exercise all the disciplinary powers and perform all the necessary duties of the warden; and in the absence or during the incapacity of the deputy warden, the chief keeper, or in his absence the senior keeper present, shall exercise all the disciplinary powers and perform all the duties of the deputy warden, including the disciplinary powers and duties of the warden when he also is absent or incapacitated. 6 E. VII., c. 38, s. 28.

29. Every warden, deputy warden, accountant, storekeeper, steward and every such other officer as is, from time to time, designated by the Minister, shall give and enter into a bond or bonds for the faithful performance of the duties of his office according to law, and in such sum, and with such sufficient surety or sureties, as the Minister approves.

2. The Minister may require that the security to be given in such cases, or in any such case, may be by bond or policy of a guarantee company, and may direct that the premiums payable upon such bonds or policies shall be paid by His Majesty. 6 E. VII., c. 38, s. 29.

30. Every warden, and every other officer employed, permanently in a penitentiary, shall severally take and subscribe, in a book to be kept for that purpose, the oath of allegiance to His Majesty, and an oath of office in the form following, that is to say:

1. (A.B.) do promise and swear that I will faithfully, diligently and justly serve and perform the duties assigned me as an officer in the Penitentiary, to the best of my abilities; and that I will carefully observe and carry out all the regulations of the Penitentiary. So help me God.

2. Either of the Inspectors or the warden may administer such oaths. 6 E. VII., c. 38, s. 30.

31. No officer, on the permanent staff of a penitentiary, shall carry on any trade or calling of profit or emolument other than R.S., 1906.
than his employment in the penitentiary, except by consent of
the Governor in Council: Provided that in cases where such
exemption is granted a reduction of at least twenty per centum
shall be made from the salary attached to the office or position
held by such officer. 6 E. VII., c. 38, s. 32.

**SALARIES.**

32. The Minister shall fix the salary to be paid to each
officer or employee: Provided that such salary shall not exceed
that prescribed by schedule A to this Act.

2. The Minister may, for cause, authorize a deduction from
the salary of any officer not exceeding one month’s pay.

3. The salary of any officer suspended by the Inspectors, or
by the warden, shall cease during the period of his suspension;
but the Minister may direct payment of the same. 6 E. VII.,
c. 38, ss. 27 and 33.

**GRATUITIES.**

33. To any officer whose conduct has been good, and who
has been faithful in the discharge of his duties, who,—
(a) is compelled to retire from the service on account of
some mental or physical infirmity or injury which unfits
him for the performance of his duty; or,
(b) may be retired to promote efficiency or economy; and,
(c) is not entitled to a superannuation allowance under the
rules in that behalf in force;

a gratuity, or retiring allowance may be given, calculated at
the rate of a half month’s salary for each year of his service,
up to five years, and a month’s salary for each year of service
in excess of five years, based on the salary that such officer
was in receipt of at the time of his retirement.

2. Such retiring allowance may be increased by one-half the
amount thereof if the infirmity or injury which compels such
officer to retire from the service is occasioned by any hurt
received by him in the performance of his duty, without fault
or negligence on his part, at the hands of any convict, or in
preventing an escape or rescue, or in suppressing a revolt.

3. The eligibility of any officer to be paid such a gratuity
shall not be affected by his promotion heretofore or hereafter
to an office which makes him a member of the Civil Service, as
defined for the purpose of the Civil Service Superannuation
and Retirement Act, or by his having otherwise become or
becoming a member of the Civil Service as so defined; but such
officer, upon retirement from the service, under circumstances
which would have rendered him eligible for a gratuity, may be
paid a gratuity based upon his services up to the date of such
promotion or of his becoming a member of the Civil Service as
aforesaid, in addition to any superannuation allowance or
gratuity or other payment or benefit for which he may be
eligible

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eligible or to which he may be entitled under the said Act. 6 E. VII., c. 38, s. 34.

34. If any officer dies in the service leaving a widow or any person who in his lifetime was dependent on him, a gratuity may be paid to such widow, if any, and if not, to any person or persons in the lifetime of such officer dependent on him, or to any person or corporation in trust for any such person or persons so dependent on him.

2. No such gratuity shall exceed the amount of the salary of such officer,—
(a) for the two months next preceding his death, if he was appointed by the Governor in Council;
(b) for the three months next preceding his death, if he was appointed by the Minister or warden.

3. Such gratuity may be increased by one-half the amount thereof if the death of such officer is occasioned by any injury received by him in the performance of his duty, without fault or negligence on his part, at the hands of any convict, or in preventing an escape or rescue, or in suppressing a revolt. 6 E. VII., c. 38, s. 34.

PERQUISITES.

35. No officer shall be allowed any perquisite except as follows:—
(a) Wardens and deputy wardens shall be entitled to free residence or quarters, and to such allowance of heat, light and water as the Minister deems necessary therefor;
(b) The ornamental grounds attached to the residence or quarters of a warden or deputy warden may be kept in order and cultivated by convict labour, but otherwise no convict labour shall be employed in keeping in order or cultivating any grounds occupied by an officer;
(e) Any officer whose duties require him and who is directed by the Minister to reside on the penitentiary reserve may, during the will of the Minister, occupy free of rent any house or quarters, with any grounds attached, which form part of the penitentiary property;
(d) Any officer who wears uniform may be allowed such uniform as the Inspectors, with the concurrence of the Minister, prescribe. 6 E. VII., c. 38, s. 35.

PENITENTIARY PROPERTY, CONTRACTS, ETC.

36. The warden shall be a corporation sole known by the name of 'The Warden of the Penitentiary,' (designating the place as named in this Act, or named in the proclamation establishing it as a penitentiary), and by that name he, and his successors, shall have perpetual succession, 2789 and

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and may sue and be sued, and may plead and be pleaded unto, in any of His Majesty's courts. 6 E. VII., c. 38, s. 36.

37. All dealings and transactions on account of any penitentiary, and all contracts for goods, wares or merchandise necessary for maintaining and carrying on the penitentiary, or for the sale of goods prepared or manufactured in the penitentiary, shall be entered into and carried out in the corporate name of the warden.

2. All personal property belonging to the penitentiary shall be held in the corporate name of the warden for His Majesty. 6 E. VII., c. 38, s. 37.

38. The real property of every penitentiary, as well as all books, records and the other property thereto belonging, shall be vested in His Majesty; but the warden and his successors in office shall have the custody and care thereof under the provisions of this Act. 6 E. VII., c. 38, s. 38.

39. Whenever any difference arises between the warden and any person having dealings with him on account of the penitentiary, such difference may, by order of the Inspectors, and with the consent of such person, be referred either to one arbitrator, selected by the warden and such person, or to three arbitrators, one of whom shall be named by the warden, and another by such other person, and a third by the two so named as aforesaid.

2. In the one case, the award of the arbitrator, and, in the other case, the award of any two of the arbitrators, shall be final. 6 E. VII., c. 38, s. 39.

40. The warden of a penitentiary shall exercise due diligence in enforcing the payment of debts due to the penitentiary, and with as little expense as possible; and, on the report of the Inspectors, approved by the Minister, he may accept of such security from any debtor on granting time, or such composition in full settlement, as is thought conducive to the interests of the penitentiary. 6 E. VII., c. 38, s. 40.

PRIVILEGED VISITORS.

41. The following persons, other than the Inspectors or persons specially appointed by the Minister, may visit any penitentiary during business hours, that is to say:—the Governor General of Canada, the Lieutenant Governor of any province of Canada, any member of the King's Privy Council for Canada, any member of the executive council of any of the said provinces, any member of the Parliament of Canada, and any judge of any court of record in Canada or in any of the said provinces; but no other person shall be permitted to enter within the walls wherein the prisoners are confined, except by

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the special permission of the warden, and under such regulations as the Inspectors prescribe. 6 E. VII., c. 38, s. 41.

**IMPRISONMENT OF CONVICTS.**

42. Every one who is sentenced to imprisonment for life, or for a term of years, not less than two, shall be sentenced to imprisonment in the penitentiary for the province in which the conviction takes place. 55-56 V., c. 29, s. 955.

43. Every one who is sentenced to imprisonment in a penitentiary shall be subject to the provisions of the statutes relating to such penitentiary, and to all rules and regulations lawfully made with respect thereto.

2. The term of imprisonment in pursuance of any sentence shall, unless otherwise directed in the sentence, commence on and from the day of passing such sentence; but no time during which the convict is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced. 55-56 V., c. 29, s. 955.

**CONVEYANCE, RECEIPT AND REMOVAL OF CONVICTS.**

44. The sheriff or deputy sheriff of any county or district, or any bailiff, constable, or other officer, or other person, by his direction or by the direction of a court, or any officer appointed by the Governor in Council and attached to the staff of a penitentiary for that purpose, may convey to the penitentiary named in the sentence, any convict sentenced or liable to be imprisoned therein, and shall deliver him to the warden thereof, without any further warrant than a copy of the sentence taken from the minutes of the court before which the convict was tried, and certified by a judge or by the clerk or acting clerk of such court. 6 E. VII., c. 38, s. 42.

45. Whenever a prisoner is ordered by competent authority to be conveyed to any penitentiary from any other penitentiary, or from a reformatory prison, or from a gaol, there shall be delivered to the warden of the penitentiary receiving such prisoner, together with all other necessary documents, a certificate signed by the medical officer of the institution from which such prisoner has been taken, and countersigned by the official in charge of the penitentiary, reformatory or gaol from which such prisoner has been taken, declaring that such prisoner is free from any putrid, infectious or contagious disease, and that he is fit to be removed. 6 E. VII., c. 38, s. 43.

46. The warden shall receive into the penitentiary every convict legally certified to him as sentenced to imprisonment therein. 2791 R.S., 1906.
therein, unless certified by the surgeon of the penitentiary to be suffering from a dangerously infectious or contagious disease, and shall there detain him, subject to the rules, regulations and discipline thereof, until the term for which he has been sentenced is completed, or until he is otherwise legally discharged. 6 E. VII., c. 38, s. 44.

Warrant for removal.

47. The Minister may, by warrant under his hand, direct the removal of any convict from any one penitentiary to another, or from one territorial gaol to another; and the warden, or gaoler, having the custody of any convict so ordered to be removed, when required so to do, shall deliver up the said convict to the constable or other officer or person who produces the said warrant, together with a copy, attested by the said warden, or gaoler, of the sentence and date of conviction of such convict as given to him on reception of such convict into his custody.

2. The constable or other officer or person shall give a receipt to the warden, or gaoler, for the convict, and shall thereupon, with all convenient despatch, convey and deliver up such convict, with the said attested copy, into the custody of the warden, or gaoler, mentioned in the warrant, who shall give a receipt in writing for every convict so received into his custody, to such constable or other officer or person, as his discharge.

3. The convict shall be kept in custody in the penitentiary or gaol to which he is so removed, until his removal to another penitentiary or gaol, or until the termination of his sentence, or until his discharge by law.

4. For the purposes of this section any convict sentenced to be imprisoned in any penitentiary shall be deemed to be in the custody of the warden of that penitentiary immediately upon such sentence; and the sheriff or other officer in whose custody he then is shall, upon receiving a receipt therefor, deliver up the convict, together with a copy of the sentence taken from the minutes of the court and certified by a judge or by the clerk or acting clerk thereof, to any constable or other officer or person who produces a warrant under this section for the removal of such convict from such penitentiary to any other penitentiary, and the like action shall thereupon be had and taken as in other cases under this section.

5. Any convict confined in a gaol in the Northwest Territories, or in the custody of the Royal Northwest Mounted Police, if his sentence of imprisonment is for a term of two years or longer, may be removed to a penitentiary, or, if the sentence is for less than two years, to a territorial gaol, in the manner provided by this section for the removal of a convict from one penitentiary to another; and the sheriff or other person in charge of such gaol, or the officer in command of the Royal Northwest Mounted Police at the post where such convict is in custody, shall be substituted, in the application of this

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this section to such cases, for the warden of the penitentiary from which a convict is removed. 6 E. VII., c. 38, s. 45.

48. The sheriff or other officer or person employed by competent authority to convey any convict to any penitentiary to which such convict is ordered to be taken, either by sentence of a court or by order of the Minister, as in the last preceding section mentioned, may secure and convey him through any county or district through which he has to pass in any of the provinces of Canada.

2. Until the convict has been delivered to the warden of such penitentiary, such sheriff, officer or person shall, in all territorial divisions or parts of Canada through which it may be necessary to convey such convict, have the same authority and power over and with regard to such convict, and to command the assistance of any person in preventing his escape, or in recapturing him in case of an escape, as the sheriff of the territorial division in which he was convicted would himself have, in conveying him from one part of that division to another. 6 E. VII., c. 38, s. 46.

49. If sentence of death has been passed upon any convict by any court in Canada, and the Governor General, on behalf of His Majesty, has been pleased to commute such sentence to imprisonment for life, or for any term of years, such commutation shall have the same effect as the judgment of a competent court legally sentencing such convict to such imprisonment for life or other term.

2. The sheriff, or other officer, or other person having such convict in custody, on receipt of a letter from the Secretary of State, notifying him of the fact of such commutation, and directing him to convey such convict to a penitentiary therein named, shall forthwith convey such convict thereto, and shall have the same rights and powers, in conveying such convict to such penitentiary, as if the conveyance took place by virtue of the sentence of a competent court. 6 E. VII., c. 38, s. 47.

50. A letter signed by the Secretary of State, notifying the warden of the fact of the commutation of any sentence of death to imprisonment for life or for a term of years, and of the term of years or life term to which the sentence has been commuted, shall be sufficient authority to the warden to receive such convict into the penitentiary, and to deal with him as if he had been sentenced by a competent court to confinement therein for the period or life term in the said letter mentioned.

2. It shall not be necessary, for the purpose of commuting such sentence, or of authorizing the conveyance of a prisoner to any penitentiary, or for his reception and detention therein for the term to which such sentence is commuted, that the warden should have in his possession a copy of any pardon. 6 E. VII., c. 38, s. 48.
TRANSFER OF JUVENILE OFFENDERS FROM AND TO REFORMATORY PRISONS.

51. If a juvenile offender has been ordered by competent authority to be imprisoned in any reformatory prison, and after being imprisoned therein has become incorrigible, and is so certified by the superintendent of such reformatory prison, or, in the province of Quebec, by one of the inspectors of prisons for the province, the lieutenant governor of the province in which the reformatory prison is situated, by a warrant under his hand, addressed to the superintendent of such reformatory prison, setting forth the sentence or order under which the juvenile offender was imprisoned therein, and the fact that he is incorrigible, may direct that such juvenile offender be removed to any penitentiary named in the said warrant.

2. Any officer of the prison, or any other person authorized by the superintendent, shall have the same powers in conveying such juvenile offender to such penitentiary as are hereinbefore given to a sheriff or other person in like cases.

3. The warden of the penitentiary named in the warrant shall receive such juvenile offender, and deal with him for the unexpired term of the sentence or order under which he was ordered to be imprisoned in such reformatory prison, as if he had been sentenced to such penitentiary by a competent court: Provided, that, together with the said offender, a copy of the said sentence or order, attested by the superintendent of the reformatory prison, and also an order from the lieutenant governor directing the warden of such penitentiary to receive such juvenile offender, shall be delivered to the warden of the penitentiary.

R.S., c. 183, s. 52; 6 E. VII., c. 38, s. 49.

52. The Minister may, at any time, in his discretion, by warrant under his hand, cause any convict in a penitentiary who appears to the inspector to be under sixteen years of age, and susceptible of reformation, to be transferred, for the remainder of his term of imprisonment, to a reformatory prison, if there is one, of the province where such convict was sentenced. 6 E. VII., c. 38, s. 50.

INSANE CONVICTS.

53. If at any time within three months after the receipt at a penitentiary of any convict sentenced to imprisonment therein, it is established to the satisfaction of the Minister, either by the written certificate of the surgeon of such penitentiary or otherwise, that the convict is insane and was insane at the time when he was received at the penitentiary, the Minister may, after giving reasonable notice of his intention to the attorney general of the province within which such insane convict was convicted, by warrant under his hand, direct the removal of such insane convict from the penitentiary to the gaol.
gaol or other place of confinement from which such insane convict came to the penitentiary.

2. Such warrant shall be sufficient authority to the warden or any other officer of the penitentiary to remove such insane convict from the penitentiary to such gaol or place of confinement and there to deliver him to the keeper thereof. 6 E. VII., c. 38, s. 51.

54. The Minister may direct the warden of any penitentiary to set apart a portion thereof for the reception, confinement and treatment of insane convicts; and the portion so set apart shall be used for such purposes accordingly, and shall be known as the ward for the insane. 6 E. VII., c. 38, s. 52.

55. If at any time it appears to a surgeon of a penitentiary that any convict confined therein is insane and ought to be removed to the ward for the insane, he shall report the same in writing to the warden with a view to the removal of such convict to the ward for the insane.

2. If the surgeon shall at any time thereafter certify to the warden that such convict has recovered his reason, and is in a fit state to be removed from the ward for the insane, the warden shall remove such convict therefrom. 6 E. VII., c. 38, s. 55.

56. When a surgeon of a penitentiary reports in writing to the warden that any convict confined in such penitentiary is insane, and ought to be removed to an asylum for the insane, the warden shall report the facts to the Inspectors.

2. The Minister may thereupon, if an arrangement exists with the lieutenant governor of any province for the maintenance of such convict in an asylum for the insane of the province, by warrant under his hand, direct the removal of such insane convict to the custody of the keeper or person in charge of such asylum, for the unexpired portion of his sentence.

3. The warden of the penitentiary, when required so to do, shall deliver up to the constable or other officer or person who produces such warrant, the insane convict, together with a copy, attested by the warden, of the sentence and date of his conviction, as given to the warden on reception of the convict into his custody; and the constable or other officer or person shall give a receipt therefor, and shall thereupon, with all convenient despatch, convey and deliver up such convict, with such attested copy, into the custody of the keeper or person in charge of such asylum, who shall give a receipt therefor.

4. The convict shall be kept in custody in such asylum under his sentence, until the expiration or sooner determination thereof, or until his removal elsewhere under the provisions of this Act, or his discharge by law.

5.

2795

R.S., 1906.
Re-transfer to penitentiary.

5. If, before the expiration of his sentence, any convict so detained in any asylum recovers his reason, and such recovery is certified to by the surgeon or medical officer in charge of such asylum, the Minister may in like manner direct the removal of such convict from such asylum to the penitentiary from which he came, or to some other penitentiary; and thereupon such convict may in like manner be removed and delivered again to the warden of such penitentiary, where he shall be kept in custody under his sentence. 6 E. VII., c. 38, s. 54.

Upon expiry of sentence.

57. If the term of imprisonment of any convict expires, or is determined by remission of sentence or otherwise, while such convict is detained as insane in the ward for the insane, he may continue to be detained therein pending the proceedings authorized by this Act; and in such case the surgeon shall forthwith certify to the warden whether the convict is sane or insane.

Discharge if sane.

2. If the surgeon certifies that such convict is not insane, he shall be forthwith discharged. 6 E. VII., c. 38, s. 55.

If insane, report to lieutenant governor.

58. If the surgeon certifies that the person is insane, the warden shall report the fact to the Inspectors; and the Minister shall thereupon communicate the fact to the lieutenant governor of the province within which the person was sentenced, so that he may be removed to a place of safe keeping.

Lieutenant governor may order removal to place of safe keeping.

2. The lieutenant governor may, thereupon, order the removal of the person to a place of safe keeping within the province, and he shall, upon such order, be delivered to the person therein designated for transport to such place, and he shall remain and be detained there, or in such other place of safe keeping as the lieutenant governor, from time to time, orders, until it appears to the lieutenant governor that he is of sound mind, when the lieutenant governor may order him to be discharged; but if, at any time after his removal to such place of safe keeping, and before his complete recovery, the lieutenant governor thinks fit to order that he shall be given up to any person by him named, he shall be given up accordingly. 6 E. VII., c. 38, s. 56.

If arrangements exist with Ontario.

59. If the lieutenant governor of the province within which any such person was sentenced has made arrangements with the Lieutenant Governor of the province of Ontario for the safe keeping of any such person in Ontario, and such arrangements have been communicated to the Minister by the lieutenant governor of the province concerned, the Minister shall, in the case of any such person, communicate, under the last preceding section, with the Lieutenant Governor of Ontario, who shall, in such cases, have all the powers thereby given.

2. If the Lieutenant Governor does not, within one month after the Minister has communicated, as provided by the last preceding

R.S., 1906.
preceding section, cause the person to be removed under the provisions thereof, the Minister may direct the convict to be removed for safe keeping to the gaol in which he was last confined previous to his transfer to the penitentiary, or to any other gaol in the province within which he was sentenced; and, after such removal, all the provisions of the last preceding section shall apply to this case. 6 E. VII., c. 38, s. 57.

60. If any question arises as to the sanity of any convict, the Minister may order an inquiry and report to be made by one or more medical men, in conjunction with the surgeon, and may, upon such report, direct such action as he deems necessary to carry out the provisions of this Act. 6 E. VII., c. 38, s. 58.

**TREATMENT OF CONVICTS.**

61. Every convict shall, during the term of his confinement, be clothed, at the expense of the penitentiary, in suitable prison garments.

2. He shall be supplied with a sufficient quantity of whole food.

3. He shall be provided with a bed and sufficient covering, varied according to the season.

4. He shall, except in case of sickness, be kept in a cell by himself at night. 6 E. VII., c. 38, s. 59.

**EMPLOYMENT OF CONVICTS.**

62. Imprisonment in a penitentiary shall be with hard labour, whether so directed in the sentence by which such imprisonment is adjudged or not.

2. Every convict, except during sickness or other in-hours of capacity, shall be kept constantly at hard labour, of a kind determined by the warden, during at least ten hours, if possible, exclusive of hours for meals, of every day, except Sunday, Good Friday, Christmas Day, and such other days as the Governor General sets apart for days of fasting or thanksgiving, and such days as are designated in the rules made by the Inspectors in that behalf; but no convict shall be compelled to labour on any of the obligatory holidays of the religious denomination to which he adheres.

3. The convicts may be employed in labour under the control of the Crown; but no labour shall be let out to any company or person. 55-56 V., c. 29, s. 955; 6 E. VII., c. 38, s. 60.

**FEMALE CONVICTS.**

63. The female convicts shall be kept in a separate Secluded ward from the male convicts, and shall be under the charge of a matron, with such and so many female officers as the Minister orders to be employed. 6 E. VII., c. 38, s. 61.

2797 Remission. R.S., 1906.
Remission for industry and good conduct.

64. The Inspectors, subject to the approval of the Minister, may make regulations, under which a record may be kept of the daily conduct of every convict in any penitentiary, noting his industry and the strictness with which he observes the prison rules, with a view to permit such convict to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding six days for every month during which he is exemplary in conduct and industry.

2. When any convict has earned and has at his credit seventy-two days of remission, he may be allowed, for every subsequent month during which his conduct and industry continue satisfactory, ten days' remission for every month thereafter.

3. If any convict, by reason of sickness or any other infirmity, not intentionally produced by himself, is unable to labour, he shall be entitled, by good conduct, to such portion of the remission from his sentence to which he would otherwise be entitled as the warden, with the concurrence of the Minister, deems proper.

Escape, etc.

4. Every convict who escapes, attempts to escape, breaks prison, attempts to break prison, breaks out of his cell, or makes any breach therein with intent to escape, or assaults any officer or servant of the penitentiary, or being the holder of a license under the Ticket of Leave Act, forfeits such license, shall forfeit the whole of the remission which he has earned. 6 E. VII., c. 38, s. 62.

PRISON OFFENCES.

65. The Inspectors shall draw up a list of prison offences, and the list shall be printed, and a copy thereof placed in each cell of the penitentiary. 6 E. VII., c. 38, s. 63.

OFFENCES AND PENALTIES.

66. Any officer of the Department of Justice, or any warden, or other officer employed in a penitentiary, who, either in his own name or in the name of, or in connection with any other person, provides, furnishes or supplies any materials, goods or provisions for the use of any penitentiary, or is concerned directly or indirectly in furnishing or supplying the same, or in any contract relating thereto, shall incur a penalty of five hundred dollars, recoverable, with costs, by any person who sues for the same in any court of competent jurisdiction. 6 E. VII., c. 38, s. 31.

67. Any officer or servant of any penitentiary, or territorial gaol, or other person who,—

(a) gives or in any way conveys to any convict any article or thing not allowed by the rules of the penitentiary or gaol to be so given or conveyed; or,

(b)
(b) leaves any such article anywhere with intent that any convict shall get the same; or,
(c) does any other act with intent that any convict shall get any such article; or,
(d) takes or receives or carries out from any convict, for any purpose, any article not allowed by the rules of the penitentiary or gaol to be so taken, received or carried out; or,
(e) buys from or sells to or for any convict anything whatsoever; or,
(f) takes or receives for his own use, or for that of any other person, any fee or gratuity from any convict or visitor; or,
(g) without proper authority employs any convict in work for the personal benefit of himself or any other person; or,
(h) endeavours to do or knowingly allows to be done any of the acts in this section mentioned;
shall, on summary conviction, be liable to a penalty not exceeding one hundred dollars, or imprisonment with hard labour for a term not exceeding three months. 6 E. VII., c. 38, s. 64.

68. Any convict who is, upon his discharge or release from the penitentiary, furnished, at the expense of the penitentiary, with money or with tickets for transportation, in pursuance of the provisions hereinafter contained, and who uses such money or tickets for any purpose other than the purpose for which the money or tickets were so furnished, is guilty of an offence, and liable on summary conviction to imprisonment for a term not exceeding three months. 6 E. VII., c. 38, s. 65.

69. Every person who,—
(a) is found trespassing upon any grounds, buildings, yards, offices or other premises whatsoever, belonging or appertaining to any penitentiary or territorial gaol; or,
(b) who enters the same, or who may be found loitering upon the street or highway adjacent thereto, not being an officer or servant of the penitentiary or gaol, or authorized by the warden or gaoler;
shall, on summary conviction, for a first offence, be liable to a penalty not exceeding ten dollars, and in default of payment to imprisonment, with or without hard labour, for a term not exceeding one month.

2. For a subsequent offence he shall be liable to a penalty not exceeding fifty dollars, and in default of payment to imprisonment, with or without hard labour, for a term not exceeding three months. 6 E. VII., c. 38, s. 66.

70. Every person who moors or anchors, or causes to be moored or anchored, any raft, boat, vessel or craft of any kind within the vessel near penitentiary. 2799 R.S., 1906.
Chap. 147. Penitentiaries.

within three hundred feet of the shore or wharf bounding the lands of any penitentiary towards any lake, arm of the sea, bay or river, without the permission of the warden of such penitentiary, shall, on summary conviction, be liable to a penalty of twenty dollars, and in default of payment of such penalty and costs, to imprisonment with hard labour, for a term not exceeding two months, or to such imprisonment in addition to payment of the said pecuniary penalty and costs.

2. The amount of such penalty may be levied upon such raft, boat, vessel or craft, in whomsoever the property thereof may be, as well as on the offender's own goods and chattels. 6 E. VII., c. 38, s. 67.

Warden and deputy to be justices of the peace.

71. The warden of the penitentiary shall ex officio be, and have the powers and authority of, a justice of the peace, with respect to any offence or charge of an offence under the four sections last preceding, and for all purposes connected with any such offence or charge.

2. Each and every keeper and guard of the penitentiary shall, for all the said purposes, ex officio be, and have the powers and authority of, a constable. 6 E. VII., c. 38, s. 68.

Discharge of Convicts.

72. No convict shall be discharged from a penitentiary on the termination of his sentence, or otherwise, unless at his own request, during the months of December, January or February; but such convict may remain in the penitentiary until the first day of March following the termination of his sentence.

2. No convict who, at the expiration of his sentence, is found to be suffering from any acute, dangerous, contagious or infectious disease, shall be discharged unless and until in the opinion of the warden such discharge may safely be made.

3. A convict remaining from any cause in a penitentiary after the termination of his sentence, shall be under the same discipline and control as if his sentence were still unexpired.

4. On the first day of March, a list shall be made of all the prisoners whose sentences have expired during the three preceding months, and who are still in prison, according to the dates when their sentences expired; and according to such order they shall be discharged, one convict on the said first day of March, and one on every day thereafter, until the whole are discharged.

5. Whenever the term of any prisoner’s sentence expires on a Sunday or a statutory holiday he shall be discharged on the day preceding, unless he desires to remain until the day following.

6. Every convict under sentence for a term not less than two years, shall, upon his discharge or release, either by expiration of sentence, conditional liberation or otherwise, be furnished, 2800

R.S., 1906.
at the expense of the penitentiary, with a suit of clothing other
than prison clothing, and with transportation to the place at
which he received his sentence, and such other sum in addition,
not exceeding ten dollars, as the warden deems proper.

7. If the warden is of opinion that a convict, on being dis-
charged, does not intend to return to the place at which he
received his sentence, but intends to go to some other place
nearer to the penitentiary, such convict shall be furnished with
transportation to such nearer place, and not to the place at
which he received his sentence.

8. Every convict who is furnished, pursuant to this section,
with money for the payment of travelling expenses, or with a
ticket or tickets for transportation, shall be deemed to be in the
custody of the warden until his departure by railway or other
means of transportation for his destination, and it shall be the
duty of the warden to take such action as may be necessary to
ensure such departure. 6 E. VII., c. 38, s. 69.

PRISONERS' EFFECTS.

73. Every article found upon the person of a convict at the
time of his reception into the penitentiary shall be taken from
him, and a description of every article which is considered by
the warden to be worth preservation shall be entered in a book
kept for that purpose; and if the convict does not see fit other-
wise to dispose of it at the time, it shall be carefully put away
until the day of his discharge, when it shall be delivered up to
him again in the state in which it then is.

2. The warden shall not be liable for any deterioration which
takes place in such article in the interval.

3. If, at the time of his reception, the convict desires to
dispose of any such article and it is so disposed of, a memoran-
dum of the fact shall be noted in the said book, and signed by
the proper officer who has charge thereof, and also by the con-
vant; and any money received therefor shall be placed to his
credit. 6 E. VII., c. 38, s. 70.

CONVICTS' LETTERS, ETC.

74. The warden of a penitentiary, or any officer thereof
deputed by him for the purpose, may,—

(a) open and examine any letter, parcel or mail matter
received at the penitentiary, through the mail or otherwise,
addressed to or intended for any convict;

(b) open and examine any letter, parcel or mail matter
which any convict desires to have sent out by mail or
otherwise;

(c) withhold from a convict any such letter, parcel or mail
matter addressed to him or intended for him, or destroy

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R.S., 1906.
it, or otherwise deal with it as required or authorized by the rules and regulations;
(d) detain or destroy, or remove or obliterate objectionable contents of, or otherwise deal with, any letter, parcel or mail matter which a convict desires to have sent out from the penitentiary. 6 E. VII., c. 38, s. 71.

DECEASED CONVICTS.

75. If a convict dies in a penitentiary, and the inspector, warden or surgeon has reason to believe that the death of such convict may have arisen from any other than ordinary causes, he shall call upon a coroner having jurisdiction to hold an inquest upon the body of such deceased convict.

2. Upon such requisition by one or more of the aforesaid officers, the said coroner shall hold such inquest, and, for that purpose, he and all other persons necessarily attending such inquest, shall have admittance to the prison. 6 E. VII., c. 38, s. 72.

76. The body of every convict who dies in a penitentiary shall, if claimed by his relatives, be given up to and shall be taken away by them.

2. If it is not so claimed, the body may be delivered to an inspector of anatomy, duly appointed under any Act authorizing such appointment, or to the professor of anatomy in any college wherein medical science is taught.

3. If it is not claimed by his relatives or delivered to an inspector of anatomy, the body shall be decently interred at the expense of the penitentiary. 6 E. VII., c. 38, s. 73.
### SCHEDULE A.

**Kingston Penitentiary—**

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warden (with free quarters, heated and lighted)</td>
<td>$2,600.00</td>
</tr>
<tr>
<td>Deputy warden (with free quarters, heated and lighted)</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Matron (with free quarters, heated and lighted)</td>
<td>$600.00</td>
</tr>
<tr>
<td>Deputy matron (with free quarters, heated and lighted)</td>
<td>$450.00</td>
</tr>
<tr>
<td>Protestant chaplain</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Roman Catholic chaplain</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Surgeon and medical superintendent of the asylum for the insane</td>
<td>$2,400.00</td>
</tr>
<tr>
<td>Accountant and clerk of cordage industry</td>
<td>$1,700.00</td>
</tr>
<tr>
<td>Warden's clerk</td>
<td>$900.00</td>
</tr>
<tr>
<td>Storekeeper</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Assistant storekeeper</td>
<td>$700.00</td>
</tr>
<tr>
<td>Steward and baker</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Assistant steward</td>
<td>$700.00</td>
</tr>
<tr>
<td>Hospital overseer and school instructor</td>
<td>$900.00</td>
</tr>
<tr>
<td>Assistant hospital overseer and school instructor</td>
<td>$700.00</td>
</tr>
<tr>
<td>Messenger</td>
<td>$600.00</td>
</tr>
<tr>
<td>Electrician</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Assistant electrician</td>
<td>$900.00</td>
</tr>
<tr>
<td>Firemen</td>
<td>$700.00</td>
</tr>
<tr>
<td>Superintendent of cordage industry</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Chief trade instructor</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Trade instructors</td>
<td>$800.00</td>
</tr>
<tr>
<td>Chief keeper</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Chief watchman</td>
<td>$800.00</td>
</tr>
<tr>
<td>Gate keeper and armourer</td>
<td>$700.00</td>
</tr>
<tr>
<td>Keepers</td>
<td>$700.00</td>
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<tr>
<td>Watchmen</td>
<td>$650.00</td>
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<tr>
<td>Guards</td>
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</tr>
<tr>
<td>Stable guards</td>
<td>$600.00</td>
</tr>
<tr>
<td>Temporary guards</td>
<td>$500.00</td>
</tr>
</tbody>
</table>

**St. Vincent de Paul Penitentiary—**

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warden (with free quarters, heated and lighted)</td>
<td>$2,400.00</td>
</tr>
<tr>
<td>Deputy warden (with free quarters, heated and lighted)</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Roman Catholic chaplain</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Protestant chaplain</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Surgeon</td>
<td>$1,600.00</td>
</tr>
<tr>
<td>Accountant</td>
<td>$1,400.00</td>
</tr>
<tr>
<td>Warden's clerk and French school instructor</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Hospital overseer and English school instructor</td>
<td>$900.00</td>
</tr>
<tr>
<td>Storekeeper</td>
<td>$900.00</td>
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</table>

176½  2803  Assistant

R.S., 1906.
St. Vincent de Paul Penitentiary—Concluded.
Assistant storekeeper ........................................... $ 700 00
Steward and baker ............................................ 1,000 00
Assistant steward ............................................... 700 00
Messenger .......................................................... 600 00
Engineer .......................................................... 1,000 00
Electrician ....................................................... 800 00
Firemen ............................................................ 600 00
Chief trade instructor .......................................... 1,000 00
Trade instructors ................................................ 800 00
Chief keeper ...................................................... 1,000 00
Chief watchman .................................................. 800 00
Gate keeper and armourer ...................................... 700 00
Keepers ........................................................... 700 00
Watchmen .......................................................... 650 00
Guards ............................................................. 600 00
Stable guards ...................................................... 600 00
Temporary guards ................................................ 500 00

Dorchester Penitentiary—
Warden (with free quarters, heated and lighted) ......... 2,200 00
Deputy warden (with free quarters, heated and lighted) .. 1,500 00
Matron (with free quarters, heated and lighted) .......... 600 00
Deputy matron (with free quarters, heated and lighted) .. 450 00
Protestant chaplain .............................................. 1,000 00
Roman Catholic chaplain ....................................... 1,000 00
Surgeon ........................................................... 1,500 00
Accountant ....................................................... 1,200 00
Storekeeper and warden's clerk ............................... 800 00
Steward and baker .............................................. 900 00
Hospital overseer and school instructor ..................... 900 00
Messenger .......................................................... 600 00
Engineer ........................................................... 1,000 00
Firemen ............................................................ 600 00
Chief trade instructor .......................................... 1,000 00
Trade instructors ................................................ 800 00
Chief keeper ...................................................... 900 00
Chief watchman .................................................. 800 00
Keepers ........................................................... 700 00
Watchmen .......................................................... 650 00
Guards ............................................................. 600 00
Stable guards ...................................................... 600 00
Temporary guards ................................................ 500 00

Manitoba Penitentiary—
Warden (with free quarters, heated and lighted) .......... 2,200 00
Deputy warden (with free quarters, heated and lighted) .. 1,500 00

R.S., 1906.
**Manitoba Penitentiary—Concluded.**

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roman Catholic chaplain</td>
<td>$1,000</td>
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<tr>
<td>Protestant chaplain</td>
<td>$1,000</td>
</tr>
<tr>
<td>Surgeon</td>
<td>$1,500</td>
</tr>
<tr>
<td>Accountant</td>
<td>$1,200</td>
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<tr>
<td>Storekeeper and warden’s clerk</td>
<td>$900</td>
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<tr>
<td>Steward and baker</td>
<td>$900</td>
</tr>
<tr>
<td>Hospital overseer and school instructor</td>
<td>$900</td>
</tr>
<tr>
<td>Engineer and blacksmith instructor</td>
<td>$1,000</td>
</tr>
<tr>
<td>Chief trade instructor</td>
<td>$1,000</td>
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<tr>
<td>Trade instructors</td>
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<td>Keepers</td>
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<tr>
<td>Chief watchman</td>
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<tr>
<td>Watchmen</td>
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</tr>
<tr>
<td>Temporary guards</td>
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</table>

**British Columbia Penitentiary—**

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<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warden (with free quarters, heated and lighted)</td>
<td>$2,200</td>
</tr>
<tr>
<td>Deputy warden (with free quarters, heated and lighted)</td>
<td>$1,500</td>
</tr>
<tr>
<td>Protestant chaplain</td>
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</tr>
<tr>
<td>Roman Catholic chaplain</td>
<td>$1,000</td>
</tr>
<tr>
<td>Surgeon</td>
<td>$1,500</td>
</tr>
<tr>
<td>Accountant</td>
<td>$1,200</td>
</tr>
<tr>
<td>Storekeeper</td>
<td>$900</td>
</tr>
<tr>
<td>Steward and baker</td>
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</tr>
<tr>
<td>Hospital overseer and school instructor</td>
<td>$900</td>
</tr>
<tr>
<td>Engineer and blacksmith instructor</td>
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</tr>
<tr>
<td>Chief trade instructor</td>
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<td>Trade instructors</td>
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<td>Keepers</td>
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<tr>
<td>Watchmen</td>
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<td>Temporary guards</td>
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**Alberta Penitentiary—**

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
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</thead>
<tbody>
<tr>
<td>Warden (with free quarters, heated and lighted)</td>
<td>$2,200</td>
</tr>
<tr>
<td>Deputy warden (with free quarters, heated and lighted)</td>
<td>$1,500</td>
</tr>
<tr>
<td>Matron (with free quarters, heated and lighted)</td>
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</tr>
<tr>
<td>Protestant chaplain</td>
<td>$1,000</td>
</tr>
<tr>
<td>Roman Catholic chaplain</td>
<td>$1,000</td>
</tr>
<tr>
<td>Surgeon</td>
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<td>Accountant and storekeeper</td>
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<tr>
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<td>$900</td>
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<td>Hospital overseer and school instructor</td>
<td>$900</td>
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<tr>
<td>Engineer and blacksmith instructor</td>
<td>$1,000</td>
</tr>
<tr>
<td>Chief trade instructor</td>
<td>$1,000</td>
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</tbody>
</table>

2805 Trade

R.S., 1906.
Alberta Penitentiary—Concluded.

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
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<tbody>
<tr>
<td>Trade instructors</td>
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<tr>
<td>Keepers</td>
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</tr>
<tr>
<td>Guards</td>
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</tr>
<tr>
<td>Chief watchman</td>
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</tr>
<tr>
<td>Watchmen</td>
<td>$750.00</td>
</tr>
<tr>
<td>Temporary guards</td>
<td>$600.00</td>
</tr>
</tbody>
</table>

6 E. VII., c. 38, sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 148.

An Act respecting Public and Reformatory Prisons.

SHORT TITLE.

1. This Act may be cited as the Prisons and Reformatories Act.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
   (a) "lieutenant governor" means the lieutenant governor in council;
   (b) "court" includes a police or stipendiary magistrate, but, except as otherwise defined in Part V. of this Act, does not include one or more justices of the peace;
   (c) "refuge" means any institution for the care of the young or of adult females to which they may by law be sentenced by a court;
   (d) "superintendent" includes the matron, superior or other head or person in charge of any refuge. R.S., c. 183, ss. 1 and 18; 57-58 V., c. 60, s. 1.

PART I.

GENERAL.

Term of Imprisonment.

3. The term of imprisonment in pursuance of any sentence shall, unless otherwise directed in the sentence, commence on and from the day of passing such sentence, but no time during which the convict is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced. 55-56 V., c. 20, s. 955.

Insecure Prisons.

4. The Governor in Council or the lieutenant governor of any province may, if, from the insecurity or unfitness of any gaol of any county or district for the safe custody of prisoners, or for any other cause, he deems it expedient so to do, order any person charged with an indictable offence confined in such gaol, or for whose arrest a warrant has been issued, to be removed to any other gaol or refuge for the time being in operation in any other county or district. R.S., 1906.
issued, to be removed to any other place for safe keeping, or to any gaol, which place or gaol shall be named in such order, there to be detained until discharged in due course of law, or removed for the purpose of trial to the gaol of the county or district in which the trial is to take place.

2. A copy of such order, certified by the clerk of the King's Privy Council for Canada, or the clerk of the executive council, or by any person acting as such clerk of the Privy Council or executive council, shall be sufficient authority to the sheriffs and gaolers of the counties or districts respectively named in such order, to deliver over and to receive the body of any person named in such order. 55-56 V., c. 29, s. 649.

5. The Governor in Council or a lieutenant governor may, in any such order, direct the sheriff in whose custody the person to be removed then is, to convey the said person to the place or gaol in which he is to be confined, and in case of removal to another county or district shall direct the sheriff or gaoler of such county or district to receive the said person, and to detain him until he is discharged in due course of law, or is removed for the purpose of trial to any other county or district.

2. The Governor in Council or a lieutenant governor may make an order, as hereinbefore provided, in respect of any person under sentence of imprisonment or under sentence of death.

3. If such an order is made in respect of a person under sentence of death, the sheriff to whose gaol the prisoner is removed shall obey any direction given by the said order or by any subsequent order in council, for the return of such prisoner to the custody of the sheriff by whom the sentence is to be executed. 55-56 V., c. 29, s. 649.

6. The lieutenant governor of any province of Canada may, by proclamation published in the official gazette of the province, and in the Canada Gazette, declare that the common gaol of any district, county or place in such province is insecure, and may name the gaol of any adjoining district, county or place as the gaol to which offenders within such first mentioned district, county or place, may, from and after a time stated, be committed or sentenced. R.S., c. 183, s. 2.

7. The lieutenant governor may, after the issue of such proclamation, from time to time direct the sheriff to transfer such of the prisoners then confined in such insecure gaol, as the lieutenant governor thinks proper, to the gaol so named, as aforesaid.

2. Such order shall be a sufficient authority to the respective sheriffs and officers to deliver and receive, and to the keeper of such last mentioned gaol to detain therein, any such prisoner, 2808 according
according to the exigency of the warrant or sentence under which he was confined in such insecure gaol. R.S., c. 183, s. 3.

8. During the continuance in force of such proclamation any person who would otherwise be committed to or sentenced to imprisonment in the common gaol so declared insecure, shall be committed to or sentenced to imprisonment in the gaol named in the proclamation for the purpose, and the respective sheriffs and officers shall have authority to deliver and receive such person.

2. A warrant directed to the gaoler of the insecure gaol shall be a sufficient authority for the gaoler of the gaol named in such proclamation to detain therein the person named in such warrant, according to the exigency of the warrant, or until he is removed, as hereinafter provided. R.S., c. 183, s. 4.

9. Every person so confined in the gaol named in such proclamation, may be tried in the district, county or place in the gaol whereof he is confined, unless the judge or other person presiding at the court at which it is proposed to try such person, or a judge of a court having jurisdiction to try the offence, otherwise directs.

2. The court of general gaol delivery or general sessions of the peace, or other court having like powers, held in such district, county or place, and every judge or other person presiding therein, shall have jurisdiction to make, in reference to any person committed in default of sureties for good behaviour or to keep the peace, the like order as such court, judge or other person might make if the court was being held in the district, county or place in which such person was committed. R.S., c. 183, s. 5.

10. The lieutenant governor may, at any time, by his proclamation published in the official gazette of the province, and in the Canada Gazette, declare that any proclamation issued as hereinbefore provided, shall, from and after a time stated, cease to have effect; and such proclamation shall cease to have effect accordingly. R.S., c. 183, s. 6.

11. The lieutenant governor may, after the issue of such last mentioned proclamation, direct the sheriff to transfer so many of the prisoners then confined in the gaol so named as aforesaid, as the lieutenant governor thinks proper, to the gaol of the district, county or place in which, but for the operation of the preceding sections, such prisoners would have been confined.

2. Such order shall be sufficient authority to the respective sheriffs and officers to deliver and receive, and to the keeper of such last mentioned gaol to detain therein, any such prisoners, according to the exigency of the warrant or sentence under which they were originally confined. R.S., c. 183, s. 7.
Employment of Prisoners.

12. Every one who is sentenced to imprisonment in any gaol, or other public or reformatory prison, shall be subject to the provisions of the statutes relating to gaol or prison, and to all rules and regulations lawfully made with respect thereto.

2. Imprisonment in the Central Prison for the province of Ontario, in the Andrew Mercer Ontario Reformatory for females, and in any reformatory prison for females in the province of Quebec, shall be with hard labour, whether so directed in the sentence or not. R.S., c. 29, s. 955.

13. The lieutenant governor of any province may, from time to time, make regulations for the purpose of preventing escapes and preserving discipline in the case of prisoners in any common gaol or prison employed beyond the limits of such common gaol or prison. R.S., c. 183, ss. 8 and 59.

14. After such regulations are made, the lieutenant governor may, from time to time, direct or authorize the employment, upon any specific work or duty, beyond the limits of any common gaol or prison, of any prisoner who is sentenced to be imprisoned with hard labour in such gaol, for any offence against any law of Canada. R.S., c. 183, s. 9.

15. Every such prisoner shall, during such employment, be subject to such regulations and to all the rules, regulations and discipline of the gaol or prison, so far as applicable. R.S., c. 183, s. 10.

16. No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. R.S., c. 183, ss. 11 and 23.

Improved Prisons.

17. If, in any province, there is at any time a prison of such a character as to render practicable the application of the three sections next following to such province, and if the lieutenant governor makes rules for keeping a correct record of the daily conduct of every prisoner in such prison, noting his behaviour, industry, diligence and faithfulness, and the strictness with which he observes the prison regulations, and if such prison, and the rules so made, are, by the Governor in Council, declared adequate, the Governor in Council may, by proclamation published in the Canada Gazette, reciting the premises, and describing the prison, declare such sections in force within such province from and after a day named in such proclamation. R.S., c. 183, s. 13.

18. Any judge sentencing any prisoner to imprisonment in any prison named in the proclamation in the last preceding section 2810 R.S., 1906.
section mentioned, may sentence such prisoner for a term not more than one-sixth longer than the maximum term at present prescribed by law for the offence; and any such sentence may be carried out in such prison, although it is for any term not exceeding two years and four months. R.S., c. 183, s. 14.

19. Every prisoner sentenced to such prison shall be entitled to earn a remission of a portion of the time for which he is sentenced, not exceeding five days for every month during which he is exemplary in behaviour, industry and faithfulness, and does not violate any of the prison rules; and if prevented from labour by sickness, not intentionally produced by himself, he shall be entitled to earn, by good conduct, a remission not exceeding two and one-half days for every such month. R.S., c. 183, s. 15.

20. Every such prisoner who commits any breach of the laws or of the prison regulations shall, besides any other penalty to which he is liable, be liable to forfeit the whole or any part of any remission which he has so earned. R.S., c. 183, s. 16.

Escapes and Rescues.

21. Every street, highway or public thoroughfare of any kind along or across which prisoners pass in going to or returning from their work, and every place where they are so employed, shall, while so used, be considered as a portion of the gaol or prison, and any escape or attempt at escape, and any rescue or attempt at rescue, made on such street, highway or thoroughfare, shall be held to have been made within or from such gaol or prison. R.S., c. 183, s. 12.

22. Every one sentenced to imprisonment or to be detained in any reformatory prison, reformatory school, industrial refuge, industrial home or industrial school, who escapes or attempts to escape therefrom, may, at any time, be apprehended without warrant and brought before any magistrate, who, upon proof of his identity, and of the escape or attempt to escape, if the escape or attempt to escape be from a reformatory prison or a reformatory school, shall remand him thereto for the remainder of his original term of imprisonment or detention. 53 V., c. 37, s. 1.

23. If the escape or attempt to escape be from an industrial refuge, industrial home or industrial school, the magistrate may remand the offender thereto for the remainder of his original term of imprisonment or detention; or if the officer in charge of such refuge, home or school certifies in writing that the removal of the offender to a place of safer or stricter imprisonment is desirable, and if the governing body of such refuge, home or school applies for such removal, and if sufficient cause therefor

R.S., 1906.
is shown to the satisfaction of such magistrate, the magistrate may order the offender to be removed to and to be kept imprisoned, for the remainder of his original term of imprisonment or detention, in any reformatory prison, or reformatory school, in which by law such offender might be imprisoned for an indictable offence, and when there is no such reformatory prison or reformatory school, the magistrate may order the offender to be removed to and to be so kept imprisoned in any other place of imprisonment to which the offender may be lawfully committed. 53 V., c. 37, s. 1.

24. In the case of any escape or attempt to escape aforesaid, whether the term of imprisonment or detention has expired or not, the magistrate may sentence the offender to such additional term of imprisonment or detention, as the case may be, not exceeding one year, as to such magistrate seems a proper punishment for the escape or attempt to escape. 53 V., c. 37, s. 1.

**Incorrigible Offenders.**

25. Every one sentenced to imprisonment or detention in or ordered to be detained in any industrial refuge, industrial home or industrial school, by reason of incorrigible or vicious conduct, or with, reference to the general discipline of the institution, who is beyond the control of the officer in charge of such institution, may; at any time before the expiration of his term of imprisonment or detention, be brought without warrant before any magistrate. 53 V., c. 37, s. 2.

26. If the officer in charge of such refuge, home or school certifies in writing that the removal of such offender to a place of stricter imprisonment is desirable, and if the governing body of such refuge, home or school applies for such removal, and if sufficient cause therefor is shown to the satisfaction of such magistrate, he may order the offender to be removed to and to be kept imprisoned, for the remainder of his original term of imprisonment or detention, in any reformatory prison or reformatory school in which by law such offender may be imprisoned for an indictable offence; and when there is no such reformatory prison or school, the magistrate may order the offender to be removed to and to be kept imprisoned in any other place of imprisonment to which the offender may be lawfully committed. 53 V., c. 37, s. 2.

27. The magistrate may, upon conviction for any such incorrigible or vicious conduct, sentence the offender to such additional term of imprisonment, not exceeding one year, as to such magistrate seems a proper punishment for the incorrigible conduct of the offender. 53 V., c. 37, s. 2.
Juvenile Offenders and Vagrants.

28. Young persons apparently under the age of sixteen years who are,—
(a) arrested upon any warrant; or,
(b) committed to custody at any stage of a preliminary inquiry into a charge for an indictable offence; or,
(c) committed to custody at any stage of a trial, either for an indictable offence or for an offence punishable on summary conviction; or,
(d) committed to custody after such trial, but before imprisonment under sentence;
shall be kept in custody separate from older persons charged with criminal offences and separate from all persons undergoing sentences of imprisonment, and shall not be confined in the lock-ups or police stations with older persons charged with criminal offences or with ordinary criminals. 57-58 V., c. 58, s. 2.

29. The court or person before whom any offender whose age at the time of his trial does not, in the opinion of the court, exceed sixteen years, is convicted, whether summarily or otherwise, of any offence punishable by imprisonment, may sentence such offender to imprisonment in any reformatory prison in the province in which such conviction takes place, subject to the provisions of any Act respecting imprisonment in such reformatory.

2. In no case shall the sentence be less than two years' or more than five years' confinement in such reformatory prison.

3. Such imprisonment shall be substituted, in such case, for the imprisonment in the penitentiary or other place of confinement by which the offender would otherwise be punishable under any Act or law relating thereto: Provided, that in every case where the term of imprisonment is fixed by law to be more than five years, then such imprisonment shall be in the penitentiary.

4. Every person imprisoned in a reformatory shall be liable Labour to perform such labour as is required of such person.

5. This section shall apply to the Halifax Industrial School and Saint Patrick's Home at Halifax, although the age of the offender exceeds sixteen years, if it does not exceed eighteen years; and in any case of imprisonment in the said School or Home the sentence may be for a term of one year or more, but not exceeding five years. 55-56 V., c. 29, s. 956; 2 E. VII., c. 13, s. 4.

30. If provision is made therefor by the laws of the province in which the conviction takes place, any person convicted of being a loose, idle or disorderly person may, instead of being committed to the common gaol or other public prison, be committed to a reformatory.
mitted to any house of industry or correction, alms house, work house or reformatory prison. R.S., c. 157, s. 8.

Custody Pending Transfer to Prison, etc.

31. Any sheriff or other person having the custody of any offender sentenced to imprisonment in any prison, reformatory, refuge or industrial school, may detain the offender in the common gaol of the county or district in which such offender is sentenced, or other place of confinement in which such offender is, until some person lawfully authorized in that behalf requires such offender's delivery for the purpose of being conveyed to such prison or reformatory. R.S., c. 183, s. 42; 53 V., c. 37, s. 39.

32. If any offender sentenced to be confined in any prison or refuge is in such a weak state of health that he cannot safely or conveniently be removed thereto, he may be detained in the common gaol or other place of confinement in which he is, until he is sufficiently recovered to be safely and conveniently removed to such prison or refuge. R.S., c. 183, s. 29; 53 V., c. 37, s. 39; 56 V., c. 33, s. 8.

33. If the gaol surgeon, or other medical practitioner acting in that behalf, certifies that any offender sentenced to any prison or refuge is in such a weak state of health that such offender is unable to perform hard labour, such offender may be detained in the common gaol or other place of confinement in which such offender is, until he is sufficiently recovered to be employed at hard labour. R.S., c. 183, s. 43.

34. The time for which any person, sentenced to imprisonment in any prison or refuge, is held in custody, under the last three preceding sections, shall be reckoned in computing the time served by such person in such prison or refuge. R.S., c. 183, s. 44.

35. Any offender who, under the provisions of this Act, is liable to be removed from any common gaol to any prison or refuge, or from any prison or refuge back to any gaol or to any penitentiary, may be conveyed for that purpose through any county, district or other territorial division in the province in which such offender has been convicted, and shall be deemed to be in lawful custody while being so conveyed.

2. Any person lawfully authorized to convey such offender as aforesaid shall, until such offender has been delivered to the warden or superintendent, or other head of such prison or refuge, or the warden of the penitentiary, as the case may be, have the same authority and power over and with regard to such offender and for preventing escape, and recapturing such offender in case of escape, as the sheriff of the county, district or
or other territorial division in which such offender was convicted would himself have in conveying such offender from one part of that county, district or other territorial division to another. R.S., c. 183, s. 57; 56 V., c. 33, s. 7; 57-58 V., c. 60, s. 7.

36. The constable or other officer having charge of any person accused or convicted of any offence in any provisional judicial district in the province of Ontario committed to any common gaol in the Province, and entrusted with his conveyance to any such common gaol, may pass through any county in the Province with such person in his custody.

2. The keeper of the common gaol of any county in the province of Ontario in which it is found necessary to lodge for safe keeping any such person so being conveyed through such county in custody, shall receive such person and safely keep and detain him in such common gaol for such period as is reasonable or necessary.

3. The keeper of any common gaol in the Province, to which any such person is committed as aforesaid, shall receive such person and safely keep and detain him in such common gaol under his custody until discharged in due course of law, or bailed in cases in which bail may be by law taken. 55-56 V., c. 29, s. 555.

Discharge and Recommittal.

37. No prisoner shall be discharged from any prison, or from any refuge for females at the termination of his or her term of confinement, if then labouring under any contagious or infectious disease, or under any acute or dangerous illness, but he or she shall be permitted to remain in such prison or refuge until he or she recovers from the disease or illness.

2. Any person remaining for any such cause in such prison or refuge shall be under the same discipline and control as if his or her term was still unexpired. R.S., c. 183, s. 30; 53 V., c. 37, s. 39; 56 V., c. 33, s. 9; 57-58 V., c. 60, s. 11.

38. Whenever the time of any offender’s sentence in any prison or refuge under any law within the legislative authority of the Parliament of Canada expires on a Sunday, such offender shall be discharged on the previous Saturday, unless such offender desires to remain until the Monday following. R.S., c. 183, s. 45; 53 V., c. 37, s. 39; 56 V., c. 33, s. 10; 57-58 V., c. 60, s. 10.

39. Any person who, under the provisions of this Act, is liable to be removed from any prison or refuge, may be so removed notwithstanding that such imprisonment, or any part thereof, is imposed in default of the payment of a fine or penalty 2815 in R.S., 1906.
in money, and that such person is entitled to be discharged upon payment of such fine or penalty.

2. If the fine or penalty is paid after the removal of the offender, the same shall be paid to the proper officer of such prison or refuge, to defray the expenses of the removal of the said offender, and otherwise for the uses of such prison.

3. Nothing in this section contained shall affect the right of any private person to such fine or penalty, or any part thereof. R.S., c. 183, ss. 21 and 33; 54-55 V., c. 55, s. 3; 57-58 V., c. 60, s. 3

40. The judge of any county court or any police magistrate may, upon satisfactory proof that any boy or girl who was sentenced under the provisions of any Act of the Parliament of Canada, and who has been discharged on probation, has violated the conditions of his or her discharge, order such boy or girl to be recommitted to the refuge, and thereupon such boy or girl shall be detained therein under his or her original sentence, as if such boy or girl had never been discharged. R.S., c. 183, s. 48.

41. The Governor in Council may make such regulations as he considers advisable for the discharge, after the expiration of the fixed term of sentence, of prisoners confined in any refuge under any Act of the Parliament of Canada; and such discharge may be either absolute or upon probation, subject to such conditions as are imposed under the authority of the said regulations. R.S., c. 183, s. 47.

PART II.

ONTARIO.

Application of Part.

To Ontario. 42. This Part applies only to the province of Ontario. R S., c. 183, s. 17.

Interpretation.

43. In this Part, unless the context otherwise requires, 'certified industrial school' means any industrial school in the province of Ontario certified under the Act passed by the legislature of the Province intituled The Industrial Schools Act, and includes for all the purposes of this Act, the Ontario Reformatory for Boys. 3 E. VII., c. 51, ss. 1 and 2.

The Central Prison for the Province of Ontario.

44. Every court in the province of Ontario, before which any person is convicted for an offence against the laws of Canada,
Canada, punishable by imprisonment in the common gaol for the term of two months, or for any longer time, may sentence such person to imprisonment in the Central Prison for the province of Ontario, instead of the common gaol of the county or judicial district where the offence was committed, or was tried. R.S., c. 183, s. 19.

45. Every person confined in any one of the common gaols of the Province, under sentence of imprisonment for any offence against the laws of Canada, may, by the direction of the Provincial Secretary, be transferred from such common gaol to the Central Prison, there to be imprisoned for the unexpired portion of the term of imprisonment to which such person was originally sentenced.

2. Such person shall thereupon be imprisoned in the Central Prison for the residue of such term, unless in the meantime he is lawfully discharged or removed, and shall be subject to all the rules and regulations of the Central Prison. R.S., c. 183, s. 20.

46. The warden of the Central Prison shall receive into the said prison every offender legally certified to him as sentenced to imprisonment therein; and shall detain him, subject to all the rules, regulations and discipline thereof, until the term for which he has been sentenced is completed, or until he is otherwise discharged in due course of law. R.S., c. 183, s. 22.

47. The Lieutenant Governor may, from time to time, authorize, direct or sanction the employment upon any specific work or duty, without or beyond the walls or limits of the Central Prison, of any of the prisoners confined or sentenced to be imprisoned therein.

2. All such prisoners shall, during such last mentioned employment, be subject to all the rules, regulations and discipline of such prison, so far as the same are applicable, and to such other regulations, for the purpose of preventing escapes, and otherwise, as are approved by the Lieutenant Governor in that behalf. R.S., c. 183, s. 23.

48. The Lieutenant Governor may, from time to time, by warrant signed by the Provincial Secretary, or by such other officer as is authorized by the Lieutenant Governor in that behalf, direct the removal of any offender from the Central Prison to the Ontario Reformatory for Boys, or from the Central Prison to the common gaol of the county in which he was sentenced, or to any other gaol, or from the Reformatory to the Central Prison. R.S., c. 183, s. 24.

Certified Industrial Schools for Boys.

49. If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence R.S., 1906.
loyalty against a law of Canada for which a sentence of imprisonment for a period of three months or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which such boy is convicted is satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to a certified industrial school, then such court may sentence the boy to be imprisoned in any certified industrial school, for such term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence; and may further sentence such boy to be kept in such certified industrial school for an indefinite time after the expiration of such fixed term: Provided, that the whole period of confinement in such certified industrial school shall not exceed five years from the commencement of his imprisonment. R.S., c. 183, s. 25; 3 E. VII., c. 51, s. 1

50. If any boy, apparently under the age of sixteen years, is convicted of any offence against a law of Canada punishable on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period not less than fourteen days, any judge of any one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and when he considers that the material and moral welfare of the boy requires such sentence, he may, as an additional sentence for such offence, sentence such boy to be sent either forthwith or at the expiration of his imprisonment in such gaol, to any certified industrial school, to be there detained for the purpose of his industrial and moral education, for an indefinite period, not exceeding in the whole five years, from the commencement of his imprisonment in the common gaol. R.S., c. 183, s. 26; 3 E. VII., c. 51, s. 1.

51. The Governor General, by warrant under his hand, may, at any time in his discretion (the consent of the Provincial Secretary of Ontario having been first obtained), cause any boy who is imprisoned in a reformatory or gaol in the Province, under sentence for an offence against a law of Canada, and who is certified by the court, judge or magistrate by whom he was tried to have been, in the opinion of such court, judge or magistrate, at the time of his trial, or or under the age of thirteen years, to be transferred for the remainder of his term of imprisonment to a certified industrial school in the Province. 53 V., c. 37, s. 32.

52. Where, under any law of Canada, any boy is convicted, whether summarily or otherwise, of any offence punishable by imprisonment, and the court, judge, stipendiary or police magistrate by whom he is so convicted is of opinion that such boy

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boy does not exceed the age of thirteen years, such court, judge or magistrate may sentence such boy to imprisonment in a certified industrial school for any term not exceeding five years and not less than two years: Provided that no such boy shall be detained in any certified industrial school beyond the age of seventeen years.

2. No boy shall be sentenced to any such school, unless public notice has been given in the official gazette of Ontario, and has not been countermanded, that such school is ready to receive and maintain the boys sentenced under laws of the Dominion. 53 V., c. 37, s. 33.

53. Every boy sentenced or transferred to a certified industrial school shall be detained therein until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions hereof and to any regulations made, as hereinbefore provided, be detained in such certified industrial school, for a period not to exceed five years from the commencement of his imprisonment, for the purpose of his industrial and moral education. R.S., c. 183, s. 27.

54. A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or other magistrate by whom any boy is sentenced to confinement in such certified industrial school, shall be a sufficient authority to the sheriff, constable or other officer who is directed, verbally or otherwise, so to do, to convey such boy to the common gaol of the county where such sentence is pronounced, and for the gaoler of such gaol to receive and detain such boy, until some person, lawfully authorized, requires the delivery of such boy for removal to the certified industrial school. R.S., c. 183, s. 28; 3 E. VII, c. 51, s. 1.

The Andrew Mercer Ontario Reformatory for Females.

55. Every court before which any female is convicted of an offence against the laws of Canada, punishable by imprisonment in the common gaol for a term of two months, or for any longer time, may sentence such female to imprisonment in the Andrew Mercer Ontario Reformatory for Females, instead of the common gaol of the county or judicial district where the offence was committed or was tried. R.S., c. 183, s. 31.

56. Any female, from time to time, confined in any common gaol, under sentence of imprisonment for any offence against the laws of Canada, may, by direction of the Provincial Secretary, be transferred from such common gaol to the Reformatory, to be imprisoned for the unexpired portion of the term of imprisonment to which such female was originally sentenced or committed to the common gaol.
2. Such female shall thereupon be imprisoned in the Reformatory for the residue of the said term, and shall be subject to all the rules and regulations of the Reformatory. R.S., c. 183, s. 32.

57. Whenever any female is convicted under section two hundred and thirty-nine of the Criminal Code, or is convicted under Part XVI. of the Criminal Code, of an offence triable under that Part, she may be sentenced to the Reformatory for any term less than two years.

2. If any term exceeding six months is inflicted, no fine shall be imposed in addition. R.S., c. 183, s. 34.

58. Any officer appointed by the Lieutenant Governor, or other officer or person, by his direction or by direction of the court or other lawful authority, may convey to the Reformatory any convict sentenced, or liable to be imprisoned therein, and deliver her to the superintendent or keeper thereof, without any further warrant than a copy of the sentence taken from the minutes of the court by which the offender was tried, and certified by a judge or the clerk or acting clerk of such court. R.S., c. 183, s. 35.

59. The Superintendent of the Reformatory shall receive into the same every offender legally certified to her as sentenced to imprisonment therein, and shall there detain her, subject to all the rules, regulations and discipline thereof, until the term for which she has been sentenced is completed, or until she is otherwise discharged in due course of law. R.S., c. 183, s. 36.

60. The Lieutenant Governor may, from time to time, by warrant signed by the Provincial Secretary, or by such other officer as is authorized by the Lieutenant Governor in that behalf, direct the removal from the Reformatory back to the common gaol, or to any other gaol in Ontario, of any person removed to the Reformatory under this Act. R.S., c. 183, s. 37.

61. The Superintendent of the Reformatory, or the keeper of any common gaol, having the custody of any offender ordered to be removed, shall, when required so to do, deliver up to the constable or other officer or person who produces the said warrant, such offender, together with a copy, attested by the said Superintendent or keeper, of the sentence and date of conviction of such offender, as given on the reception of the offender into the custody of such Superintendent or keeper. R.S., c. 183, s. 38.

Industrial Refuge for Girls.

62. If any girl who at the time of her trial appears to the court to be under the age of fourteen years is convicted of any offence R.S., 1906.
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offence for which a sentence of imprisonment for a term of one month or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which the girl is convicted is satisfied that a due regard for her material and moral welfare manifestly requires that she should be committed to the Industrial Refuge for Girls of Ontario, such court may sentence such girl to be imprisoned therein, for such fixed term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence, and may further sentence the said girl to be kept in such Industrial Refuge for an indefinite time after the expiration of such fixed term: Provided that the whole term of confinement in the Industrial Refuge shall not exceed five years from the commencement of her imprisonment. R.S., c. 183, s. 39.

63. If any girl, apparently under the age of fourteen years, is convicted of any offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a term of not less than fourteen days, any judge of one of the superior courts, or any judge of a county court, in any case occurring within his county, may examine and inquire into the circumstances of such case and conviction, and if he considers the material and moral welfare of the girl requires it, he may, as an additional sentence for such offence, sentence such girl to be sent either forthwith, or at the expiration of her imprisonment in such gaol, to the Industrial Refuge for Girls, to be there detained for the purpose of her industrial and moral education for an indefinite period, not exceeding in the whole five years from the commencement of her imprisonment in the common gaol. R.S., c. 183, s. 40.

64. Every girl so sentenced shall be detained in the Refuge until the expiration of the fixed term of her sentence, unless sooner discharged by lawful authority; and such girl thereafter shall, and every girl sentenced under the last preceding section shall, subject, in both cases, to the provisions of this Part, and to any regulations made as in this Part hereafter provided, be detained in the Refuge for a term not exceeding five years from the commencement of her imprisonment, for the purpose of her industrial and moral education. R.S., c. 183, s. 41.

Apprenticeship.

65. If any respectable and trustworthy person is willing to undertake the charge of any boy committed to any certified industrial school, when such boy is over the age of twelve years, or of any girl committed to the Industrial Refuge for Girls, as an apprentice to the trade or calling of such person, or for the purpose

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purpose of domestic service, and such boy or girl is confined in
the certified industrial school or Refuge by virtue of a sentence
or order pronounced under the authority of any Act of the
Parliament of Canada, the superintendent of the certified
industrial school or refuge may, with the consent and in the
name of the Inspector of prisons and public charities of
Ontario, bind the said boy or girl to such person for any term
not to extend, without his or her consent, beyond a term of five
years, from the commencement of his or her imprisonment.

2. The Inspector shall thereupon order that such boy or girl
shall be discharged from the said school or refuge on
probation, to remain so discharged, provided his or her conduct
during the residue of the term of five years, from the commence-
ment of his or her imprisonment, continues good, and such boy
or girl shall be discharged accordingly.

3. Any wages reserved in any indenture of apprenticeship
made under this section shall be payable to such boy or girl, or
to some other person for his or her benefit. R.S., c. 183, s. 46.

Other Provisions as to Juvenile Offenders.

66. No boy or girl shall be discharged under the last
preceding section, except on probation, as aforesaid, until after
the fixed term of his or her sentence has elapsed, unless by the
authority of the Governor General. R.S., c. 183, s. 46.

67. If any child, appearing to the court or justice before
whom the child is tried, to be under the age of fourteen years,
is convicted of any offence against the law of Canada, whether
indictable or punishable on summary conviction, such court or
justice, instead of sentencing the child to any imprisonment
provided by law in such case, may order that the child shall be
committed to the charge of any home for destitute or neglected
children, or to the charge of any children's aid society duly
organized and approved by the Lieutenant Governor of Ontario
in Council, or to any certified industrial school. 57-58 V.,
c. 58, s. 3.

68. Whenever an information or complaint is laid or made
against any boy under the age of twelve years, or girl under
the age of thirteen years, for the commission of any offence
against the law of Canada, whether indictable or punishable on
summary conviction, the court or justice seized thereof shall
give notice thereof in writing to the executive of the children's
aid society, if there be one in the county, and shall allow him
opportunity to investigate the charges made, and may also
notify the parents of the child, or either of them, or other
person apparently interested in the welfare of the child.

2. The court or justice may advise and counsel with the said
officer and with the parents or such other person, and may
consider any report made by the said officer upon the charges.

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3. If, after such consultation and advice, and upon consideration of any report so made, and after hearing the matter of information or complaint, the court or justice is of opinion that the public interest and the welfare of the child will be best served thereby, then, instead of committing the child for trial or sentencing the child, as the case may be, the court or justice may, by order,—

(a) authorize the said officer to take the child and, under the provisions of the law of Ontario, bind the child out to some suitable person until the child has attained the age of twenty-one years, or any less age; or,
(b) place the child out in some approved foster-home; or,
(c) impose a fine not exceeding ten dollars; or,
(d) suspend sentence for a definite period or for an indefinite period; or,
(e) if the child has been found guilty of the offence charged or is shown to be wilfully wayward and unmanageable, commit the child to a certified industrial school, or to the Ontario Reformatory for Boys, or to the Refuge for Girls, as the case may be, and in such cases, the report of the said officer shall be attached to the warrant of commitment. 57-58 V., c. 58, s. 4.

69. Whenever an order has been made under either of the two sections last preceding, the child may thereafter be dealt with under the law of the province of Ontario, in the same manner, in all respects, as if such order had been lawfully made in respect of a proceeding instituted under authority of a statute of the province of Ontario. 57-58 V., c. 58, s. 5.

70. Except in the case of children cared for in a shelter or temporary home established under the Act of the Legislature of the province of Ontario, passed in the fifty-sixth year of the reign of Her late Majesty, and intituled An Act for the Prevention of Cruelty to and better Protection of Children, in a municipality in which there is but one children's aid society, no Protestant child shall, under the three sections last preceding, be committed to the care of any Roman Catholic children's aid society, or be placed in any Roman Catholic family as its foster-home; nor shall any Roman Catholic child, under the said sections, be committed to the care of any Protestant children's aid society, or be placed in any Protestant family as its foster-home. 57-58 V., c. 58, s. 6.

Houses of Refuge for Females.

71. All females sentenced to, or confined from time to time in any of the common gaols of the province of Ontario, under sentence of imprisonment by a police magistrate of any city, for any offence against any Act of the Parliament of Canada, may be committed to a house of refuge. Committal of females to house of refuge. 2823 R.S., 1906.
may be committed to any refuge situate in the county or union of counties, city or town in which such females respectively were convicted, or may be transferred, by order of such police magistrate, from such common gaol to such refuge, to be there respectively imprisoned for the whole or the unexpired portions of the terms of imprisonment for which such females were originally sentenced or committed respectively to such common gaol.

2. Such females shall thereupon be imprisoned in such refuges for the whole or the residue of their respective terms of imprisonment, and shall be subject to all the rules and regulations of such refuges respectively.

3. No Protestant female shall, under this Part, be committed or transferred to a Roman Catholic institution, and no Roman Catholic to a Protestant institution. 57-58 V., c. 60, s. 2.

72. The police magistrate may, from time to time, direct the removal of any such offender from any house of refuge to the common gaol, to which such offender had been originally sentenced, or from which she had been before removed, or to any other place of imprisonment to which the offender may be removed according to law. 57-58 V., c. 60, s. 4.

73. Any officer to whom the magistrate’s warrant in that behalf is directed may convey to the house of refuge for females named in his warrant in that behalf, any offender liable to be imprisoned therein, and deliver her to the superintendent without any further warrant than a copy of the sentence or warrant of commitment against such offender from the proper court in that behalf, certified under the hand of the gaoler to whom the same is directed. 57-58 V., c. 60, s. 5.

74. The superintendent of the refuge, or the keeper of any common gaol, having the custody of any offender ordered to be removed from a refuge to a common gaol or other place of imprisonment, or from the common gaol to a refuge, shall, when required so to do, deliver up to the constable or other officer or person who produces the said warrant, the offender named therein, together with a copy certified by him or her, of the warrant of commitment of the offender, or of the copy thereof as given him or her on the reception of the offender into his or her custody. 57-58 V., c. 60, s. 6.

75. The officer or other person aforesaid shall give a receipt to the said superintendent or gaoler for the offender, and shall thereupon, with all convenient speed, convey and deliver up the offender with the said certified copy of the warrant into the custody of the superintendent of the refuge or keeper of the gaol or other place of imprisonment mentioned in the warrant, who shall give a receipt in writing for every offender so received into his or her custody to such officer or other person as his or her R.S., 1906.
her discharge; and the offender shall be kept in custody in the
refuge or gaol or other place of imprisonment to which she
may have been so removed, until the termination of her sentence
or until her pardon or release or discharge by law, unless she
is in the meantime again removed under competent authority.
57-58 V., c. 60, s. 8.

76. Any offender who escapes from any such refuge before
her sentence therein has expired, may be again arrested without
any warrant by any sheriff, sheriff's bailiff or constable of the
county, city, town or village in which she may be found and
conveyed to the refuge from which she escaped, or to the county
gaol of the county from which she was first removed, and she
shall there be confined in such refuge or gaol for the balance of
the period of her sentence which remained unexpired at the
time of her escape. 57-58 V., c. 60, s. 9.

77. No prisoner shall be committed to any refuge without
the consent of the superintendent thereof in that behalf. 57-58
V., c. 60, s. 12.

PART III.

QUEBEC.

Application of Part.

78. This Part applies only to the province of Quebec. R.S., To Quebec.
c. 183, s. 49.

Reformatory Schools for Boys.

79. Every person apparently under the age of sixteen years,
who is convicted before any court of criminal jurisdiction or
before any judge of the sessions of the peace, recorder, district
or police magistrate, of any offence for which he would be liable
to imprisonment, may be sentenced, on such conviction, to be
detained in a certified reformatory school for any term not less
than two years and not more than five years, or he may be sen-
tenced to be first imprisoned in the common gaol for a term not Term.
in any case exceeding three months, and at the expiration of his
sentence, to be sent to a certified reformatory school, and to be
there detained for a term of not less than two years and not
more than five years. R.S., c. 183, s. 50.

80. The Lieutenant Governor may, at any time in his discretion, order that any offender detained in such reformatory school, under a summary conviction, be discharged. R.S., c. 183, s. 51.

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81. A person apparently under the age of sixteen years, arrested on a charge of having committed any offence not capital shall not, while awaiting trial for such offence, be detained in any common gaol, if there is a certified reformatory school within three miles of such gaol, but shall be detained in such reformatory school while awaiting trial.

2. If there is more than one such school, within such distance, the person so charged shall be detained in that one of them which is conducted most nearly in accordance with the religious belief to which his parents belong, or in which he has been educated. R.S. c. 183, s. 53.

82. Every offender detained in a certified reformatory school, who wilfully neglects or refuses to conform to the rules thereof, shall, on summary conviction before a justice of the peace having jurisdiction in the place or district in which the school is situate, be imprisoned with hard labour, for any term not exceeding three months.

2. At the expiration of the term of his imprisonment, he shall, by and at the expense of the managers of the school, be brought back to the school from which he was taken, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to the prison. R.S., c. 183, s. 54.

Reformatory Prisons for Females.

83. Whenever the Lieutenant Governor of the province of Quebec has declared, by proclamation published in the official gazette of the Province, that suitable arrangements have been made in any district in the Province, for the detention and proper government and discipline of female convicts in any separate building or separate portion of the common gaol in such district, as a reformatory prison for such convicts, and has, by such proclamation, declared that such separate building or portion of a common gaol shall be a reformatory prison for the purposes hereof, any female person convicted in the said province of any offence, not capital, and for which she would, without this Part, be punishable by imprisonment for any term not less than two years, but not exceeding seven years, shall be punishable by imprisonment in the female reformatory prison for any term less than seven, but not less than five years, and she may be sentenced to such imprisonment accordingly, although she would not be liable to imprisonment in the penitentiary for so long a term as that for which she may be so sentenced to imprisonment in the female reformatory prison. R.S., c. 183, s. 55.

84. If, after such proclamation, any female is convicted of any indictable offence punishable by imprisonment for any term less than two years, or of any offence under section two hundred and 2826
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and thirty-nine of the Criminal Code, then, unless it is proved that she has been previously convicted and imprisoned twice or oftener as aforesaid, such convict shall be asked, by the judge, recorder, judge of the sessions of the peace, commissioner of police, district, police or stipendiary magistrate, mayor, warden or the two justices of the peace, or other functionary before whom the conviction is had, whether she consents, instead of the imprisonment to which she is otherwise liable, to be sentenced to imprisonment for a term of five years in the female reformatory prison.

2. If she refuses to give such consent, sentence shall be passed upon her as if this Part had not been passed, but if she gives such consent, or it is proved that she has been twice convicted as aforesaid, the fact shall be duly recorded or entered on the proceedings in the case, and she shall be sentenced accordingly to imprisonment in the female reformatory prison for a term of five years. R.S., c. 183, s. 56.

85. If, at the time of the passing of any such sentence, there is more than one female reformatory prison in the Province, the imprisonment under such sentence shall be in that one of such reformatory prisons which is in the same district as the place at which the sentence is passed, or if there is no reformatory prison in such district, then in the reformatory prison nearest to such place; but if there is not more than one such reformatory prison in the Province, then such imprisonment shall be in it. R.S., c. 183, s. 57.

86. Each such female reformatory prison as aforesaid, shall be a house of correction and a public reformatory prison, within the meaning of the sixth enumeration of the ninety-second section of The British North America Act, 1867, and subject to such laws as the legislature of the Province makes with respect to the establishment, maintenance and management thereof. R.S., c. 183, s. 58.

Employment of Prisoners.

87. Every sheriff or gaoler in the province of Quebec, being authorized by the Lieutenant Governor, or in such manner as any Act of the Legislature of the Province provides, and under such regulations as the Legislature makes or authorizes to be made in that behalf, may employ any male convict sentenced to hard labour in such prison, at hard labour outside the walls or precincts of the prison, and may exercise the same powers of restraint and discipline, and for preventing escape, while the convict is so outside of the walls or precincts, as if he was inside the same, and whether his labour is so employed directly by the Government of the Province or by R.S., 1906.
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by any contractor to whom such labour is let or hired out by the Government, or by any competent authority.

2. The sentence of any such male convict shall be understood to include such employment as aforesaid.

3. Any time during which a convict is so employed shall be reckoned as part of the term for which he was sentenced to be confined in such prison. R.S., c. 183, s. 59.

Common Gaols.

88. Every common gaol shall be a house of correction, reformatory prison and place of detention. R.S., c. 183, s. 60.

PART IV.

NOVA SCOTIA.

Application of Part.

89. This Part applies only to the province of Nova Scotia.

The Halifax Industrial School.

90. Whenever any boy, who is a Protestant and apparently under the age of eighteen years, is convicted in Nova Scotia of any offence, for which by law he is liable to imprisonment, the judge, stipendiary magistrate, justice or justices by whom he is so convicted may sentence such boy to be detained in the Halifax Industrial School for any term not exceeding five years and not less than one year. 2 E. VII., c. 13, ss. 1 and 4.

91. The Industrial School shall, at all times, be open to inspection by the Mayor and Aldermen and the Stipendiary Magistrate of the city of Halifax, or any of them. R.S., c. 183, s. 63.

92. The Committee of the Industrial School shall be bound to teach and instruct each boy so sentenced and detained as aforesaid, in reading and writing, and in arithmetic as far as the rule of three, and also to teach each such boy such one of the trades or occupations which are, from time to time, taught in the said school, as the committee deems most adapted to his capabilities. R.S., c. 183, s. 64.

St. Patrick's Home, Halifax.

93. Whenever any boy, who is a Roman Catholic and apparently under the age of eighteen years, is convicted in Nova Scotia of any offence for which by law he is liable to imprisonment, the judge, stipendiary magistrate, justice or justices by whom
whom he is so convicted may sentence such boy to be detained in Saint Patrick's Home at Halifax for any term not exceeding five years and not less than one year. 2 E. VII., c. 13, s. 3.

94. The Superintendent of the Home may at any time notify the mayor, warden or other chief magistrate of any municipality that no prisoners, beyond those already under sentence in the Home, will be received therein.

2. After such notification no boy shall be sentenced in such municipality to be detained in the Home until notice has been received by such mayor, warden or chief magistrate, from the Superintendent, that prisoners will again be received in the Home. 53 V., c. 37, s. 37.

95. The Home shall, at all times, be open to inspection by any officer appointed by the Governor in Council to inspect the same, and, when and so long as any pecuniary aid is received from the city of Halifax, it shall be open to inspection by the Mayor, Aldermen and Stipendiary Magistrate of the City, or any of them. R.S., c. 183, s. 67.

96. The governing body of the Home shall be bound to teach and instruct each boy so sentenced and detained as aforesaid in reading and writing, and in arithmetic to the end of the rule of three, and also to teach each such boy such one of the trades or occupations which are, from time to time, taught in the Home, as such governing body deems most adapted to his capabilities. R.S., c. 183, s. 68.

97. If any boy so sentenced and detained in the Home has, in the opinion of the governing body of the Home, so conducted himself during a term of six consecutive months by good behaviour, diligence and industry as to warrant his being set at large and no longer detained in the Home, and if the Police Court or Stipendiary Magistrate of the city of Halifax concurs with the said governing body in recommending the issue of a license to such boy to be at large, then the Minister of Justice, or such person as he appoints to issue such licenses, may issue a license to such boy to be at large in the province of Nova Scotia, or in such part thereof as is specified in the license.

2. The license may be revoked or altered at pleasure by the Minister of Justice, or by such person as he appoints as aforesaid.

3. The Minister of Justice may make such regulations as he sees fit as to the form of such licenses, and conditions of enjoyment and forfeiture thereof, and for ascertaining that the conditions are duly complied with.

4. Upon information on oath that the holder of any such license has contravened any of the conditions thereof, the Police Court or Stipendiary Magistrate of the city of Halifax may issue license contravened.

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issue a warrant for his arrest, wherever in the Dominion of Canada he may be, and cause him to be brought before such Court or Magistrate, and upon conviction of such contravention, shall remand him to the Home, there to serve the remainder of his original sentence, with such additional term, not exceeding one year, as to the Court or Magistrate seems proper. R.S., c. 183, s. 70.

Good Shepherd Reformatory for Females.

98. Every judge, stipendiary magistrate or magistrate in the Province before whom any female person being a Roman Catholic above the age of sixteen is convicted of an offence against the law of Canada, punishable by imprisonment in a city prison or common gaol for the term of two months or for any longer time, may sentence such female person to an extended or substituted imprisonment in the Good Shepherd Reformatory at Halifax, subject to the following conditions:—

(a) If such female person is under the age of twenty-one years, such extended imprisonment may be until she attains the age of twenty-one years or for any shorter or longer term, not less than two and not more in the whole than four years;

(b) If such female person is of the age of twenty-one years or upwards, such extended imprisonment may be for any term not less than one year and not more than two years. 54-55 V., c. 55, s. 1; 58-59 V., c. 43, s. 1.

99. Any female Roman Catholic aged more than sixteen years, confined in any city prison or common gaol in the Province, under sentence of imprisonment for any offence against the law of Canada, may, by direction of the Provincial Secretary, be transferred from such city prison or common gaol to the Reformatory, to be imprisoned for the unexpired portion of the term of imprisonment to which such female person was originally sentenced or committed to such city prison or common gaol.

2. Such female person shall thereupon be imprisoned in the Reformatory for the residue of the said term, and shall be subject to all the rules and regulations of the Reformatory. 54-55 V., c. 55, s. 2.

100. Any female Roman Catholic, convicted under section two hundred and thirty-nine of the Criminal Code, or under Part XVI. of the Criminal Code, of any offence triable under that Part, may be sentenced to the Reformatory for any term less than two years.

2. If any term exceeding six months is inflicted, no fine shall be imposed in addition. 54-55 V., c. 55, s. 4.

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101. Any officer appointed by the Lieutenant Governor, or other officer or person, by his direction or by direction of the judge, stipendiary magistrate, magistrate or other lawful authority, may convey to the Reformatory any convict sentenced, or liable to be imprisoned therein, and deliver her to the Superintendent, without any further warrant than a copy of the sentence, taken from the minutes of the court before which the offender was tried and certified by a judge, magistrate or justice, or the clerk or acting clerk of such court. 54-55 V., c. 55, s. 5.

102. Subject to the provisions hereinafter contained, the Superintendent of the Reformatory shall receive into the same every offender legally certified to her as sentenced to imprisonment therein, and shall there detain her, subject to all the rules, regulations and discipline thereof, until the term for which she has been sentenced is completed, or until she is otherwise discharged in due course of law. 54-55 V., c. 55, s. 6.

103. The Lieutenant Governor may, from time to time, by warrant signed by the Provincial Secretary, or by such other officer as is authorized by the Lieutenant Governor in that behalf, direct the removal from the Reformatory back to the city prison or common gaol, or to any other gaol in Nova Scotia, of any person removed to the Reformatory under this Part. 54-55 V., c. 55, s. 7.

104. The Superintendent of the Reformatory, or the keeper of a city prison or common gaol, having the custody of any offender ordered to be removed, shall, when required so to do, deliver up to the constable or other officer or person who produces the said warrant, such offender, together with a copy, attested by the Superintendent, or keeper, of the sentence and date of conviction of such offender, as given on the reception of the offender into the custody of the Superintendent or keeper. 54-55 V., c. 55, s. 8.

Good Shepherd Industrial Refuge.

105. When any Roman Catholic girl, apparently under the age of sixteen years, is convicted of any offence for which by law she is liable to imprisonment, the judge, stipendiary magistrate, justice or justices by whom she is so convicted, may, subject to the provisions hereinafter contained, sentence such girl to be detained in the Good Shepherd Industrial Refuge at Halifax for any term not exceeding five years, and not less than two years. 54-55 V., c. 55, ss. 1 and 9.

106. Unless with the written consent of the Superintendent of the Industrial Refuge first had and obtained, no such sentence as a Roman Catholic girls under 16. Term. Maintenance of offenders. R.S., 1906.
as is mentioned in the last preceding section shall be pronounced, unless or until provision has been made by the municipality within which such conviction is had, out of its funds, for the support of girls so sentenced, at the rate of not less than sixty dollars per annum for each girl. 54-55 V., c. 55, s. 10.

Instruction. 107. The Sisters of the Good Shepherd shall be bound to teach and instruct each girl so sentenced and detained in the Industrial Refuge as aforesaid in reading and writing, and in arithmetic to the end of simple proportion, and also to teach each such girl such one of the trades or occupations taught in such refuge, as they deem most adapted to her capabilities. 54-55 V., c. 55, s. 11.

Apprenticeship. 108. If any respectable and trustworthy Roman Catholic is willing to undertake the charge of any girl above the age of twelve years committed to the Industrial Refuge, as an apprentice to the trade or calling of such person, or for the purpose of domestic service, and such girl is confined to the Refuge by virtue of a sentence or order pronounced under the authority of any Act of the Parliament of Canada, the Superintendent of the Refuge may, with the consent of the Stipendiary Magistrate of the city of Halifax, bind such girl to such person for any term not to extend, without her consent, beyond a term of five years from the commencement of her imprisonment, and the Stipendiary Magistrate shall thereupon order that such girl be discharged from the Refuge on probation.

2. Any wages reserved in any indenture of apprenticeship made under this section shall be payable to such girl, or to some other person for her benefit, and in no case shall any such girl be bound beyond the term of her sentence of imprisonment. 54-55 V., c. 55, s. 13.


109. The Superintendent of the Good Shepherd Reformatory or of the Good Shepherd Industrial Refuge may at any time notify the mayor, warden or other chief magistrate of any city, town or other municipality, that no prisoners beyond those already under sentence in the Reformatory or Industrial Refuge will be received therein from such municipality.

2. After such notification no person shall be sentenced in such municipality to be detained in the Reformatory or Industrial Refuge until notice has been received by such mayor, warden or chief magistrate, from the Superintendent, that prisoners will again be received in the Reformatory or Refuge. 54-55 V., c. 55, s. 14.

R.S., 1906.
110. The Reformatory and Industrial Refuge shall, at all times, be severally open to inspection by the Inspectors of Penitentiaries and any other officer appointed by the Governor in Council to inspect the same.

2. When and so long as any pecuniary aid is received from the city of Halifax by either or both of such institutions, the Reformatory and Industrial Refuge, or that one of them so receiving aid, shall be open to inspection by the Mayor, Aldermen and Stipendiary Magistrate of the City, or any of them. 54-55 V., c. 55, s. 15.

111. No rule or regulation made for the conduct or government of the Good Shepherd Reformatory or the Good Shepherd Industrial Refuge shall have any force or effect, unless approved by the Governor in Council. 54-55 V., c. 55, s. 15.

112. If any girl sentenced and detained in the Good Shepherd Reformatory or the Good Shepherd Industrial Refuge, has, in the opinion of the Superintendent thereof, so conducted herself during a term of six consecutive months by good behaviour, diligence and industry as to warrant her being set at large and no longer detained in the Refuge, and if the Police Court or Stipendiary Magistrate of the city of Halifax concurs with the Superintendent in recommending the issue of a license to such girl to be at large, then the Minister of Justice, or such person as he appoints to issue such license, may issue a license to such girl to be at large in the province of Nova Scotia, or in such part thereof as is specified in the license.

2. The license may be revoked or altered at pleasure by the Minister of Justice, or by such person as he appoints as aforesaid.

3. The Minister of Justice may make such regulations as he sees fit as to the form of such licenses, the conditions of enjoyment and forfeiture thereof, and for ascertaining that such conditions are duly complied with.

4. Upon information on oath that the holder of any such license has contravened any of the conditions thereof, a judge or stipendiary magistrate may issue a warrant for her arrest, wherever in the Dominion of Canada she may be, and cause her to be brought before such judge or magistrate, and, upon conviction of such contravention, shall remand her to such industrial refuge, there to serve the remainder of her original sentence, with such additional term, not exceeding one year, as to such judge or magistrate seems proper. 54-55 V., c. 55, s. 12.

Jurisdiction.

113. The jurisdiction of the Police Court and of the Stipendiary Magistrate of the city of Halifax and of the police

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men and other officers of such Court or Magistrate, shall, for the purposes of this Part, extend to every person convicted or sentenced thereunder in any place in the county of Halifax, although beyond the limits of the city of Halifax. R.S., c. 183, s. 71; 54-55 V., c. 55, s. 18.

PART V.

NEW BRUNSWICK.

Application of Part.

To New Brunswick.

114. This Part applies only to the province of New Brunswick.

Interpretation.

115. In the sections of this Part relating to the Good Shepherd Reformatory at St. John, in the province of New Brunswick, 'court' includes a police or stipendiary magistrate or justice of the peace. 3 E. VII., c. 25, s. 1.

Industrial Home for Boys.

116. If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer may be imposed upon an adult convicted of the like offence, the court before whom such boy is convicted may, if satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the Industrial Home for Boys, established in the Province, sentence the boy to be imprisoned in the Home for such term not greater than the term of imprisonment which could be imposed upon an adult for the like offence as the court thinks fit.

2. Such court may further sentence such boy to be kept in the Industrial Home for an indefinite time after the expiration of such fixed term: Provided, that the whole period of confinement in the Industrial Home shall not exceed five years from the commencement of his imprisonment. 56 V., c. 33, s. 3.

117. If any boy, apparently under the age of sixteen years, is convicted of an offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of not less than fourteen days, any judge of the Supreme Court or a county court, in any case occurring within the county or counties for which he is such judge, may examine and inquire into the circumstances of such case and conviction, and when he considers that the material and moral welfare of the boy requires such sentence, he may, as

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as an additional sentence for such offence, sentence such boy, either forthwith or at the expiration of his imprisonment in such gaol, to the Industrial Home, to be there detained for the purpose of his industrial and moral education for an indefinite period, not exceeding in the whole five years from the commencement of his imprisonment in the common gaol. 56 V., c. 33, s. 4.

118. Every boy so sentenced shall be detained in the Industrial Home until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions of this Part and to any regulations made as hereinafter provided, be detained in the Industrial Home for the purpose of his industrial and moral education for a period not to exceed five years from the commencement of his imprisonment. 56 V., c. 33, s. 5.

119. The clergymen of all religious denominations shall, at all convenient hours and subject to the rules or regulations governing the Industrial Home, be admitted therein for the purpose of giving spiritual advice and instruction to the inmates therein of their respective denominations. 56 V., c. 33, s. 5.

120. The chairman of the governing board of the Industrial Home may issue a warrant under his official seal requiring the sheriff or a constable or other officer to deliver any boy sentenced to be confined therein to the Superintendent of the Industrial Home.

2. A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or magistrate by whom the boy is sentenced to such confinement, shall be sufficient authority to the sheriff, constable or other officer, if he is directed verbally or otherwise so to do, to convey the boy to the common gaol of the county where the sentence is pronounced, and for the gaoler of such gaol to receive the boy and retain him until such warrant is presented to the gaoler. 56 V., c. 33, s. 6.

121. If any respectable or trustworthy person is willing to undertake the charge of any boy committed to the said Industrial Home, when such boy is over the age of twelve years, as an apprentice to the trade or calling of such person, and such boy is confined in the Industrial Home by virtue of a sentence or order pronounced under the authority of any Act of the Parliament of Canada, the Superintendent of the Industrial Home may, with the consent of the parent or guardian of the boy, and in the name of the governing board of the Industrial Home, bind the said boy to such person for any term not to extend without his consent, beyond a term of five years from the commencement of his imprisonment.

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2. The said governing board shall thereupon order that such boy shall be discharged from the said Industrial Home on probation, to remain so discharged, provided his conduct during the residue of the term of five years, from the commencement of his imprisonment, continues good, and such boy shall be discharged accordingly.

3. Any wages reserved in any indenture of apprenticeship made under this section shall be payable to such boy, or to some other person for his benefit. 56 V., c. 33, s. 11.

122. No boy shall be discharged under the last preceding section until after the fixed term of his sentence has elapsed, unless by the authority of the Governor General. 56 V., c. 33, s. 12.

123. The Governor in Council may make such regulations as he considers advisable for the discharge, after the expiration of the fixed term of sentence, of prisoners confined in the Industrial Home under any Act of the Parliament of Canada, and such discharge may be either absolute or upon probation, subject to such conditions as are imposed under the authority of the said regulations. 56 V., c. 33, s. 13.

124. The judge of any county court or police magistrate may, upon satisfactory proof that any boy who was sentenced under the provisions of any Act of the Parliament of Canada, and who has been discharged on probation, has violated the conditions of his discharge, order such boy to be recommitted to the Industrial Home, and thereupon such boy shall be detained therein under his original sentence as if he had never been discharged. 56 V., c. 33, s. 14.

125. The Governor General, by warrant under his hand, may, at any time in his discretion, on the application of the Attorney General of the province of New Brunswick, cause any boy who is imprisoned in the Dorchester Penitentiary, or in any gaol in the Province, for an offence against the law of Canada, and who is certified by any judge of the Supreme Court, or of the county court, to have been, in the opinion of such judge, at the time of his trial under the age of fifteen years, to be transferred to the said Industrial Home in the Province, for the remainder of his term of imprisonment, and for such further term in addition thereto as the Governor General, on the report and recommendation of such judge, deems expedient: Provided that the whole term of imprisonment shall not exceed five years from the commencement of the imprisonment in such penitentiary or gaol. 57-58 V., c. 59, s. 1.

126. The Governor General, by warrant under his hand, may, at any time in his discretion, on the application of the Attorney
Attorney General of the province of New Brunswick, cause any Roman boy who is imprisoned in the said Industrial Home under sentence for an offence against any law of Canada, and for a term of years for which he might have been sentenced to imprisonment in the penitentiary, to be transferred to the Dorchester Penitentiary for the remainder of his term of imprisonment. 3 E. VII., c. 30, s. 1.

Good Shepherd Reformatory, Saint John.

127. Whenever any woman or girl, who is a Roman Catholic, is convicted in the city or county of Saint John, in the province of New Brunswick, of any offence against any law of Canada, punishable by imprisonment for a maximum term of less than two years, the court may sentence such woman or girl to imprisonment in the Good Shepherd Reformatory in the said city of Saint John instead of the common gaol or other prison. 3 E. VII., c. 25, s. 2.

128. Whenever any such woman or girl is convicted in the said city or county of Saint John,—

(a) under section two hundred and twenty-eight of the Criminal Code of keeping a common bawdy house; or,
(b) under the said section, of being an inmate or habitual frequenter of a common bawdy house; or,
(c) under section two hundred and thirty-nine of the Criminal Code, of an offence under that section; or,
(d) under Part XVI. of the Criminal Code, of an offence triable under that Part;

she may be sentenced to imprisonment in the Good Shepherd Reformatory for any term less than two years.

2. If a term exceeding six months is inflicted, no fine shall be imposed in addition. 3 E. VII., c. 25, s. 3.

129. Any officer appointed by the Lieutenant Governor, or other officer or person by his direction or by direction of the court or other lawful authority, may convey to the Good Shepherd Reformatory any convict sentenced to be imprisoned therein, and deliver her to the Superintendent or keeper thereof, without any further warrant than a copy of the sentence, taken from the minutes of the court before which the offender was tried and certified by a judge, or the clerk, or acting clerk of such court. 3 E. VII., c. 25, s. 4.

130. The Superintendent or keeper of the Good Shepherd Reformatory shall receive therein every offender legally certified to her as sentenced to imprisonment therein, and shall there detain her, subject to all the rules, regulations and discipline thereof, until the term for which she has been sentenced is completed, or until she is otherwise discharged in due course of law. 3 E. VII., c. 25, s. 5.
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PART VI.

PRINCE EDWARD ISLAND.

Application of Part.

To P. E. Island.

131. This Part applies only to the province of Prince Edward Island.

Reformatory for Juvenile Offenders.

132. As soon as a proclamation has been issued by the Lieutenant Governor of the province of Prince Edward Island declaring that a reformatory for juvenile offenders has been established and made ready for the confinement of prisoners, any person, apparently under the age of sixteen, who is convicted in the Province before the Supreme Court or a stipendiary magistrate, of any offence for which, by law, he is liable to imprisonment, may, by the Court or stipendiary magistrate, be sentenced to be detained in the said reformatory for any term not exceeding five years and not less than two years, as to the Court or magistrate appears proper. R.S., c. 183, s. 72.

133. Any person, apparently under the age of sixteen years, thereafter arrested on a charge of having committed any offence within the said Province, not capital, shall not, while awaiting trial for such offence, be detained in any common gaol, but shall be detained in such reformatory. R.S., c. 183, s. 73.

134. If any offender, detained in such reformatory, wilfully neglects to conform to the rules thereof, he may, upon summary conviction, be imprisoned in the common gaol, with hard labour, for any term not exceeding three months; and at the expiration of his term of imprisonment he shall be brought back to the reformatory, there to be detained during a term equal to so much of his term of imprisonment as remained unexpired at the time of his being sent to the prison. R.S., c. 183, s. 74.

Removal of Prisoners to the Gaol of Queen’s County.

135. The Supreme Court of the province of Prince Edward Island, or any judge thereof, may, on the application of the Attorney General or other Crown officer of such Province, whenever any prisoner is sentenced to any term of imprisonment, with hard labour, in either Prince County or King’s County, make an order or give directions for the transfer and removal of such prisoner from the gaol of the county in which the conviction of such prisoner takes place, to the gaol of Queen’s County, and such order may be made or directions given at the time of passing sentence. R.S., c. 183, s. 75.

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136. Whenever such order is made or directions given, the sheriff of the county in which the conviction takes place shall cause such prisoner to be removed with all convenient despatch to the gaol of Queen’s County, pursuant to such order or direction. R.S., c. 183, s. 76.

137. Upon such removal, such prisoner shall be subject to the same authority and jurisdiction as if he had been convicted in Queen’s County. R.S., c. 183, s. 77.

PART VII.

MANITOBA.

Application of Part.

138. This Part applies only to the province of Manitoba, and shall come into force upon a day to be named by proclamation of the Governor in Council. 53 V., c. 37, s. 40.

Reformatory for Boys.

139. If any boy, who, at the time of his trial, appears to the court to be under the age of sixteen years, is convicted of any offence for which a sentence of imprisonment for a period of three months or longer, but less than five years, may be imposed upon an adult convicted of the like offence, and the court before which such boy is convicted is satisfied that a due regard for the material and moral welfare of the boy manifestly requires that he should be committed to the Manitoba Reformatory for Boys, then such court may sentence the boy to be imprisoned in such Reformatory for such term as the court thinks fit, not being greater than the term of imprisonment which could be imposed upon an adult for the like offence, and may further sentence such boy to be kept in the Reformatory for an indefinite time after the expiration of such fixed term: Provided that the whole period of confinement in the Reformatory shall not exceed five years from the commencement of his imprisonment. 53 V., c. 37, s. 39.

140. If any boy, apparently under the age of sixteen years, is convicted of any offence punishable by law on summary conviction, and thereupon is sentenced and committed to prison in any common gaol for a period of not less than fourteen days, any judge of any one of the superior courts, or any judge of the county court for the county in which the conviction is had, may examine and inquire into the circumstances of the case and conviction, and may, as an additional sentence for such offence, when he considers that the material and moral welfare of the boy so requires, sentence such boy to be sent either forthwith or at the expiration of his imprisonment in such gaol, to the said Reformatory, to be there detained for the purpose of his industrial reform. R.S., 1906.
trial and moral education, for an indefinite period, not exceeding in the whole five years from the commencement of his imprisonment in the common gaol. 53 V., c. 37, s. 39.

141. Every boy so sentenced shall be detained in the Reformatory until the expiration of the fixed term, if any, of his sentence, unless sooner discharged by lawful authority, and thereafter shall, subject to the provisions hereof and to any regulations made as hereinbefore provided, be detained in the Reformatory for a period not to exceed five years from the commencement of his imprisonment, for the purpose of his industrial and moral education. 53 V., c. 37, s. 39.

142. A copy of the sentence of the court, duly certified by the proper officer, or the warrant or order of the judge or other magistrate by whom any boy is sentenced to confinement in the Reformatory, shall be a sufficient authority to the sheriff, constable or other officer who is directed, verbally or otherwise, so to do, to convey such boy to the common gaol of the county where such sentence is pronounced, and for the gaoler of such gaol to receive and detain such boy until some person, lawfully authorized, requires the delivery of such boy for removal to the Reformatory. 53 V., c. 37, s. 39.

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CHAPTER 149.

An Act respecting the Identification of Criminals.

1. This Act may be cited as the Identification of Criminals Short title. Act. 61 V., c. 54, s. 3.

2. Any person in lawful custody, charged with, or under Bertillon conviction of an indictable offence, may be subjected, by or signaletic under the direction of those in whose custody he is, to the system for the identification of criminals commonly known as the Bertillon Signaletic System, or to any measurements, processes and operations sanctioned by the Governor in Council having the like object in view.

2. Such force may be used as is necessary to the effectual Force if carrying out and application of such measurements, processes and operations.

3. The signaletic cards and other results thereof may be Publication published for the purpose of affording information to officers of cards. and others engaged in the execution or administration of the law. 61 V., c. 54, s. 1.

3. No one having the custody of any such person, and no No liability one acting in his aid or under his direction, and no one for acting concerned in such publication, shall incur any liability, civil or under Act. criminal, for anything lawfully done under the provisions of this Act. 61 V., c. 54, s. 2.

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CHAPTER 150.

An Act to provide for the Conditional Liberation of Convicts.

SHORT TITLE.

1. This Act may be cited as the Ticket of Leave Act. Short title. 63-64 V., c. 48, s. 2.

TICKET OF LEAVE.

2. The Governor General by an order in writing under the Granting of hand and seal of the Secretary of State may grant to any license to convicts.

   convicts, under sentence of imprisonment in a penitentiary, gaol or other public or reformatory prison, a license to be at large in Canada, or in such part thereof as in such license shall be mentioned, during such portion of his term of imprisonment, and upon such conditions in all respects as to the Governor General may seem fit.

2. The Governor General may from time to time revoke or Revocation alter such license by a like order in writing. 62-63 V., c. 49, s. 1; 63-64 V., c. 48, s. 1.

3. The conviction and sentence of any convict to whom a Sentence license is granted under this Act shall be deemed to continue deemed to in force while such license remains unforfeited and unre-continue although execution thereof is suspended; but, so long as voked, although execution thereof is suspended; but, so long as such license continues in force and unrevoked or unforfeited, such convict shall not be liable to be imprisoned by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license. 62-63 V., c. 49, ss. 2 and 10.

4. A license under this Act may be in the form A in the Form of schedule to this Act, or to the like effect, or may, if the license. Governor General thinks proper, be in any other form different from that given in the schedule which he may think it expedient to adopt, and contain other and different conditions.

2. A copy of any conditions annexed to any such license, Deposit of other than the conditions contained in form A shall be laid conditions before before both Houses of Parliament within twenty-one days Parliament. after 2843 R.S., 1906.
after the making thereof, if Parliament be then in session, or if not, then within fourteen days after the commencement of the next session of Parliament. 62-63 V., c. 49, s. 4.

REVOCATION AND FORFEITURE.

5. If any holder of a license under this Act is convicted of any indictable offence his license shall be forthwith forfeited. 62-63 V., c. 49, s. 5.

6. When any holder of a license under this Act is convicted of an offence punishable on summary conviction under this or any other Act, the justice or justices convicting the prisoner shall forthwith forward by post a certificate in the form B in the schedule to this Act to the Secretary of State, and thereupon the license of the said holder may be revoked in manner aforesaid. 62-63 V., c. 49, s. 9.

7. If any such license is revoked or forfeited, it shall be lawful for the Governor General by warrant under the hand and seal of the Secretary of State to signify to the Commissioner of Dominion Police at Ottawa that such license has been revoked or forfeited, and to require the Commissioner to issue his warrant under his hand and seal for the apprehension of the convict, to whom such license was granted, and the Commissioner shall issue his warrant accordingly.

2. Such warrant shall and may be executed by the constable to whom the same is given for that purpose in any part of Canada, and shall have the same force and effect in all parts of Canada as if the same had been originally issued or subsequently endorsed by a justice or other lawful authority having jurisdiction in the place where the same is executed.

3. Any holder of a license apprehended under such warrant, shall be brought as soon as conveniently may be before a justice of the peace of the county in which the warrant is executed, and such justice shall thereupon make out his warrant under his hand and seal for the recommittal of such convict to the penitentiary, gaol or other public or reformatory prison from which he was released by virtue of the said license, and such convict shall be so recommitted accordingly, and shall thereupon be remitted to his original sentence, and shall undergo the residue of such sentence which remained unexpired at the time his license was granted: Provided that if the place where such convict is apprehended is not within the province, territory or district to which such penitentiary, gaol or other public or reformatory prison belongs, such convict shall be committed to the penitentiary, gaol, or other public or reformatory prison for the province, territory or district, within which he is so apprehended, and shall there undergo the residue of his sentence as aforesaid. 62-63 V., c. 49, s. 3.

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8. When any such license is forfeited by a conviction of an indictable offence or other conviction, or is revoked in pursuance of a summary conviction or otherwise, the person whose license is forfeited or revoked shall, after undergoing any other punishment to which he may be sentenced for any offence in consequence of which his license is forfeited or revoked, further undergo a term of imprisonment equal to the portion of the term to which he was originally sentenced and which remained unexpired at the time his license was granted.

2. If the original sentence in respect of which the license was granted was to a penitentiary, the convict shall for the purpose of serving the term equal to the residue of such original sentence be removed from the gaol or other place of confinement in which he is, if it be not a penitentiary, to a penitentiary by warrant under the hand and seal of any justice having jurisdiction at the place where he is confined.

3. If he is confined in a penitentiary, he shall undergo a term of imprisonment in that penitentiary equal to the residue of the original sentence.

4. In every case such convict shall be liable to be dealt with in all respects as if such term of imprisonment had formed part of his original sentence. 62-63 V., c. 49, s. 11.

REPORTING TO POLICE.

9. Every holder of a license who is at large in Canada shall notify the place of his residence to the chief officer of police or the sheriff of the city, town, county or district in which he resides, and shall, whenever he changes such residence within the same city, town, county or district, notify such change to the said chief officer of police or sheriff, and, whenever he is about to leave a city, town, county or district, he shall notify such his intention to the chief officer of police or sheriff of that city, town, county or district, stating the place to which he is going, also, if required, and so far as is practicable, his address at that place, and whenever he arrives in any city, town, county or district he shall forthwith notify his place of residence to the chief officer of police or the sheriff of such last-mentioned city, town, county or district.

2. Every male holder of such a license shall, once in each month, report himself at such time as may be prescribed by the chief officer of police or sheriff of the city, town, county or district in which such holder may be, either to such chief officer or sheriff himself, or to such other person as he may direct, and such report may, according as such chief officer or sheriff directs, be required to be made personally or by letter.

3. The Governor General may, by order under the hand of the Secretary of State, remit any of the requirements of this section either generally or in the case of any particular holder of a license. 62-63 V., c. 49, s. 6.

OFFENCES

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10. If any person to whom the last preceding section applies fails to comply with any of the requirements thereof, he shall in any such case be guilty of an offence against this Act, unless he proves to the satisfaction of the court before which he is tried, either that being on a journey he tarried no longer in the place in respect of which he is charged with failing to notify his place of residence than was reasonably necessary, or that, otherwise, he did his best to act in conformity with the law.

2. On summary conviction of any such offence the offender shall be liable, in the discretion of the justice, either to forfeit his license, or to imprisonment with or without hard labour for a term not exceeding one year. 62-63 V., c. 49, s. 6.

11. Any holder of a license who,—
   (a) fails to produce the same whenever required so to do by any judge, police or other magistrate, or justice of the peace, before whom he may be brought charged with any offence, or by any peace officer in whose custody he may be, and fails to make any reasonable excuse for not producing the same; or,
   (b) breaks any of the other conditions of his license by an act which is not of itself punishable either upon indictment or upon summary conviction;
   is guilty of an offence upon summary conviction of which he shall be liable to imprisonment for three months with or without hard labour. 62-63 V., c. 49, s. 7.

12. Any peace officer may take into custody without warrant any convict who is the holder of such a license,—
   (a) whom he reasonably suspects of having committed any offence; or,
   (b) if it appears to such peace officer that such convict is getting his livelihood by dishonest means;
   and may take him before a justice to be dealt with according to law.

2. If it appears from the facts proved before the justice that there are reasonable grounds for believing that the convict so brought before him is getting his livelihood by dishonest means such convict shall be deemed guilty of an offence against this Act, and his license shall be forfeited.

3. Any convict so brought before a justice of the peace may be convicted of getting his livelihood by dishonest means although he has been brought before the justice on some other charge, or not in the manner provided for in this section. 62-63 V., c. 49, s. 8.

ADMINISTRATION.

13. It shall be the duty of the Minister of Justice to advise the Governor General upon all matters connected with or affecting

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affecting the administration of this Act. 62-63 V., c. 49, s. 12.

SCHEDULE.

FORM A.

LICENSE.

Ottawa, day of 19.

His Excellency the Governor General is graciously pleased to grant to , who was convicted of on the , and was then and there sentenced to imprisonment in the penitentiary, gaol or prison (as the case may be) for the term of , and is now confined in the license to be at large from the day of his liberation under this order during the remaining portion of his term of imprisonment, unless the said shall before the expiration of the said term be convicted of an indictable offence within Canada, or shall be summarily convicted of an offence involving forfeiture, in which case such license will be immediately forfeited by law, or unless it shall please His Excellency sooner to revoke or alter such license.

This license is given subject to the conditions endorsed upon the same upon the breach of any of which it will be liable to be revoked, whether such breach is followed by a conviction or not.

And His Excellency hereby orders that the said be set at liberty within thirty days from the date of this order.

Given under my hand and seal at the day of 19.

Secretary of State.

CONDITIONS.

1. The holder shall preserve his license and produce it when called upon to do so by a magistrate or a peace officer.
2. He shall abstain from any violation of the law.
3. He shall not habitually associate with notoriously bad characters, such as reputed thieves and prostitutes.
4. He shall not lead an idle and dissolute life without visible means of obtaining an honest livelihood.

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If

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If his license is forfeited or revoked in consequence of a conviction for any offence he will be liable to undergo a term of imprisonment equal to the portion of his term of years which remained unexpired when his license was granted, viz.:-the term of years.

FORM B.

FORM OF CERTIFICATE OF CONVICTION.

I do hereby certify that A.B., the holder of a license under the Ticket of Leave Act was on the day of in the year duly convicted by and before of the offence and sentenced to

J.P., Co.

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CHAPTER 151.

An Act for the Preservation of Game in the Northwest Territories.

SHORT TITLE.

1. This Act may be cited as the Northwest Game Act. 57-58 Short title. V., c. 31, s. 1.

INTERPRETATION.

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

(a) 'game guardian' means a game guardian appointed under the provisions of this Act;

(b) 'close season,' with respect to any beast or bird, means the time during which under the provisions of this Act it is unlawful to hunt, take, kill, shoot at, wound, injure, or molest in any way that beast or bird;

(c) 'bird' means any grouse, partridge, pheasant, prairie chicken, wild swan, wild duck or wild goose, and includes both males and females and their young. 57-58 V., c. 31, s. 3.

3. The names by which the beasts and birds mentioned in this Act are therein described include males and females and their young. 57-58 V., c. 31, s. 3.

APPLICATION OF ACT.

4. This Act applies to the Northwest Territories of Canada. 57-58 Application of Act. V., c. 31, s. 2.

5. The ordinance of the Legislature of the Northwest Territories, No. 8 of 1893, intituled The Game Ordinance, shall not apply to that part of the country in which this Act is in force. 57-58 V., c. 31, s. 26.

CLOSE SEASONS.

6. Except as hereinafter provided, buffalo and bison shall not be hunted, taken, killed, shot at, wounded, injured or molested in any way, at any time of the year until the first day of January, one thousand nine hundred and twelve. 2 E. VII., c. 12, s. 1; 6 E. VII., c. 16, s. 1.

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7. Except as hereinafter provided, the following beasts and birds shall not be hunted, taken, killed, shot at, wounded, injured or molested in any way during the following times of year respectively:

Musk oxen.  
(a) Musk oxen, between the twentieth day of March and the fifteenth day of October;

(b) Elk orwapiti, moose, caribou, deer, mountain sheep and mountain goats between the first day of April and the fifteenth day of July, and between the first day of October and the first day of December;

Fur-bearing animals.  
(c) Minks, fishers and martens between the fifteenth day of March and the first day of November;

Idem.  
(d) Otters and beavers between the fifteenth day of May and the first day of October;

Birds.  
(e) Muskrats between the fifteenth day of May and the first day of October;

(f) Grouse, partridges, pheasants and prairie chickens between the first day of January and the first day of September;

Idem.  
(g) Wild swans, wild ducks and wild geese between the fifteenth day of January and the first day of September. 57-58 V., c. 31, s. 5.

8. The Governor in Council may, from time to time, when he deems it expedient or necessary so to do, alter any of the times fixed by the two last preceding sections of this Act. 57-58 V., c. 31, s. 6.

Eggs not to be taken.  
9. Except as hereinafter provided, no eggs in the nest of any of the said birds or in the nest of any other species of wild fowl, shall be taken, destroyed, injured or molested at any time of the year. 57-58 V., c. 31, s. 7.

Exceptions for certain persons.  
10. Notwithstanding anything in the four last preceding sections of this Act, the beasts and birds hereinafter mentioned may be lawfully hunted, taken, or killed, and eggs of any of such birds or wild fowl may be lawfully taken:

(a) except as hereinafter provided, by Indians who are inhabitants of the country to which this Act applies, and by other inhabitants of the said country;

(b) by explorers, surveyors or travellers, who are engaged in any exploration, survey or other examination of the country, and are in actual need of the beasts, birds or eggs for food;

(c) by any person who has a permit to do so granted under the provisions of this Act.

2. Indians or other inhabitants of the country to which this Act applies shall not hunt, take or kill, buffalo, bison or musk oxen during the close seasons for those beasts. 57-58 V., c. 31, s. 8.

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11. None of the contrivances for taking or killing wild fowl, known as batteries, swivel guns or sunken punts, shall be used at any time of year, to take, destroy or kill any of the said birds or any other species of wild fowl. 57-58 V., c. 31, s. 9.

12. None of the beasts or birds hereinbefore mentioned and no such other wild fowl shall be taken or killed at any time of year by the use of poison or poisonous substances. 57-58 V., c. 31, s. 10.

13. No dogs shall be used at any time of year for hunting, taking, running, killing, injuring or in any way molesting musk oxen, buffalo and bison, or, during the close season, any of the other beasts or birds hereinbefore mentioned in this Act. 57-58 V., c. 31, s. 11.

14. No one shall enter into any contract or agreement with or employ any Indian or other person, whether such Indian or person is an inhabitant of the country to which this Act applies or not, to hunt, kill or take, contrary to the provisions of this Act, any of the beasts or birds hereinbefore mentioned, or to take any eggs contrary to such provisions. 57-58 V., c. 31, s. 12.

PERMITS AND LICENSES.

15. The Minister of the Interior, or any officer or person duly authorized by him, may issue a permit to any person to take or kill, for scientific purposes, or to take, with a view to domestication, any number not exceeding four of each or any of the said beasts, except buffalo and bison, or of the said birds or to take eggs, not exceeding twelve, of each or any of the said birds or of any other species of wild fowl. 57-58 V., c. 31, s. 21.

16. Every such permit shall set forth in detail,—

(a) the object for which it is granted;
(b) the name, address and calling of the person, and of each of the persons to whom it is granted;
(c) the number of each species of beasts or birds, and the number of each species of eggs which it is intended such person or persons may kill or take; and,
(d) the period of time during which the permit is to be in force. 57-58 V., c. 31, s. 21.

17. The Minister of the Interior may give a special license to take or capture one or more buffalo for breeding purposes. 2 E. VII., c. 12, s. 1.
GAME GUARDIANS.

18. The Governor in Council, or such person as he deputes for the purpose, may appoint game guardians for the purpose of carrying out the provisions of this Act.

2. Every game guardian so appointed shall, for the purposes of this Act, after taking the oath of office herein prescribed, have within the district for which he is appointed game guardian, all the powers of a justice of the peace in and for the Northwest Territories. 57-58 V., c. 31, s. 22.

19. Every game guardian shall, before acting as such guardian, take and subscribe, before any judge, notary public or justice of the peace, in and for the Northwest Territories, or before any person specially deputed by the Governor in Council, the following oath:—

'I, A. B., a game guardian, in and for the district or territory described in my appointment, do solemnly swear that, to the best of my judgment, I will faithfully, honestly and impartially fulfill, execute and perform the office and duty of such game guardian according to the true intent and meaning of the Northwest Game Act, and of all regulations made or to be made thereunder. So help me God.' 57-58 V., c. 31, s. 23.

20. Notwithstanding anything herein contained, all members of the Royal Northwest Mounted Police shall be ex officio game guardians under the provisions of this Act, and shall have the same powers and authority as they would have if they were appointed under and in accordance with the provisions hereof. 2 E. VII., c. 12, s. 2.

21. Any game guardian may, when he considers it necessary so to do, appoint a constable or constables to apprehend any person who has done, or who he has reason to believe has done, anything in contravention of any of the provisions of this Act.

2. Such constable shall, upon apprehending such person, arrest him and bring him for trial before the nearest game guardian or justice of the peace, together with any beast or bird or eggs mentioned in this Act, or any part of any such beast or bird, found in the possession of such person at the time of his apprehension. 57-58 V., c. 31, s. 19.

22. Any game guardian who has reason to suspect that a breach of any of the provisions of this Act has been committed, or that any beast, bird or eggs in respect of which such a breach has been committed, or any part of any beast or bird in respect of which such a breach has been committed, is likely to be in any tent, or on any premises, or on board any vessel, or in any conveyance, may, by warrant under his hand, authorize any constable
constable to enter and search such tent, premises, vessel or conveyance, and, if found, to seize any such beast, bird or eggs, or any such part of any beast or bird. 57-58 V., c. 31, s. 20.

23. The remuneration of game guardians, constables and any other person or persons employed to perform any duty imposed by this Act, or by any regulations under it, shall be determined by the Governor in Council, and shall be paid, as costs, in each case, by the person or persons convicted of any violation of any of the provisions of this Act. 57-58 V., c. 31, s. 24.

RULES AND REGULATIONS.

24. The Governor in Council may from time to time make such rules and regulations, not inconsistent with the provisions of this Act, for carrying out the true intent and meaning thereof, as are found necessary or deemed expedient by him. 57-58 V., c. 31, s. 25.

OFFENCES AND PENALTIES.

25. Except as herein provided, every person who,—

(a) hunts, takes, kills, shoots at, wounds, injures or molests, during the close season, any beast or bird hereinbefore mentioned; or,

(b) during the close season uses dogs for the hunting, taking, running, killing, injuring, or molesting of any beast or bird hereinbefore mentioned; or,

(c) at any time of the year uses any battery, swivel gun or sunken punt to take, destroy, or kill any bird or any other species of wild fowl; or,

(d) at any time of the year takes or kills by the use of poison or poisonous substance any beast hereinbefore mentioned, or any bird; or,

(e) at any time of the year uses dogs for the hunting, taking, running, killing, injuring, or molesting of any musk-ox, buffalo or bison; or,

(f) enters into any contract or agreement with, or employs any Indian or other person, whether an inhabitant of the country to which this Act applies or not, to hunt, kill, or take contrary to the provisions of this Act, any beast or bird hereinbefore mentioned, or to take any eggs contrary to the provisions of this Act; shall be guilty of an offence and shall be liable on summary conviction to a penalty of not more than one hundred dollars and not less than twenty dollars. 57-58 V., c. 31, s. 13.

26. Except as herein provided, every person who hunts, takes, kills, shoots at, wounds or molests any buffalo or bison before 2853

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before the expiration of the close season fixed in that behalf by or under the authority of this Act, shall be liable on summary conviction to a penalty of not more than two hundred dollars and not less than fifty dollars. 57-58 V., c. 31, s. 13.

27. Except as herein provided, every person who during the close season hunts, takes, kills, shoots at, wounds, or molests any musk-ox shall be liable on summary conviction to a penalty of not more than two hundred dollars and not less than fifty dollars. 57-58 V., c. 31, s. 13.

28. Every person who violates any provision of this Act for which violation a penalty is not otherwise provided, shall be guilty of an offence and shall be liable on summary conviction to a penalty of not more than fifty dollars, and not less than five dollars. 57-58 V., c. 31, s. 13.

29. If the convicting authority is satisfied that any offence against this Act has been committed in ignorance of the law, and that because of the poverty of the offender, the penalty to be imposed would be oppressive, he may sentence the offender to such lesser penalty as he deems reasonable. 57-58 V., c. 31, s. 13.

30. The authority making the conviction may order that, in default of payment of the penalty and the costs of conviction, forthwith or within such time as he orders, either,—

(a) the penalty and costs shall be levied by distress and sale of the goods and chattels of the person convicted, and that, if sufficient goods and chattels cannot be found, the person convicted shall be imprisoned for a period not less than five days nor more than three months, unless the penalty and costs are sooner paid, in which event he shall be set at liberty; or,—

(b) the person convicted shall be imprisoned for a period not less than five days nor more than three months, unless the penalty and costs are sooner paid, in which event he shall be set at liberty. 57-58 V., c. 31, s. 14.

31. When, because of the distance, or for want of means, conveyance or communication, or for any other cause, it is not practicable to confine such person in the nearest gaol, or other place of confinement, the convicting authority shall have power to confine him in any suitable building which is more convenient to the place of trial, and to take all reasonably necessary precautions to prevent his escape therefrom during the term for which he has been committed. 57-58 V., c. 31, s. 14.

32. Offences against this Act may be summarily tried by any of the following authorities,—

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2854 (a)
(a) any stipendiary magistrate of the Northwest Territories;
(b) any justice of the peace in and for the Northwest Territories;
(c) any commissioned officer of the Royal Northwest Mounted Police;
(d) any game guardian appointed under this Act. 57-58 V., c. 31, s. 16.

33. Every fine or penalty recovered under this Act shall belong to His Majesty, and shall be deposited to the credit of the Minister of Finance on account of this Act, and may be applied, if necessary, towards any expenses which may be incurred in carrying out its provisions. 57-58 V., c. 31, s. 15.

34. All beasts, birds, wild fowl, or eggs, and the pelt, skin or head of any beast killed, trapped, snared or taken in violation of any provision of this Act, and any and every part of such beast, bird, wild fowl, pelt, skin or head, shall, after conviction of the person who so killed, trapped, snared or took the same, respectively, be confiscated to the Crown by the authority who made the conviction, who may order the sale or destruction thereof, and, if sold, the proceeds thereof shall be deposited and applied in the manner provided by the last preceding section of this Act: Provided that such convicting authority may direct any beast, bird, wild fowl, or egg so confiscated, or any part of such beast, bird or wild fowl, be given to any scientific institution, as in his discretion seems proper. 1 E. VII., c. 21, s. 1.

EVIDENCE.

35. Possession,—
(a) at any time of the year, of a buffalo or bison, dead or alive, or of any part of a buffalo or bison; or,
(b) at any time of the year, of eggs of any bird, or other species of wild fowl; or,
(c) during the close season, of any other beast or of any bird mentioned in this Act, or of any part of such beast or bird;
shall be prima facie evidence of the killing or taking of the beast, bird or eggs, as the case may be, contrary to the provisions of this Act. 57-58 V., c. 31, s. 18.
CHAPTER 152.

An Act respecting the traffic in Intoxicating Liquors.

SHORT TITLE.

1. This Act may be cited as the Canada Temperance Act. Short title. R.S., c. 106, s. 1.

INTERPRETATION.

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

(a) 'intoxicating liquors' includes every spirituous or malt liquor, and every wine, and any and every combination of liquors or drinks that is intoxicating, and any mixed liquor capable of being used as a beverage, and part of which is spirituous or otherwise intoxicating;

(b) 'electors' means persons qualified and competent to vote at an election of a member of the House of Commons in the county or city in respect to which the expression is used;

(c) 'form' means a form in the schedule of this Act;

(d) 'county' includes every town, township, parish and other division or municipality, except a city, within the territorial limits of the county, and also a union of counties united for municipal purposes;

(e) as respects the province of Ontario, or any other province in which provisional or temporary judicial districts exist, 'county' includes such provisional or temporary judicial districts;

(f) as respects the province of Manitoba, 'county' means the electoral districts therein, as designated by the Representation Act;

(g) as respects the province of British Columbia, until the Province shall have been divided into counties and a regular municipal organization established in each of such counties, 'county' means an electoral district therein, in accordance with the division of the Province for election of members of the House of Commons of Canada, and includes every town, township, parish and other division or municipality within the territorial limits of such electoral district, or within a union of electoral districts where

2857 united
united for municipal purposes. R.S., c. 106, s. 2; 51 V., c. 34, ss. 2 and 4.

3. Whenever in Part I. of this Act any expressions are used, requiring or authorizing any act to be done, or from which it may be inferred that any act or thing is to be done, in the presence of the agent of the persons interested, such expressions shall be deemed to refer to the presence of such agents as are authorized to attend, and as have, in fact, attended at the time and place where such act and thing is being done. R.S., c. 106, s. 24.

DIVISION OF ACT.

4. This Act is divided into three Parts. Part I. relates to proceedings for bringing Part II. into force. Part II. relates to the prohibition of traffic in intoxicating liquors. Part III. relates to penalties and prosecutions for offences against Part II. R.S., c. 106, s. 3.

PART I.

PROCEEDINGS FOR BRINGING PART II. OF THIS ACT INTO FORCE.

Mode of Obtaining Poll.

5. Proceedings for the bringing of Part II. of this Act into force in any county or city shall be commenced by petition to the Governor in Council which may be in form A or in words to the same effect. R.S., c. 106, s. 4.

6. Such petition may be embodied as in form A in a notice in writing addressed to the Secretary of State of Canada and signed by electors of the county or city, to the effect that the signers desire that the votes of all of such electors be taken for and against the adoption of the petition. R.S., c. 106, s. 5.

7. Such notice embodying such petition may be deposited for public examination,—

(a) in the office of the sheriff or registrar of deeds of or in the county or city to which it relates, and where in any county there is more than one office of a registrar of deeds, in any one of such offices;

(b) in the province of Ontario, or in any other province in which provisional or temporary judicial districts exist, so far as relates to such provisional or temporary judicial districts, in the registry office, or in one of the registry offices,
offices, if more than one, for the respective provisional or temporary judicial districts;

(c) in the province of Manitoba in any registry office or in any sheriff's office in the respective electoral districts.

2. In the province of British Columbia, until the province shall have been divided into counties and a regular municipal organization established in each of such counties, such notice embodying such petition shall be deposited, for Cariboo electoral district, in the office of the registrar of voters at the village of Barkerville; for Yale electoral district, in the office of the registrar of voters at the village of Kamloops; for New Westminster electoral district, in the office of the registrar of voters at the city of New Westminster; for Victoria electoral district, in the office of the registrar of voters at the city of Victoria; and for Vancouver electoral district, in the office of the registrar of voters at the city of Nanaimo. R.S., c. 106, s. 6; 51 V., c. 34, ss. 1, 3 and 4.

8. There shall be laid before the Secretary of State, together with or in addition to every such notice embodying such petition, evidence,—

(a) that there are appended to it the genuine signatures of at least one-fourth in number of all the electors in the county or city named in it;

(b) that such notice has been deposited, as provided by the last preceding section, for public examination by any person for ten days previous to its being so laid before the Secretary of State; and,

(c) that two weeks previous notice of such deposit has been given in two newspapers published in or nearest to the county or city to which such notice embodying such petition relates, and by at least two insertions in each such paper. R.S., c. 106, s. 6.

9. If it appears by evidence to the satisfaction of the Governor in Council that any such notice has appended to it the genuine signatures of one-fourth or more of all the electors in the county or city named in it, and has been duly deposited as aforesaid, after notice as aforesaid, the Governor in Council may issue a proclamation under this Part. R.S., c. 106, s. 7.

10. Such proclamation shall be inserted at least three times in the Canada Gazette, and three times in the official gazette of the province in which the county or city is situate. R.S., c. 106, s. 8.

11. In such proclamation there may be set forth,—

(a) the notice in full, with the proposed petition embodied in it;

(b) R.S., 1906.
(b) the number of the signatures to the notice;  
(c) the day on which the poll for taking the votes of the  
electors for and against the petition will be held;  
(d) that such votes will be taken by ballot between the hours  
of nine o'clock in the forenoon and five o'clock in the after-  
noon of that day;  
(e) the name of the sheriff, registrar or other person ap-  
pointed returning officer for the purpose of taking, on that  
day, the votes of the electors for and against the petition,  
and of afterwards summing up the same and making a  
return of the result to the Governor in Council;  
(f) the power of the returning officer to appoint a deputy  
returning officer, at and for each polling place or station;  
(g) the place where, and the day and hour when, the return-  
ing officer will appoint persons to attend at the various  
polling stations, and at the final summing up of the votes  
on behalf of the persons interested in, and promoting or  
opposing respectively the adoption of, the petition;  
(h) the place where, and the day and hour when, the votes  
of the electors will be summed up, and the result of the  
polling declared by the returning officer;  
(i) the day on which, in the event of the petition being  
adopted by the electors, Part II. of this Act will go into  
force in the county or city in question; and,  
(j) any such further particulars, with respect to the taking  
and summing up of the votes of the electors, as the  
Governor in Council sees fit to insert therein. R.S.,  
c. 106, s. 9.

12. No polling of votes under this Act shall be held in any  
city or county on the same day that any election takes place in  
such county or city for a member to serve in the Parliament  
of Canada, or in any provincial legislature. R.S., c. 106, s. 9.

Returning officers and their Duties.

13. Either the sheriff or the registrar of deeds, or one of  
the sheriffs, or one of the registrars of deeds, for the county or  
city or for a portion of the county or city in which the poll  
is to be held, or the nearest sheriff or registrar, or any other  
person, may be appointed returning officer in any case under  
this Part.

Evidence of appointment.  
2. The naming of any person in any proclamation issued  
under this Part shall be a sufficient appointment, and suffi-  
cient evidence of the appointment of such person as returning  
officer, for the purposes mentioned in the proclamation. R.S.,  
c. 106, s. 10.

Oath of returning officer.  
14. On receiving a copy of the proclamation, the returning  
officer shall forthwith endorse thereon the date on which he  
receives
receives the same; and, before taking any further action thereon, he shall take, before a justice of the peace, the oath of office in form B. R.S., c. 106, s. 11.

15. All persons qualified to vote at an election of a member of the House of Commons, in the county or city to which any proclamation issued under this Act relates, on the day on which a poll is held in compliance with such proclamation, and no others, shall be qualified to vote and to have their votes polled on that day, for or against the adoption of the petition mentioned in such proclamation. R.S., c. 106, s. 12.

16. The returning officer shall ascertain the number or probable number of persons qualified to vote in each town, parish, township, ward, local municipality, or other locality in the county, or ward in the city, where voters are so entitled to vote,—

(a) from the lists of voters which, under the provisions of this Part, are to be used at the polling of votes;

(b) in any county or city where there are voters entitled to vote but no lists of voters, from such information as is within his reach.

2. If such town, parish, township, ward, local municipality or other locality or ward, has not been subdivided for electoral purposes into polling districts by the legislature, or by the local authorities under the legislation of the province wherein such county or city is situate, or by the returning officer at the last previous election of a member of the House of Commons in the county or city, the returning officer shall subdivide such town, parish, township, ward, local municipality or other locality in the county, or ward in the city, into polling districts in a convenient manner, so that there shall be at least one polling district for every two hundred voters; and he shall also fix a polling station in a central and convenient place in each polling district.

3. The returning officer may, in his discretion, grant such additional polling places in such polling districts as the extent of the district and the remoteness of any body of its voters from the polling place renders necessary, although the voters thereof are less than the number hereinbefore specified. R.S., c. 106, s. 13.

17. The returning officer shall, at least eight days before the day on which the poll for taking the votes of the electors for and against the petition is to be held, by a notice under his hand, indicate with reference to the holding of such poll, the several polling stations fixed by him, and the territorial limits to which they shall respectively apply, and shall cause the said notice to be posted up at four of the most prominent

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and conspicuous places in each polling district. R.S., c. 106, s. 14.

18. Every person so appointed returning officer shall,—
(a) appoint, by a commission under his hand, in form C, one deputy returning officer for each polling district, comprised in the county or city, who shall, before acting as such take, before the returning officer or a justice of the peace, the oath of office, in form D;
(b) furnish each deputy returning officer with a copy of the list or of such portion of the list of voters as contains the names arranged alphabetically, of the electors qualified to vote at the election of a member of the House of Commons, at the polling station in the polling district for which he is appointed, certified by himself or by the proper custodian of the lists from which such copies are taken;
(c) deliver to each deputy returning officer, eight days at least before the polling day, a ballot box to receive the ballot papers of the voters, which shall be made of some durable material, with one lock and key, and a slit or narrow opening in the top, and so constructed that the ballot papers may be introduced therein, but cannot be withdrawn therefrom, unless the box is unlocked;
(d) furnish each deputy returning officer with a sufficient number of ballot papers to supply the number of voters on the list of such polling district, and with the necessary materials for voters to mark their ballot papers;
(e) furnish to each deputy returning officer, at least ten copies of printed directions, for the guidance of voters in voting.

2. Such ballot papers shall be of the same description, and as nearly as possible alike.

3. The deputy returning officer shall, before or at the opening of the poll, on the day of polling, cause such printed directions to be posted up in some conspicuous places outside of the polling station, and also in each compartment of the polling station. R.S., c. 106, s. 15.

19. The lists of voters which would be used at an election of a member of the House of Commons, in the same district at the same time, shall be the lists of voters which shall be used at every polling of votes under the provisions of this Act.

2. The returning officer shall obtain the different lists of voters, or copies or extracts thereof, from the registrars, city or town clerks, clerks of the peace, clerks of the municipalities or such other officers as are, by law, the proper custodians of such lists or of duly certified duplicates or copies thereof. R.S., c. 106, s. 16.

20. Whenever the returning officer fails to furnish to the deputy returning officer in any polling district the ballot box within
within the time prescribed by this Part, such deputy returning officer shall cause one to be made. R.S., c. 106, s. 17.

21. The ballot of each voter shall be a printed paper, in this Form of Part called a ballot paper, with a counterfoil, and the ballot paper and counterfoil shall be according to form E. R.S., c. 106, s. 18.

22. The printed directions to be furnished to the deputy Form of returning officers shall be according to form F. R.S., c. 106, s. 19.

23. At the place and time named for that purpose in the proclamation, the returning officer shall, by an instrument in writing signed by him, appoint as agents on behalf of the persons interested in and desirous of promoting the adoption of the petition, from and out of such persons as apply to him to be so appointed, one person to attend at each polling station, and two persons to attend at the final summing up of the votes, and as agents on behalf of the persons interested in, and desirous of opposing the adoption of the petition, one person to attend at each polling station, and two persons to attend at the final summing up of the votes. R.S., c. 106, s. 20.

24. Before any person is so appointed, he shall make and subscribe before the returning officer or any deputy returning officer, a declaration in form G to the effect that he is interested in and desirous of promoting, or opposing, as the case may be, the adoption of the petition. R.S., c. 106, s. 21.

25. Every person so appointed, before being admitted to the polling station, or to the final summing up of the votes, as the case may be, shall produce to the deputy returning officer his written appointment. R.S., c. 106, s. 22.

26. In the absence of any person authorized, as aforesaid, to attend at any polling station, or at the final summing up of the votes, any elector in the same interest as the person so absent may, upon making and subscribing before the deputy returning officer at the polling station, or the returning officer at the final summing up of the votes, as the case may be, a declaration in form G, be admitted to the polling station, or to the final summing up of the votes, as the case may be, to act for the person so absent. R.S., c. 106, s. 23.

27. The non-attendance of any agents or agent in whose presence any act is by this Part required or authorized to be done, at any time or place specified by this Part in that behalf, shall not, if the act or thing is otherwise duly done, invalidate, in any wise, such act or thing. R.S., c. 106, s. 24.

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Poll. Votes by ballot.

28. On the day and at the hour fixed by proclamation, a poll shall be held at each polling station in the county or city to which the proclamation relates, and the votes shall be taken by ballot. R.S., c. 106, s. 25.

29. The poll shall be held in each polling district in a room or building of convenient access, with an outside door for the admittance of the voters, and having, if possible, another door through which they may leave after having voted; and one or two compartments shall be made within the room, so arranged that each voter may be screened from observation, and may, without interference or interruption, mark his ballot paper. R.S., c. 106, s. 26.

Hours for opening and closing polls.

30. Each deputy returning officer shall open the poll assigned to him at the hour of nine of the clock in the forenoon, and keep the same open until five of the clock in the afternoon; and shall, during that time, receive, in the manner hereinafter prescribed, the votes of the electors duly qualified to vote at such polling place. R.S., c. 106, s. 27.

Who may be present at the polling of the votes.

31. In addition to the deputy returning officer, such persons as have been appointed or admitted under this Act as agents, and no others, shall be permitted to remain in the room where the votes are given, during the time the poll remains open. R.S., c. 106, s. 28.

Agent's oath of secrecy.

32. Every agent, on being admitted to the polling station, shall take an oath to keep secret the space on the ballot paper in which any voter marks his ballot paper in his presence, as hereinafter required.

33. At the hour fixed for opening the poll the deputy returning officer shall, in the presence of such of the electors and agents as are present, open the ballot box and ascertain that there are no ballots or other papers in the same, after which the box shall be locked, and the deputy returning officer shall keep the key thereof. R.S., c. 106, s. 30.

Place of voting.

34. Immediately after the ballot box is locked, as aforesaid, the deputy returning officer shall call upon the electors to vote. R.S., c. 106, s. 31.

Opportunity to vote.

35. Each elector shall vote at the polling station of the polling district in which he is qualified to vote and at no other. R.S., c. 106, s. 32.

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36. The returning officer, on the request of any elector entitled to vote at one of the polling stations, who is appointed deputy returning officer, or who is appointed to attend as agent at a polling station other than the one where he is entitled to vote, shall give to such elector a certificate that such elector is entitled to vote at such polling of votes at the polling station where such elector is stationed during the polling day.

2. On the production of such certificate such elector shall have the right to vote at the polling station where he is placed during the polling day, instead of at the polling station of the polling district where he would otherwise have been entitled to vote.

3. No such certificate shall entitle any such elector to vote at such polling station unless he has been actually engaged as such deputy returning officer or agent during the day of polling. R.S., c. 106, s. 33.

37. Electors desiring to vote shall be introduced, one at a time for each compartment, into the room where the poll is held.

2. Every such elector so introduced shall declare his name, surname and addition, which shall be entered or recorded in the voters’ list to be kept for that purpose by the deputy returning officer, and if the same is found on the list of electors for the polling district of such polling station, he shall receive from the deputy returning officer a ballot paper, with the initials of such deputy returning officer previously placed by him on the back thereof in such manner that when the ballot is folded they can be seen without opening it, and with a number corresponding to that opposite the voter’s name on the voters’ list placed by him on the counterfoil thereof. R.S., c. 106, s. 34.

38. Such elector, if required by the deputy returning officer or by any elector or agent, as aforesaid, present, shall, before receiving his ballot paper, take the oath or oaths of qualification required by the laws in force in the province where the election is held from a voter at an election of a member of the House of Assembly of that province, with the words House of Commons of Canada substituted for House of Assembly, or with such other change as is required to make the oath applicable to the election of a member of the House of Commons of Canada.

2. The deputy returning officer is authorized to administer such oath or oaths.

3. The deputy returning officer shall instruct every elector voting, how and where to affix his mark, and how to fold his ballot paper, but without inquiring or seeing whether the elector intends to vote for or against the petition, except in cases where the elector is unable to read, or is incapable by blindness, or

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other physical cause, from voting in the manner prescribed by this Part without the assistance provided herein in that behalf. R.S., c. 106, s. 34.

**39.** If the county or city is one, in or for which the election law of the province where such county or city is situate does not require lists of voters to be made to entitle them to vote, any elector claiming his ballot paper shall declare his name, surname, addition and qualification, which shall be entered on a list kept for that purpose by the deputy returning officer.

2. Before receiving his ballot paper such elector may be required by the deputy returning officer, or any elector or agent present to take the oath of qualification provided for in the last preceding section, to be administered by the deputy returning officer. R.S., c. 106, s. 35.

**40.** The elector on receiving the ballot paper, shall forthwith proceed into one of the compartments of the polling station and there mark his ballot paper, by making a cross in any part of the upper space if he votes for the petition, and in any part of the lower space if he votes against the petition, after which he shall fold it up, so that the initials on the back can be seen without opening it, and hand it to the deputy returning officer, who shall without unfolding it, ascertain by examining his initials and the number upon the counterfoil, that it is the same ballot he furnished to the elector.

2. The deputy returning officer shall then detach and destroy the counterfoil, and immediately, and in the presence of the elector, place the ballot paper in the ballot box. R.S., c. 106, s. 36.

**41.** Every elector shall vote without undue delay, and shall quit the polling station so soon as his ballot paper has been put into the ballot box. R.S., c. 106, s. 37.

**42.** No elector shall be allowed to take his ballot paper out of the polling station. R.S., c. 106, s. 38.

**43.** The deputy returning officer, on application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall assist such voter by marking his ballot paper in the manner directed by such voter, in the presence of the sworn agents or of the sworn electors representing them in the polling station, and of no other person, and by placing such ballot paper in the ballot box. R.S., c. 106, s. 39.

**44.** The deputy returning officer shall require the voter making such application, before voting, to make oath of his incapacity

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incapacity to vote without such assistance, in the form following:—

'I solemnly swear (or if he is one of the persons entitled by law to affirm in civil cases, solemnly affirm) that I am unable to read and to understand the ballot papers so as to mark the same (or that I am incapacitated by physical cause from voting as the case may be) without the assistance of the deputy returning officer.' R.S., c. 106, s. 39.

45. Whenever the deputy returning officer does not understand the language spoken by any elector claiming to vote, he shall swear an interpreter, who shall be the means of communication between him and such elector, with reference to all matters required to enable such elector to vote. R.S., c. 106, s. 39.

46. The returning officer shall cause a list to be kept of the names of voters whose ballot papers have been marked with the assistance as aforesaid of the deputy returning officer, stating the reason why each ballot paper was so marked.

2. The deputy returning officer shall enter opposite the names of the voters whose ballots have been so marked, in addition to what is required in the next following section, the reason why each ballot paper was marked by him. R.S., c. 106, s. 39.

47. The deputy returning officer shall enter on the voters' list to be kept by him in form I., opposite the name of each elector voting, the word Voted, as soon as his ballot paper has been deposited in the ballot box; and he shall enter on the same list the word Sworn or Affirmed opposite the name of each elector to whom the oath or affirmation of qualification has been administered, and the words Refused to be sworn, or Refused to affirm, opposite the name of each elector who has refused to take the oath or to affirm. R.S., c. 106, s. 40.

48. When no lists of voters are required by the law in force in the county or city for which the voting takes place, the deputy returning officer shall cause the name, surname, and addition of every voter to be entered on a list to be made and kept for that purpose.

2. He shall enter on such list the word Voted, or Sworn, or Affirmed, or Refused to be sworn, or Refused to affirm, as the case may be, as provided in the case of lists furnished by the returning officer. R.S., c. 106, s. 41.

49. No voter who has refused to take the oath or affirmation of qualification required as aforesaid by this Act, when requested so to do, shall receive a ballot paper or be admitted to vote. R.S., c. 106, s. 42.

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No elector to vote more than once.  

Section 50. No person shall vote more than once at the same polling of votes under the provisions of this Act. R.S., c. 106, s. 43.

Second vote on the same name.  

Section 51. If a person, representing himself to be a particular elector named on the register or list of voters, applies for a ballot paper after another person has voted as such elector, the applicant, upon taking the oath in form J and otherwise establishing his identity to the satisfaction of the deputy returning officer, shall be entitled to receive a ballot paper, on which the deputy returning officer shall put his initials, together with a number corresponding to a number entered on the list of voters opposite the name of such voter, and shall be entitled to vote in like manner as any other elector.

2. The name of such voter shall be entered on the list of voters, and a note shall be made of his having voted on a second ballot issued under the same name, and of the oath or affirmation of identification having been required and made, as well as of any objections made by any of the agents. R.S., c. 106, s. 44.

Entry on list.  

Second ballot paper delivered when.  

Section 52. A voter who has inadvertently dealt with the ballot paper given him in such manner that it cannot be conveniently used, may, on delivering the same to the deputy returning officer, obtain another ballot paper in the place of that so delivered up. R.S., c. 106, s. 45.

Proceedings after close of the Poll.  

Section 53. Immediately after the close of the poll, the deputy returning officer shall, in the presence of the agents, and if the agents are absent, then in the presence of at least three electors, open the ballot box and proceed to count the number of votes given for and against the petition.

2. In so doing he shall reject all ballot papers which have not been supplied by the deputy returning officer, and all those upon which there is any writing or mark by which the voter could be identified.

3. He shall count all the other ballot papers and keep lists of the number of votes given for, and of the number of votes given against the petition, and of the number of rejected ballot papers, and shall put all the ballot papers indicating the votes given for, and the votes given against the petition, respectively, into separate envelopes or parcels, and those rejected, those spoiled and those unused, respectively, into separate envelopes or parcels, and shall endorse all such parcels, so as to indicate their contents, and put them into the ballot box. R.S., c. 106, ss. 46 and 47.

Objection to ballot papers.  

Section 54. The deputy returning officer shall take a note of any objection made by any agent or any elector present, to any ballot.
ballot paper found in the ballot box, and shall decide any question arising out of the objection.

2. The decision of such deputy returning officer shall be final, subject only to reversal on a scrutiny as hereinafter provided. R.S., c. 106, s. 48.

55. Each objection to a ballot paper shall be numbered, and a corresponding number placed on the back of the ballot paper and initialed by the deputy returning officer. R.S., c. 106, s. 49.

56. The deputy returning officer shall make out a statement of the accepted ballot papers, of the number of votes given each way, of the rejected ballot papers, of the spoiled and returned ballot papers, and of such as are unused and returned by him; and he shall make and keep a copy of such statement, and in the ballot box the original statement, together with the voters' list and certificate, at the foot of each list, of the total number of electors who voted on such list, and such other lists and documents as have been used at such election.

2. The ballot box shall then be locked and sealed, and shall be delivered to the returning officer, who shall collect or receive the same.

3. In case the returning officer shall be unable to collect or receive the ballot boxes, the same shall be collected and received by, and delivered to one or more persons specially appointed for that purpose by the returning officer, and shall on delivering the ballot boxes to the returning officer, take the oath in form K. R.S., c. 106, s. 50.

57. The deputy returning officer shall take the oath in form Oath to be annexed to the statement aforesaid. R.S., c. 106, s. 51.

58. The several deputy returning officers, on being requested so to do, shall deliver to each of the agents, or in the absence of such agents, to the electors present, a certificate of the number of votes given in each interest, and of the number of rejected ballot papers. R.S., c. 106, s. 52.

Summing up the Votes and Returns.

59. The returning officer, at the place, day and hour, appointed by the proclamation, and after having received all the ballot boxes, shall proceed to open them in the presence of the agents, if present, and of at least three electors if the agents are not present, and to add together the number of votes given in each interest, from the statements contained in the ballot boxes returned by the deputy returning officer. R.S., c. 106, s. 53.

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60. If the ballot boxes are not all returned on the day fixed for adding up the number of votes given, the returning officer shall adjourn the proceedings to a subsequent day which shall not be more than a week later than the day originally fixed, for the purpose of adding up the votes. R.S., c. 106, s. 54.

61. If the ballot boxes, or any of them, have been destroyed or lost, or for any other reason are not forthcoming, on or before such subsequent day, the returning officer shall ascertain the cause of the disappearance of such ballot boxes, and shall call on each of the deputy returning officers whose ballot boxes are missing, or on any other person having the same, for the lists, statements and certificates, or copies of the lists, statements and certificates, of the number of votes given in each interest, required by this Act, the whole of which shall be verified on oath administered by the returning officer.

2. If such lists or statements, or any of them, or copies thereof, cannot be obtained, the returning officer shall ascertain by such evidence as he is able to obtain, the total number of votes given in each interest at the several polling places, and he shall make his return accordingly, and shall mention specially in his report to be sent with the return, the circumstances accompanying the disappearance of the ballot boxes, and the mode by which he ascertained the number of votes given in each interest. R.S., c. 106, s. 55.

62. If one-half or more of all the votes polled are against the petition, the same shall be deemed not to have been adopted; and the returning officer shall make his return to the Governor in Council accordingly. R.S., c. 106, s. 56.

63. If more than half of all the votes polled are for the petition, the same shall be deemed to have been adopted; and the returning officer shall make his return to the Governor in Council accordingly. R.S., c. 106, s. 57.

64. Within two weeks after the summing up of the votes, if no judge has appointed a day or place within the county or city for entering into a scrutiny of the ballot papers, as hereinafter provided, and in case of a scrutiny being entered into, then forthwith after the judge has determined whether the majority of the votes given was or was not in favour of the petition, the returning officer shall transmit his return to the Secretary of State, and shall send with it a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballot papers as received by him.

2. In the event of a judge having determined, after a scrutiny of the ballot papers, that the majority of the votes given was or was not in favour of the petition, such return shall be 2870 based
based upon, and shall be conformable to such decision. R.S., c. 106, s. 58.

65. The returning officer shall also transmit to the Secretary of State, with his return, the original statements, inclosed in the ballot boxes, of the several deputy returning officers, of the accepted ballot papers, of the number of votes given each way, of the rejected ballot papers, of the spoiled and returned ballot papers, and of the unused and returned ballot papers, together with the voters' lists used in the several polling districts, and any other lists and documents used or required at such election, or which have been transmitted to him by the deputy returning officers.

2. Such return and report shall be sent through the post office, by registered letter or parcel. R.S., c. 106, s. 59.

66. The property of the ballot boxes, ballot papers, and marking instruments procured for, or used at any polling of votes under this Act shall be in His Majesty. R.S., c. 106, s. 60.

**Scrubiny.**

67. Within one week after the returning officer has summed up the votes and declared the result of the voting, any elector may apply for a scrutiny upon petition,—

(a) in the province of Quebec, to any judge of the Superior Court ordinarily discharging his duties in any judicial district in which the county or city is situate, in whole or in part;

(b) in the province of British Columbia, to a judge of the Supreme Court of that province, or to a judge of the county court of any county or district within which the county or city is situate, in whole or in part;

(c) in any other province, except Saskatchewan and Alberta, to the judge of the county court of any county or district within which the county or city for which the polling of votes takes place is situate, in whole or in part. R.S., c. 106, s. 61.

68. The petitioner shall give such notice of the application and to such persons as the judge directs, and shall show, by affidavit to the judge, reasonable grounds for entering into a scrutiny of the ballot papers.

2. The petitioner shall also enter into a recognizance to His Majesty before the judge in the sum of one hundred dollars, with two sureties, to be allowed as sufficient by the judge upon affidavit of justification, in the sum of fifty dollars each, conditioned to prosecute the petition with effect, and to pay any costs which are adjudged against the petitioner, or shall deposit 2871 dollars. R.S., 1906.
deposit with the prothonotary or clerk of such court the sum of one hundred dollars as a security for such costs.

3. The judge shall thereupon appoint a day and place within the county or city for entering into the scrutiny.

4. At least one week's notice of the scrutiny shall be given by the petitioner to such persons as the judge directs. R.S., c. 106, s. 61.

69. On the day and at the hour and place appointed, the returning officer shall attend before the judge, with the ballot papers in his custody, and the judge upon inspecting the ballot papers and hearing such evidence as he deems necessary, and on hearing the parties, or such of them as attend, or their counsel, shall, in a summary manner, determine whether the majority of the votes given was, or was not, in favour of the petition to the Governor in Council. R.S., c. 106, s. 62.

70. The decision of the judge shall be final, and the costs shall be in his discretion, or he may apportion the costs as to him seems just. R.S., c. 106, s. 63.

Secrecy of Voting.

71. Every officer and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at such polling place; and shall not communicate, before the poll is closed, to any person any information as to whether any person on the voters' list has or has not applied for a ballot paper, or voted at that polling place.

2. No officer or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain, at the polling place, information as to how any voter at such polling place is about to vote, or has voted.

3. No officer or agent or other person shall communicate, at any time, to any person, any information obtained at a polling place, as to how any voter at such polling place is about to vote or has voted. R.S., c. 106, s. 64.

72. Every officer and agent in attendance at the counting of the votes shall maintain, and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain, at such counting, or communicate any information obtained at such counting, as to how any vote is given in any particular ballot paper. R.S., c. 106, s. 64.

73. No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person how he has so marked his ballot paper. R.S., c. 106, s. 64.

R.S., 1906.
Preservation of peace and good order.

74. Every returning officer and every deputy returning officer, from the time he takes the oath of office until the day after the summing up of the votes, shall be a conservator of the peace, invested with all the powers appertaining to a justice of the peace. R.S., c. 106, s. 65.

75. Such returning officer or deputy returning officer may require the assistance of justices of the peace, constables or other persons present, to aid him in maintaining peace and good order at such polling; and may also, on a requisition made in writing by any agent, or by any two electors, swear in such special constables as he deems necessary. R.S., c. 106, s. 66.

76. Such returning officer or deputy returning officer may arrest or cause to be arrested, by verbal order, and place in the custody of any constables or other persons, any person disturbing the peace and good order at the polling, and may cause such person to be imprisoned under an order signed by him until any hour on that day, not later than the close of the poll. R.S., c. 106, s. 67.

77. The returning officer or deputy returning officer may during any day wherein any poll is begun, holden or proceeded with, require any person within half a mile of the polling station, to deliver to him any firearm, sword, staff, bludgeon, or other offensive weapon in the hands or personal possession of such person. R.S., c. 106, s. 68.

78. Except the returning officer or his deputy, or one of the constables or special constables appointed by the returning officer or his deputy, for the orderly conduct of the poll and the preservation of the public peace thereat, no person who has not had a stated residence in the polling district for at least six months next before the day of such polling, shall come, during any part of the day upon which the poll is to remain open, into such polling district armed with offensive weapons of any kind as firearms, swords, staves, bludgeons or the like.

2. No person being in such polling district shall arm himself during any part of the day with any such offensive weapons, and thus armed, approach within the distance of one mile of the place where the poll for such polling district is held, unless called upon by lawful authority so to do. R.S., c. 106, s. 70.

79. No person shall, at any polling, either provide or furnish drink or other refreshments at the expense of such person, to any elector during such polling, or pay for, procure or engage to pay for, any such drink or other refreshment. R.S., c. 106, s. 71.

80. R.S., 1906.
30. No person shall furnish or supply any ensign, standard, or set of colours, or any other flag, to or for any person or persons whomsoever, with the intent that the same should be carried or used in the county or city on any day of polling under this Act, or within eight days before such day, or during the continuance of such polling, by such person or any other person, as a party flag, to distinguish the bearer thereof and those who follow the same as the supporters of the opinions entertained, or supposed to be entertained by such person, in either interest.

2. No person shall for any reason, carry or use any such ensign, standard or set of colours or other flag as a party flag in either interest, within any county or city on the day of any such polling, or within eight days before such day, or during the continuance of such polling. R.S., c. 106, s. 72.

31. No intoxicating, spirituous or fermented liquors or strong drinks shall be sold or given at any hotel, tavern or shop or other place within the limits of any polling district, at any time during the day on which any poll is begun, holden, or proceeded with. R.S., c. 106, s. 74.

Offences and Penalties.

32. Every registrar, city or town clerk, clerk of the peace, clerk of a municipality or other officer, by law the proper custodian of any voters' list or certified duplicates or copies thereof, provided by this Part to be obtained by a returning officer, who omits or refuses to furnish such list, copies or extracts therefrom, within a reasonable time, to any returning officer requiring the same, shall incur a penalty not exceeding two thousand dollars and not less than two hundred dollars. R.S., c. 106, s. 16.

33. Every elector who takes any ballot paper, delivered to him by a deputy returning officer for the purpose of using the same in voting, out of the polling station in which the same is so delivered to him, shall incur a penalty not exceeding two hundred dollars and not less than fifty dollars. R.S., c. 106, s. 38.

34. Every officer and agent in attendance at a polling place,—

(a) who does not maintain and aid in maintaining the secrecy of the voting at such polling place; or,

(b) who communicates, before the poll is closed, to any person any information as to whether any person on the voters' list has or has not applied for a ballot paper, or voted at that polling place; or,

(c) who interferes with, or attempts to interfere with a voter when marking his vote, or otherwise attempts to obtain,
at the polling place, information as to how any voter at such polling place is about to vote or has voted; or,

(d) who communicates, at any time, to any person, any information obtained at a polling place as to how any voter at such polling place is about to vote or has voted; or,

(e) being in attendance at the counting of the votes, does not maintain and aid in maintaining the secrecy of the voting or attempts to ascertain at such counting how, or communicates any information obtained at such counting as to how, any vote is given in any particular ballot paper; shall be liable to a penalty not exceeding two hundred dollars, and in default of payment, to imprisonment for any term not exceeding six months with or without hard labour. R.S., c. 106, s. 64.

85. Every one who,—

(a) directly or indirectly, induces any voter to display his ballot paper after he has marked the same, so as to make it known to any person how he has so marked it; or,

(b) interferes with, or attempts to interfere with, a voter when marking his vote, or otherwise attempts to obtain, at the polling place, information as to how any voter at such polling place is about to vote, or has voted; or,

(c) communicates, at any time, to any person, any information obtained at a polling place as to how any voter at such polling place is about to vote, or has voted; shall be liable to a penalty not exceeding two hundred dollars, and in default of payment to imprisonment for any term not exceeding six months with or without hard labour. R.S., c. 106, s. 64.

86. Every person, having in his hands or personal possession within half a mile of any polling station, during any day wherein any poll is begun, holden or proceeded with, who refuses to deliver such weapon to any returning officer or deputy returning officer requiring delivery to him of the same, shall be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment for a term not exceeding three months. R.S., c. 106, s. 68.

87. Every person who sells or gives at any hotel, tavern or shop, or other place within the limits of any polling district any intoxicating, spirituous or fermented liquors or strong drinks, at any time during the day on which any poll is begun, holden, or proceeded with, shall, for each offence be liable to a penalty of one hundred dollars, and in default of payment, to imprisonment for a term not exceeding six months, at the discretion of the court or judge. R.S., c. 106, s. 74.

R.S., 1906.
88. Every person committing any battery during any day whereon any poll is begun, holden, or proceeded with, within the distance of two miles of the place where such poll is begun, holden or proceeded with, is guilty of an aggravated assault, and shall be punished accordingly. R.S., c. 106, s. 69.

89. Every person,—

(a) who, at any polling, either provides or furnishes drink or other refreshment at such person’s expense to any elector during such polling;

(b) who pays for, procures or engages to pay for any drink or other refreshment, provided or furnished, at any polling to any elector during such polling;

(c) who furnishes or supplies any ensign, standard, or set of colours, or any other flag to or for any person or persons whomsoever with the intent that the same shall be carried or used in the county or city on any day of polling under this Part, or within eight days before such day, or during the continuance of such polling, by such person or any other person, as a party flag, to distinguish the bearer thereof and those who follow the same as the supporters of the opinions entertained, by such person in either interest;

(d) who for any reason, carries or uses in either interest any such ensign, standard, set of colours or other flag as a party flag, within any county or city on the day of any polling, or within eight days before such day, or during the continuance of such polling;

(e) except the returning officer or his deputy, or one of the constables or special constables appointed by the returning officer or his deputy for the orderly conduct of the poll and the preservation of the public peace thereof, who has not had a stated residence in the polling district for at least six months next before the day of polling, who comes during any part of the day upon which the poll is to remain open, into such polling district armed with offensive weapons of any kind, as firearms, swords, staves, bludgeons or the like;

(f) who while in any polling district arms himself during any part of the day of polling with offensive weapons of any kind, as firearms, swords, staves, bludgeons or the like, and thus armed, approaches within the distance of one mile of the place where the poll for such polling district is held, unless called upon by lawful authority so to do;

is guilty of an indictable offence and liable to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both, in the discretion of the court. R.S., c. 106, ss. 70, 71, 72 and 73.

90.
90. Every person who,—

(a) directly or indirectly, by himself or by any other person on his behalf, gives or lends, or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or to refrain from voting, or corruptly does any act aforesaid, on account of such voter having voted or refrained from voting at any polling under this Part;

(b) directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or to refrain from voting, or who corruptly does any act aforesaid, on account of any voter having voted or refrained from voting at any polling under this Part;

(c) directly or indirectly, by himself, or by any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement, as aforesaid to or for any person, in order to induce such person to procure, or endeavour to procure, or to prevent or endeavour to prevent the adoption of any petition under the provisions of this Part, or to procure or endeavour to procure the vote of any elector at any polling under this Part, or to prevent or endeavour to prevent any elector from voting at any polling under this Part;

(d) upon and in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or prevents, or engages or promises or endeavours to procure or prevent the adoption of any petition under the provisions of this Part, or the vote of any voter at any poll under this Part:

(e) advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery or corrupt practices at any poll under this Part, or who knowingly pays or causes to be paid any money to any person, in discharge or re-payment of any money, wholly or in part expended in bribery or corrupt practices, at any poll under this Part;

shall be deemed to have committed the offence of bribery and is guilty of an indictable offence; and shall also incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit: Provided that the actual personal expenses of any agent in either interest, his expenses for actual professional services performed, and bona fide payments for the fair cost of printing and advertising, shall be deemed to be expenses lawfully expended.

Guilty of bribery.

Lawful expenditure.

Penalty.

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fully incurred, and the payment thereof shall not be deemed a violation of any provision of this Act. R.S., c. 106, s. 75.

91. (a) Every voter, who, before or during any polling of votes under this Act, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any poll under this Part;

(b) Every person who, after any polling under this Part, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting, at any poll under this Part;

shall be deemed to have committed the offence of bribery and is guilty of an indictable offence; and shall also incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, together with full costs of suit. R.S., c. 106, s. 76.

92. Every person who, corruptly, by himself or by or with any person, or by any ways or means on his behalf, at any time, either before or during any polling of votes under this Part, directly or indirectly, gives or provides, or causes to be given or provided, or is accessory to the giving or providing of, or pays wholly or in part any expenses incurred for, any meat, drink, refreshment or provision, to or for any person, in order to procure or prevent, or for having procured or prevented, the adoption of any petition under the provisions of this Part, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such polling of votes, is guilty of the offence of treating, and shall incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit in addition to any other penalty to which he is liable under any other provision of this Act. R.S., c. 106, s. 77.

93. Every person who shall give to any voter on the day of polling, on account of such voter having voted or being about to vote, any meat, drink or refreshment, or any money or ticket to enable such voter to procure refreshment, shall be guilty of an unlawful act and shall incur a penalty of ten dollars for each offence, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit. R.S., c. 106, s. 78.

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94. Every person who,—  
(a) directly or indirectly, by himself or by any other person, threatens of his behalf, makes use of, or threatens to make use of, any force, violence or restraint; or,  
(b) by himself or by or through any other person, inflicts or of injury. threatens the infliction of any injury, damage, harm or loss; or,  
(c) in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any polling under this Part; or,  
(d) by abduction, duress or any fraudulent device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any polling under this Part;  
shall be deemed to have committed the offence of undue influence, and is guilty of an indictable offence; and shall also incur a penalty of two hundred dollars, which may be recovered by any one who sues for the same to and for his own use, with full costs of suit. R.S., c. 106, s. 79.

95. Every person who hires or promises to pay, or pays for any horse, team, carriage, cab or other vehicle, by or through any agent or other person in either interest, to convey any voter or voters to or from the poll or from the neighbourhood thereof, at any polling of votes under this Part, or pays by or through any agent or other person in either interest the travelling or other expenses of any voter, in going to or returning from any polling of votes under this Part, shall be deemed to have committed an unlawful act and shall incur a penalty of one hundred dollars, which may be recovered by any one who sues for the same to and for his own use. R.S., c. 106, s. 80.

2. Every voter, who hires any horse, cab, cart, wagon, sleigh, for conveying or other conveyance for any such agent, for the purpose of conveying any voter or voters to or from the polling place or places, shall, ipso facto, be disqualified from voting at such polling of votes under this Part, and for every such offence shall incur a penalty of one hundred dollars, which may be recovered by any one suing for the same, to and for his own use. R.S., 1906.

96. Every one, who, at any polling of votes under this Part,—  
(a) applies for a ballot paper in the name of some other person, whether such name is that of a person living or dead, or a fictitious person; or,  
(b) R.S., 1906.
(b) having voted once at any such polling, afterwards applies at the same polling for a ballot paper in his own name; is for all the purposes of this Act guilty of the offence of personation and shall be liable to a penalty not exceeding two hundred dollars and to imprisonment for a term not exceeding six months. R.S., c. 106, ss. 81 and 82.

97. Every agent or other person in either interest, who corruptly, by himself or by or with any other person on his behalf, compels, or induces or endeavours to induce any person to personate any voter, or to take any false oath in any matter wherein an oath is required under this Part, is guilty of an indictable offence and shall, in addition to any other punishment to which he is liable for such offence, incur a penalty of two hundred dollars which may be recovered by any one who sues for the same, to and for his own use. R.S., c. 106, s. 83.

98. The offences of bribery, treating or undue influence aforesaid, personation or the inducing any person to commit personation, or any wilful offence against any of the eight sections last preceding, shall be corrupt practices within the meaning of the provisions of this Act. R.S., c. 106, s. 84.

99. Every one who,—

(a) forges or counterfeits, or fraudulently alters, defaces or fraudulently destroys, any ballot paper or the initials of the deputy returning officer signed thereon; or,

(b) without authority supplies any ballot paper to any person; or,

(c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or,

(d) fraudulently takes out of the polling place any ballot paper; or,

(e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the poll; or,

(f) attempts to commit any offence specified in this section; is guilty of an indictable offence, and liable, if a returning officer, deputy returning officer or other officer engaged at the polling, to a fine not exceeding one thousand dollars, and in default of payment to imprisonment for any term less than two years, with or without hard labour, and, if any other person, to a fine not exceeding five hundred dollars, and, in default of payment to imprisonment for any term not exceeding six months, with or without hard labour. R.S., c. 106, s. 85.

100. Every returning officer or deputy returning officer who refuses or neglects to perform any of the obligations or formalities required of him by this Part, shall, for each such refusal

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refusal or neglect, incur a penalty of two hundred dollars, 

which may be recovered by any person who sues for the same 
to and for his own use. R.S., c. 106, s. 86.

101. Every officer who is guilty of any wilful misfeasance 
or any wilful act or omission in violation of this Part shall 

forfeit to any person aggrieved by such misfeasance, act or 

omission, a penal sum not exceeding five hundred dollars, in 

addition to the amount of all actual damages thereby occasioned 
to such person. R.S., c. 106, s. 87.

Procedure.

102. All penalties and forfeitures, other than fines in cases 
of indictable offences, imposed by this Part, shall be recoverable 
or enforceable, with full costs of suit, by information or by any 
person who sues for the same in an action of debt, in any court 
of competent jurisdiction in the province in which the cause of 
action arises; and in default of payment of the amount which 
the offender is condemned to pay, within the period fixed by 
the court, the offender shall, if no other term of imprisonment 
is herein specially provided in that behalf, be imprisoned in 
the common gaol of the county or district for any term less than 
two years, unless such penalty and costs are sooner paid; and 
such imprisonment may be with hard labour where herein 
specially authorized.

2. No action or information for the recovery of any such 
penalty or forfeiture shall be commenced unless the person 
suing for the same has given good and sufficient security, to 
the amount of fifty dollars, to indemnify the defendant for the 
costs of his defence, if the person suing is condemned to pay 
the same. R.S., c. 106, s. 88.

103. It shall be sufficient for the plaintiff, in any action or 
suit under this Part, to allege, in his pleading or declaration, 
that the defendant is indebted to him in the sum of money 
thereby demanded, and to allege the particular offence in 
respect of which the action or suit is brought, and that the 
defendant has acted contrary to this Part. R.S., c. 106, s. 89.

104. Every prosecution for any indictable offence under 
this Part, and every action, suit or proceeding for any 
pecuniary penalty given by this Part to the person suing for 
the same, shall be commenced within the space of six months 
next after the act committed, and not afterwards, unless the 
same is prevented by the withdrawal or absconding of the 
defendant out of the jurisdiction of the court, and when com-
menced, shall be proceeded with and carried on without wilful 
delay. R.S., c. 106, s. 90.

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Mistakes in method only not fatal.

105. No polling of votes under this Part shall be declared invalid by reason of a non-compliance with the provisions of this Part, as to the taking of the poll or the counting of the votes, or of any mistake in the use of the forms contained in the schedule to this Act, if it appears to the tribunal having cognizance of the question that the polling of votes was conducted in accordance with the principles laid down in this Part, and that such non-compliance or mistake did not affect the result of the polling. R.S., c. 106, s. 91.

No privilege in relation to proceedings in court.

106. No person shall be excused from answering any question put to him in any action, suit or other proceeding in any court, or before any judge, commissioner or other tribunal, touching or concerning any polling of votes under this Part, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on the ground of privilege or on the ground that such answer will tend to criminate himself, shall be used in any criminal proceeding against such person, other than an indictment for perjury, if the judge, commissioner or president of the tribunal gives to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid and made full answer to the satisfaction of the judge, commissioner or tribunal. R.S., c. 106, s. 92.

Provision as to use of answer.

107. Every executory contract, or promise or undertaking, in any way referring to, arising out of, or depending upon, any polling of votes under this Part, even for the payment of lawful expenses or the doing of some lawful act, shall be void in law.

2. This section shall not enable any person to recover back any money paid for lawful expenses connected with such polling. R.S., c. 106, s. 93.

Contracts relating to polling of votes void.

108. When, in the county or city, one-half or more of all the votes polled have been against the adoption of any petition embodied, as aforesaid, in any notice and in any proclamation under this Part, no similar petition shall be put to the vote of the electors of such county or city for a period of three years from the day on which such vote was taken. R.S., c. 106, s. 94.

Recovering back money.

Order in Council bringing into force.

109. When any petition embodied, as aforesaid, in any notice and in any proclamation under this Part, has been adopted by the electors of the county or city named therein, and to which the same relates, the Governor in Council may, at
at any time after the expiration of sixty days from the day on which the same was adopted, by order in council published in the Canada Gazette, declare that Part II. of this Act shall be in force and take effect in such county or city upon, from and after the day on which the annual or semi-annual licenses for the sale of spirituous liquors then in force in such county or city will expire, if such day is not less than ninety days from the day of the date of such order in council; and if it is less, then on the like day in the then following year; and upon, from and after that day, Part II. of this Act shall become and be in force and take effect in such county or city accordingly, subject however to the revocation of such order in council as hereinafter provided.

2. If, in any county or city, there are no licenses in force when the petition mentioned in this Part is adopted, Part II. of this Act shall become and be in force, and take effect in such county or city, after the expiration of thirty days from the day of the date of an order in council to that effect, published in the Canada Gazette. R.S., c. 106, s. 95; 51 V., c. 35, s. 9.

Revocation of Order in Council.

110. No order in council issued under this Part shall be revoked until after the expiration of three years from the date of the coming into force under it of Part II. of this Act.

2. No petition for the revocation of the order in council which declares Part II. of this Act in force, shall be submitted to the vote of the electors sooner than thirty days before the expiration of three years from the coming into force of Part II. of this Act in any county or city. 51 V., c. 35, s. 3.

111. A petition to the Governor in Council praying for revocation of any order in council, passed for bringing Part II. of this Act into force, may be in form M or to the like effect. 51 V., c. 35, s. 5.

112. Such petition may be embodied, as in form M, in a notice in writing addressed to the Secretary of State of Canada and signed by electors in a county or city, to the effect that the signers desire that the votes of such electors as, under the provisions of this Part are entitled to vote for the bringing into force of Part II. of this Act, be taken for and against the revocation of the order in council bringing Part II. of this Act into force. 51 V., c. 35, s. 6.

113. The provisions of this Part as to proceedings for bringing Part II. of this Act into force, including such as relate to the mode of obtaining a poll, and to the returning officers and their duties, and to the poll, and to proceedings after close of the poll, and to the summing up of the votes and returns, 181½ 2883 R.S., 1906.
returns, and to the secrecy of voting, and to the preservation of peace and good order, and to the prevention of corrupt practices and other illegal acts, and to procedure, except so much of such provisions as relates to the form and substance of the petition in that behalf, and to the form and substance of the ballot paper and printed directions to be furnished to the deputy returning officers, shall apply, mutatis mutandis, to every case of a petition and notice for revocation of an order in council under this Part, and to all the proceedings to be had and taken thereon, and shall be applicable in respect of the powers to be exercised, and to the offences which may be committed and the penalties which may be incurred in the course of, and in connection with, such proceedings. 51 V., c. 35, s. 7.

114. For the voting for the revocation of any such order in council the ballot of each voter shall be a printed paper, in this Part called a ballot paper, with a counterfoil, and the ballot paper and counterfoil shall be according to form N, and in such ballot paper the words Against the Act shall be printed in red ink and the words For the Act in black ink; and the printed directions to be furnished to the deputy returning officers shall be according to form O. 51 V., c. 35, s. 8.

115. When any petition for the revocation of an order in council for the bringing into operation of Part II. of this Act is adopted by the electors of the county or city to which the same relates, the Governor in Council may, at any time after the expiration of thirty days from the day on which the same was so adopted, by order in council published in the Canada Gazette, declare that Part II. of this Act shall no longer be in force; and thereafter Part II. shall cease to be in force or effect in such county or city. 51 V., c. 35, s. 9.

Repeal of By-laws passed under The Temperance Act of 1864, and Repeal of Certain Sections of that Act.

116. If a petition to the Governor in Council, praying for the repeal of a by-law passed by the council of any county or city in the provinces of Ontario or Quebec under the authority and for the enforcement of the Act of the Legislature of the late province of Canada, passed in the session thereof held in the twenty-seventh and twenty-eighth years of Her late Majesty's reign, chaptered eighteen, and known as The Temperance Act of 1864, is embodied in a notice addressed to the Secretary of State and signed by one-fourth or more of the electors of such county or city, and such proceedings are had thereon as are, by this Part, required to be had on a notice and petition for bringing Part II. of this Act into force, and more than one-half of the votes polled are found to be for the petition, the Governor in Council may, by order in council, repeal such by-law, and thereupon such by-law shall become R.S., 1906.
and be repealed, upon, from, and after the day of the publication of such order in council in the Canada Gazette.

2. Each and all of the provisions of the preceding sections of this Part shall apply, mutatis mutandis, to every case of a petition and notice for the repeal of any such by-law, and to the proceedings to be had and taken thereon, and in respect to the powers to be exercised, and the offences that may be committed and penalties that may be incurred in the course of and in connection with such proceedings.

3. The provisions of this section shall be applicable to counties which have been divided for municipal purposes after the adoption of The Temperance Act of 1864. R.S., c. 106, s. 97; 51 V., c. 35, s. 10.

PART II.

TRAFFIC IN INTOXICATING LIQUORS.

Prohibition.

117. From the day on which this Part comes into force and takes effect in any county or city, and for so long thereafter as the same continues in force therein, no person shall, except as in this Part specially provided, within such county or city, by himself, his clerk, servant or agent, expose or keep for sale, or directly or indirectly, on any pretense or upon any device, sell or barter, or, in consideration of the purchase of any other property, give to any other person any intoxicating liquor.

2. No act done in violation of the foregoing provisions of this section shall be rendered lawful by reason of,—

(a) any license issued to any distiller or brewer; or,

(b) any license for retailing on board any steamboat or other vessel, brandy, rum, whiskey, or other spirituous liquors, wine, ale, beer, porter, cider, or other vinous or fermented liquors; or,

(c) any license for retailing on board any steamboat or other vessel, wine, ale, beer, porter, cider, or other vinous or fermented liquors, but not brandy, rum, whiskey or other spirituous liquors; or,

(d) any license of any other description whatsoever. R.S., c. 106, s. 99.

118. The sale of wine for exclusively sacramental purposes may, on the certificate of a clergyman affirming that the wine is required for sacramental purposes, be made by druggists and vendors thereto specially licensed by the lieutenant governor in each province; but the number of such licensed druggists and vendors shall not exceed one in each township or parish, or two in each town, or one for every four thousand inhabitants in each city. R.S., c. 106, s. 99.

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Sale for purposes of medicine, art, trade or manufacture.

Certificate to be produced.

Record and annual return to collector.

Sale in wholesale quantities and to certain persons only.

Sales by vine-growing companies.

119. The sale of intoxicating liquor for exclusively medicinal purposes, or for bona fide use in some art, trade or manufacture, may be made by any person duly authorized to sell the same; but such intoxicating liquor when sold for medicinal purposes, shall be removed from the premises, and such sale shall be made only on the certificate of a legally qualified physician having no interest in the sale, affirming that such liquor has been prescribed for the person named therein.

2. When such sale of intoxicating liquor is for its use in some art, trade or manufacture, the same shall be made only on a certificate, signed by two justices of the peace, of the good faith of the application, accompanied by the affirmation of the applicant, that the liquor is to be used only for the particular purposes set forth in the affirmation.

3. Such vendor shall file the certificates and keep a register of all such sales, indicating the name of the purchaser and the quantity sold, and shall make an annual return of all such sales, on the thirty-first day of December in every year, to the collector of Inland Revenue within whose revenue division the county or city is situate. 51 V., c. 34, s. 5.

120. Any producer of cider in the county may, at his premises, and any licensed distiller or brewer, having his distillery or brewery within any county or city, may at such distillery or brewery, expose and keep for sale such liquor as he manufactures thereat, and no other; and may sell the same thereat, but only in quantities not less than ten gallons, or in the case of ale or beer, not less than eight gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such person as he has good reason to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city in which this Part is then in force, to be wholly removed or taken away in quantities not less than ten gallons, or in the case of ale or beer, not less than eight gallons at a time. R.S., c. 106, s. 99.

121. Any incorporated company authorized by law to carry on the business of cultivating and growing vines and of making and selling wine and other liquors produced from grapes, having their manufactury within such county or city, may thereat expose and keep for sale such liquor as they manufacture thereat and no other; and may sell the same thereat, but only in quantities not less than ten gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such persons as they have good reason to believe will forthwith carry the same beyond the limits of the county or city and of any adjoining county or city in which this Part is then in force, to be wholly removed and taken away in quantities not less than ten gallons at a time. R.S., c. 106, s. 99.

122.
122. Manufacturers of pure native wines made from grapes grown and produced by them in Canada may, when authorized so to do, by license from the municipal council, or other authority having jurisdiction where such manufacture is carried on, sell such wines at the place of manufacture in quantities of not less than ten gallons at one time, except when sold for sacramental or medical purposes, when any number of gallons, from one to ten, may be sold. R.S., c. 106, s. 99.

123. Any merchant or trader, exclusively in wholesale trade and duly licensed to sell liquor by wholesale, having his store or place for sale of goods within such county or city, may, thereat keep for sale and sell intoxicating liquor, but only in quantities not less than ten gallons at any one time, and only to druggists and vendors licensed as aforesaid, or to such persons as he has good reason to believe will forthwith carry the same beyond the limits of the county or city, and of any adjoining county or city, in which this Part is then in force, to be wholly removed and taken away in quantities not less than ten gallons at a time. R.S., c. 106, s. 99.

124. In any prosecution against a producer, distiller, brewer, manufacturer, merchant or trader, for any violation of this Part, it shall lie upon the defendant to furnish satisfactory evidence of having good reason for believing that such liquor would be forthwith removed beyond the limits of the county or city, and of any adjoining county or city in which this Part is then in force, for consumption outside the same. R.S., c. 106, s. 99.

125. Nothing in this Act shall be deemed to interfere with the purchase or sale, by legally qualified physicians, chemists or druggists,—

(a) of the official preparations of the authorized pharmacopoeias when made of full medicinal strength and sold only for medicinal purposes;

(b) of any patent medicine, unless such patent medicine is known to the vendor to be capable of being used as a medicine, beverage the sale of which is a violation of this Act;

(c) of eau de cologne, bay rum, or other articles of perfumery, lotions, extracts, varnishes, tinctures or other pharmaceutical preparations containing alcohol, but not intended for use as beverages;

(d) of methylated spirits for pharmaceutical, chemical or mechanical uses;

(e) of spirituous liquors or alcohol for exclusively medicinal purposes, or for bona fide use in some art, trade or manufacture: Provided that such spirituous liquor or alcohol, when sold for medicinal purposes, shall not exceed in quantity ten ounces at any one time, and shall be removed from the premises, and that the sale thereof is made R.S., 1906.
Certificate necessary. made on the certificate or prescription of a legally qualified physician affirming that such liquor or alcohol has been prescribed for the person named therein; and that when such sale is for the use of the liquor or alcohol in some art, trade or manufacture, such sale shall be made only on a certificate signed by two justices of the peace of the good faith of the application, accompanied by the affirmation of the applicant that such liquor or alcohol is to be used only for the purposes set forth in the application.

2. The vendor shall file all such certificates and prescriptions, and shall record every such sale in a book kept for that purpose, giving the name and address of the purchaser, the quantity of liquor or alcohol so sold, the name and address of the physician prescribing it, and of the person for whom it is prescribed, and of the justices whose names are appended to the certificate above referred to, and of the purpose for which the liquor or alcohol is prescribed.

3. The file of such certificates and prescriptions and the said book shall be kept for inspection by the inspector for the county or district at all proper times.

4. The vendor shall make an annual return of all such sales on the thirty-first day of December in every year to the collector of Inland Revenue within whose revenue division the county or district is situate. 55-56 V., c. 26, s. 1.

**Offences and Penalties.**

**126.** Any legally qualified physician who gives a certificate under this Part, for any other than strictly medical purposes, affirming that any intoxicating liquor, therein specified, has been prescribed for the person named therein, shall on summary conviction, for the first offence be liable to a penalty of twenty dollars, and for any second or subsequent offence to a penalty of forty dollars. 51 V., c. 34, s. 5.

**PART III.**

**CONCERNING OFFENCES.**

**Penalties and Prosecutions.**

**127.** Every one who by himself, his clerk, servant or agent, exposes or keeps for sale, or directly or indirectly, on any pretext or by any device, sells or barters, or in consideration of the purchase of any other property, gives to any other person any intoxicating liquor, in violation of Part II. of this Act, shall, on summary conviction, be liable to a penalty, for the first offence, of not less than fifty dollars, or imprisonment for a term not exceeding one month, with or without hard labour, and, for a second offence, to a fine of not less than one hundred dollars, or imprisonment for two months, with or without hard labour,
labour, and, for a third and every subsequent offence, to imprisonment for a term not exceeding four months, with or without hard labour.

2. Every one who, in the employment or on the premises of another, so exposes or keeps for sale, or sells or barters, or gives, in violation of Part II. of this Act, any intoxicating liquor, is equally guilty with the principal, and shall, on summary conviction, be liable to the same penalty or punishment.

3. All intoxicating liquors, with respect to which any such offence has been committed, and all kegs, barrels, cases, bottles, packages or receptacles of any kind in which such liquors are contained, shall be forfeited. 4 E. VII., c. 41, s. 1.

128. If any person who has been convicted of a violation of any provision of Part II. of this Act is afterwards convicted of any offence against such provision, or against any other provision of Part II., such conviction shall be deemed a conviction for a second offence, within the meaning of the last preceding section; and may be dealt with and punished accordingly, although the two convictions may be for acts of different descriptions; and if any such person is afterwards again convicted of a violation of any provision of Part II., whether similar or not to the previous offences, such conviction shall, in like manner, be deemed a conviction for a third offence, within the meaning of the last preceding section, and may be dealt with and punished accordingly. R.S., c. 106, s. 115.

129. Any prosecution for any such penalty or punishment may be brought by or in the name of the collector of Inland Revenue within whose official division the offence was committed, or by or in the name of any person. R.S., c. 106, s. 101.

130. Such collector of Inland Revenue shall bring such prosecution, whenever he has reason to believe that any such offence has been committed, and that a prosecution therefor can be sustained, and would not subject him to any undue measure of responsibility in the premises. R.S., c. 106, s. 102.

131. Such prosecution may be brought before any judge of the sessions of the peace, recorder, police magistrate, stipendiary magistrate, sitting magistrate, two justices of the peace, or any magistrate having the power or authority of two or more justices of the peace, having jurisdiction where the offence was committed. 51 V., c. 34, s. 6.

132. If any prosecution is brought before any such judge of the sessions of the peace, recorder, police magistrate, stipendiary magistrate, sitting magistrate, or magistrate having the power or authority of two or more justices of the peace, no other justice shall sit or take part therein. 51 V., c. 34, s. 7.

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133. If such prosecution is proposed to be brought before any two other justices of the peace, all acts and proceedings prior to the hearing and trial may be done and taken by one of them.

2. In such case no justice other than the two justices before whom the prosecution is proposed to be brought shall sit or take part therein, except in the case of their absence or in the absence of one of them; and not in the former, except with the assent of the prosecutor, or in the latter, except with the assent of the one of such justices who is present. 51 V., c. 34, s. 8.

134. Every such prosecution shall be commenced within three months after the alleged offence, and shall be heard and determined in a summary manner, either upon the confession of the defendant or upon the evidence of a witness or witnesses. R.S., c. 106, s. 106.

135. Every offence against Part II. of this Act may be prosecuted and the penalties and punishments therefor enforced in the manner directed by Part XV. of the Criminal Code so far as no provision is in this Part made for any matter or thing which is required to be done with respect to such prosecution; and all the provisions contained in Part XV. of the Criminal Code shall be applicable to such prosecutions and to the judicial and other officers before whom the same are by this Part authorized to be brought, in the same manner as if they were incorporated in this Part, and as if all such judicial and other officers were named in this Part. R.S., c. 106, s. 107; 51 V., c. 34, s. 9.

136. If it is proved upon oath before any judge of the sessions of the peace, recorder, police magistrate, stipendiary magistrate, sitting magistrate, two justices of the peace, or any magistrate having the power or authority of two or more justices of the peace, that there is reasonable cause to suspect that any intoxicating liquor is kept for sale in violation of Part II. of this Act, or of The Temperance Act of 1864, in any dwelling-house, store, shop, warehouse, outhouse, garden, yard, croft, vessel, or other place or places, such officer may grant a warrant to search in the day time such dwelling-house, store, shop, warehouse, outhouse, garden, yard, croft, vessel, or other place or places for such intoxicating liquor, and if the same or any part thereof is there found, to bring the same before him.

2. Any information to obtain a warrant under this section may be in form Q, and any search warrant under this section may be in form R. 51 V., c. 34, s. 10.

137. When any person is convicted of any offence against any of the provisions of Part II. of this Act, or The Temperance Act of 1864, the officer or officers so convicting may 2890 adjudge R.S., 1906.
adjudge and order, in addition to any other penalty or punishment, that the intoxicating liquor in respect to which the offence was committed, and which has been seized under a search warrant as aforesaid, and all kegs, barrels, cases, boxes, bottles, packages, and other receptacles of any kind whatsoever, found containing the same be forfeited and destroyed, and such order shall thereupon be carried out by the constable or peace officer who executed the said search warrant or by such other person as may be thereunto authorized by the officer or officers who have made such conviction. 51 V., c. 34, s. 11.

Necessary Allegations in Proceedings.

138. In describing offences respecting the sale or other unlawful disposal of intoxicating liquor, or the keeping thereof for sale, in any information, summons, conviction, warrant or proceeding under The Temperance Act of 1864, or under this Act, it shall be sufficient to state the unlawful sale, barter, disposal or keeping of intoxicating liquor simply, without stating the name or kind of such liquor, or the price thereof, or the name of any person to whom it was sold, bartered or disposed of; and it shall not be necessary to state the quantity of liquor so sold, bartered, disposed of or kept, except in the case of offences where the quantity is essential, and it shall then be sufficient to allege the sale or disposal of more or less than such quantity.

2. It shall not be necessary, in any such summons, conviction, warrant or proceeding, to negative the circumstances, the existence of which would make the act complained of lawful, but upon any such circumstances being proved in evidence, the defendant shall be acquitted.

3. The provision of the last preceding subsection as to manner of statement of an offence shall apply, whether such circumstances are stated by way of exception in the section under which the offence is laid, or in a substantive section, or otherwise. R.S., c. 106, s. 110.

Proof.

139. When in any house, shop, room or other place in any municipality in which Part II. of this Act or in which any prohibitory by-law passed under the provisions of The Temperance Act of 1864, is in force, a bar, counter, beer pumps, kegs, or any other appliances or preparations similar to those usually found in taverns and shops where intoxicating liquors are usually sold or trafficked in, are found, and intoxicating liquor is also found in such house, shop, room or place, such liquor shall be deemed to have been kept for sale contrary to the provisions of Part II. of this Act or of The Temperance Act of 1864, as the case may be, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken conclusively to be

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be the person who keeps therein such liquor for sale. R.S., e. 106, s. 111.

140. In proving the sale or barter or other unlawful disposal of liquor for the purpose of any proceeding relative to any offence under The Temperance Act of 1864, or under this Act, it shall not be necessary to show that any money actually passed or that any liquor was actually consumed, if the justices, magistrate or other officer or court hearing the case is satisfied that a transaction, in the nature of a sale or barter or other unlawful disposal, actually took place. R.S., e. 106, s. 112.

141. In any prosecution under The Temperance Act of 1864, or under this Act, for the sale or barter or other unlawful disposal of intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered, or the precise consideration therefor, or to the fact of the sale or other disposal having taken place, with his participation or to his own personal and certain knowledge; but the justices or magistrate or other officer trying the case, so soon as it appears to them or him that the circumstances in evidence sufficiently establish the violation of law complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence, shall convict him accordingly. R.S., e. 106, s. 113.

142. On the trial of any proceeding, matter or question under The Temperance Act of 1864, or under this Act, the person opposing or defending, or the wife or husband of such person opposing or defending, shall be competent to give evidence in such proceeding, matter or question. R.S., e. 106, s. 114; 51 V., e. 34, s. 13.

Subsequent Offences.

143. In case of a previous conviction or convictions being charged,—

(a) the justices or magistrate or other officer shall, in the first instance, inquire concerning such subsequent offence only, and if the accused is found guilty thereof, and is present when so found guilty, he shall then, and not before, be asked whether he was so previously convicted, as alleged in the information, and, if he answers that he was so previously convicted, he may be convicted accordingly, but, if he denies that he was so previously convicted or stands mute of malice, or does not answer directly to such question, or is not present when found guilty as aforesaid, the justices or police magistrate or other officer shall then inquire concerning such previous conviction or convictions;

(b) the number of such previous convictions shall be provable by the production of a certificate under the hand of 2892

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the convicting justices or magistrate, or officer, or of the clerk of the peace, without proof of signature or official character, or by other satisfactory evidence;

(c) a conviction may, in any case be had as for a first offence, notwithstanding that there has been a prior conviction or convictions for the same or any other offence.

2. Convictions for several offences may be made under this Act, although such offences have been committed on the same day; but the increased penalty or punishment hereinafter imposed shall only be recoverable or be liable to be imposed in the case of offences committed on different days, and after information laid for a first offence. R.S., c. 106, s. 115.

144. In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof, by reason of any previous conviction being set aside, quashed or otherwise rendered void, the justices or magistrate or other officer by whom such second or subsequent conviction was made, may, by summons under his or their hand, require the person convicted to appear at a time and place to be named in such summons, and may thereupon, upon proof of the due service of such summons, if such person fails to appear, or on his appearance, amend such second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be deemed valid, to all intents and purposes, as if it had been made in the first instance. R.S., c. 106, s. 115.

Variances, Defects and Amendments.

145. In the event of any variance between the information and evidence adduced in support thereof, the justices or magistrate or other officer may amend or alter such information, and may substitute, for the offence charged therein, any other offence against the provisions of The Temperance Act of 1864, or of this Act, as the case may be; but if it appears that the defendant has been materially misled by such variance, such justices, magistrate or other officer shall thereupon adjourn the hearing of the case to a future day, unless the defendant waives such adjournment. R.S., c. 106, s. 116.

146. No conviction or warrant enforcing the same, or other process or proceeding under either of the said Acts shall be held insufficient or invalid by reason of any variance between the information and conviction, or by reason of any other defect in form or substance, if it can be understood from such conviction, warrant, process or proceeding, that the same was made for an offence against some provision of such Act, within the jurisdiction of the justices or magistrate or other officer who made or signed the same, and if there is evidence to prove such offence, and if no greater penalty is imposed than is authorized by such

2893 Act:

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Act: Provided that the court or judge, where so satisfied, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just as are by section seven hundred and fifty-four of the Criminal Code conferred upon the court to which an appeal is taken under the provisions of section seven hundred and forty-nine of the Criminal Code. R.S., c. 106, s. 117; 55-56 V., c. 29, s. 889.

147. Upon any application to quash such conviction or warrant enforcing the same, or other process or proceeding, or to discharge any person in custody under such warrant, whether such application is made in appeal or upon habeas corpus, or otherwise, the court or judge to whom such appeal is made, or to whom such application is made in appeal or upon habeas corpus, or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defect as aforesaid.

2. Such court or judge may, in any case, amend any such conviction or warrant, process or proceeding, if necessary.

3. In all cases in which it appears that the merits have been tried and that any conviction, warrant, process or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process or proceeding shall be affirmed, or shall not be quashed, as the case may be; and any conviction, warrant, process or proceeding so affirmed, or affirmed and amended, may be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded. R.S., c. 106, s. 118.

Certiorari and Appeal Restricted.

148. No conviction, judgment or order, in respect of any offence against Part II. of this Act, shall be removed by certiorari or otherwise into any of His Majesty's courts of record.

2. No appeal shall be allowed from any such conviction, judgment or order to any court of general sessions or other court whatsoever, if the conviction has been made by a stipendiary magistrate, recorder, judge of the sessions of the peace, police magistrate, sitting magistrate, or any magistrate or officer having the power and authority of two or more justices of the peace.

3. The provisions of this section, taking away an appeal, shall not apply to any conviction made against any legally qualified physician on a charge of having given a certificate under Part II. of this Act for any other than strictly medicinal purposes, affirming that the liquor specified therein had been prescribed for the person named therein. R.S., c. 106, s. 119; 51 V., c. 31, ss. 5 and 12.
Compounding Offences.

149. Every one who, having violated any of the provisions of this Act or of any Act in force in any province, respecting the issue of licenses for the sale of fermented or spirituous liquors, or of The Temperance Act of 1864, compromises, compounds or settles, or offers or attempts to compromise, compound or settle the offence with any person or persons, with the view of preventing any complaint being made in respect thereof, or if a complaint has been made, with the view of getting rid of such complaint, or of stopping or of having the same dismissed for want of prosecution or otherwise, is guilty of an offence against this Act, and on conviction thereof, shall be liable to imprisonment at hard labour in the common gaol of the county or district in which the offence was committed, for any term not exceeding three months.

2. Every one who is concerned in, or is a party to the compromise, composition or settlement mentioned in this section, is guilty of an offence against this Act, and, on conviction thereof, shall be liable to imprisonment in the common gaol of the county or district in which the offence was committed, for any term not exceeding three months. R.S., c. 106, s. 120.

Tampering with Witnesses.

150. Every one who, on any prosecution under any of the Acts referred to in the last preceding section, tampers with a witness, either before or after he is summoned or appears as such witness on any trial or proceeding under any of such Acts, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such witness to absent himself, or to swear falsely, shall incur a penalty of fifty dollars for each offence. R.S., c. 106, s. 121.

151. The forms given in the schedule to this Act, or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for, and, where no forms are prescribed by the said schedule, new ones may be framed in accordance with this Act or with Part XV. of the Criminal Code in so far as the same are not inconsistent with any provisions made in this Act, for any matter or thing required to be done with respect to any prosecution. 51 V., c. 34, s. 14.

SCHEDULE.

Form A.

Forms of Notice and Petition for the Bringing of Part II. of this Act into Force.

To the Honourable the Secretary of State of Canada:

Sir,—We, the undersigned electors of the county (or city) of request you to take notice that we propose presenting 2895 R.S., 1906.
presenting the following petition to His Excellency the Governor General, namely:—

To His Excellency the Governor General of Canada in Council.

The petition of the electors of the county (or city) of qualified and competent to vote at the election of a member of the House of Commons in the said county (or city),—
Respectfully shows, that your petitioners are desirous that Part II. of the Canada Temperance Act, should be in force and take effect in the said county (or city).
And that we desire that the votes of all the electors of the said county (or city) be taken for and against the adoption of the said petition.
Wherefore your petitioners humbly pray that Your Excellency will be pleased, by an order in council under the one hundred and ninth section of the said Act, to declare that Part II. of the said Act shall be in force and take effect in the said county (or city).
And your petitioners will ever pray, etc.

R.S., c. 106, sch. form A.

Form B.

Oath of the Returning Officer.

I, the undersigned, A.B., returning officer under the Canada Temperance Act, for the county (or city) of solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully in that capacity, without partiality, fear, favour or affection. So help me God.

(Signature) A.B.,
Returning Officer.

Certificate of Returning Officer having taken Oath of Office.

I, the undersigned, hereby certify that on the day of the month of , 19 , A.B., the returning officer, under the Canada Temperance Act, for the county (or city) of took and subscribed before me the oath (or affirmation) of office, in such case required of a returning officer, by section fourteen of the Canada Temperance Act.

In testimony whereof, I have delivered to him this certificate.

(Signature) C. D.,
Justice of the Peace.

R.S., c. 106, sch. form B.

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Form C.

Commission of a Deputy Returning Officer.

To G. H. (insert his addition and residence).

Know you, that in my capacity of returning officer, under the Canada Temperance Act, for the county (or city) of _ , I have appointed and do hereby appoint you to be deputy returning officer for the polling district number _ , of the said county (or city) of _ , there to take the votes of the electors by ballot, according to law, at the polling station to be by you opened and kept for that purpose, and you are hereby authorized and required to open and hold the poll, under the said Act, for the said polling district, on the day of _ , at nine o’clock in the forenoon, at (here describe particularly the place in which the poll is to be held), and there to keep the said poll open during the hours prescribed by law, and to take, at the said polling place, by ballot, in the manner by law provided, the votes of the electors voting at the said polling place, and after counting the votes given and performing the other duties required of you by law, to return to me forthwith the ballot box, sealed with your seal, and inclosing the ballots, voters’ list, and other documents required by law, together with this commission.

Given under my hand, at _ , in the year 19 _ .

(Signature) A. B., Returning Officer.

R.S., c. 106, sch. form C.

Form D.

Oath of Deputy Returning Officer.

I, the undersigned, G. H., appointed deputy returning officer for the polling district, No. _ , of the county (or city) of _ , solemnly swear (or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully in my said capacity of deputy returning officer, without partiality, fear, favour or affection. So help me God.

(Signature) G. H., Deputy Returning Officer.

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Certificate of a Deputy Returning Officer having taken the Oath of Office.

I, the undersigned, hereby certify that on the day of the month of , G. H., deputy returning officer for the polling district No. , of the county (or city) of , took and subscribed the oath (or affirmation) of office, required in such case of a deputy returning officer, by section eighteen of the Canada Temperance Act.

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature)  
A. B.,  
Returning Officer.

or C. D.,  
Justice of the Peace.

R.S., c. 106, sch. form D.

Form E.

Form of Ballot Paper.

Voting on the petition to the Governor General for the bringing into force of Part II. of the Canada Temperance Act.

For the Petition ×

Against the Petition ×

N.B.—The crosses are for illustration.

The dotted line will be a line of perforation for easily detaching the counterfoil. R.S., c. 106, sch. form E.

R.S., 1906.
Form F.

Directions for the Guidance of Electors in Voting.

The voter will go into one of the compartments, and with a pencil there provided, place a cross thus, X, in the upper space if he votes for the adoption of the petition, and in the lower space if he votes against the adoption of the petition.

The voter will then fold the ballot, so as to show a portion of the back only, with the number and the initials of the deputy returning officer, and deliver it to the deputy returning officer, who will place it in the ballot box. The voter will then forthwith quit the polling station.

If a voter inadvertently spoils a ballot paper, he can return it to the proper officer, who, on being satisfied of the fact, will give him another.

If the voter places on the ballot more than one mark, or places any mark on it by which he can afterwards be identified, his vote will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or fraudulently puts any other paper into the ballot box than the ballot paper given him by the deputy returning officer, he will be subject to be punished by fine or by imprisonment for a term not exceeding six months, with or without hard labour. R.S., c. 106, sch. form F.

Form G.

Form of Declaration of Agent.

I, the undersigned, E. F., solemnly declare that I am desirous of promoting (or opposing) the adoption of a petition to the Governor General for the bringing into force in the said county (or city) of Part II. of the Canada Temperance Act.

(Signature) A. B.

Made and declared at this day of ,

A.D. 19 , before me,

C. D., Returning Officer.

R.S., c. 106, sch. form G.

Form H.

Form of Oath of Secrecy.

I, the undersigned, E. F., agent for the electors of the county (or city) of , interested in promoting (or opposing) the adoption of a petition to the Governor General for the bringing into force in the said county (or city) of Part II. of the Canada Temperance Act, solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm, promise and declare) that I will keep secret the way in which

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which any of the voters at the polling station in the polling district No. , marks his ballot in my presence, at this polling of votes for or against such petition. So help me God.

(Signature.) E.F.

Sworn (or affirmed) at A.D. 19 , before me.

A. B.,
Returning Officer.
or C. D.,
Justice of the Peace.

R.S., c. 106, sch. form H.

**Form I.**

*Form of Voters' List.*

<table>
<thead>
<tr>
<th>Number of the Voters</th>
<th>Names of the Voters</th>
<th>Their legal addition</th>
<th>Their place of residence,</th>
<th>Owners</th>
<th>Tenants or occupants</th>
<th>Residence or other qualification</th>
<th>Objections</th>
<th>Sworn or affirmed</th>
<th>Voters refusing to be sworn or affirmed</th>
<th>Voters voting after others than voters' orders.</th>
</tr>
</thead>
</table>

**Note.**—The qualification need not be inserted except where there are no provincial lists of voters.

R.S., c. 106, sch. form I.

**Form J.**

*Oath of Identity by Voter receiving a Ballot Paper after Another has Voted in his Name.*

I solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm), that I am A. B. of (as on the voters' list) whose name is entered on the voters' list now shown me. So help me God.

R.S., c. 106, sch. form J.

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Form K.

Oath of Messenger sent to collect the Ballot Boxes.

I, A. B., of , messenger appointed by C. D., returning officer for the county (or city) of , do solemnly swear that the several boxes, to the number of now delivered by me to the said returning officer, have been handed to me by the several deputy returning officers at the present polling of votes, in the said county, city, or by (here insert the names of the deputy returning officers who have delivered the said boxes), that they have not been opened by me, nor by any other person, and that they are in the same state as they were when they came into my possession.

(If any change has taken place, the deponent shall vary his deposition by fully stating the circumstances.)

(Signature) A. B.

Sworn (or affirmed) and subscribed before me, at this day of , in the year 19 .

(Signature) X. Y., Justice of the Peace.

or A. B., Returning Officer.

or G. H., Deputy Returning Officer.

R.S., c. 106, sch. form K.

Form L.

Oath of the Deputy Returning Officer after the Closing of the Poll.

I, the undersigned, deputy returning officer for the polling district No. of the county (or city) of , do solemnly swear (or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that to the best of my knowledge and belief, the voters’ list kept for the said polling district under my direction, has been so kept correctly, and that the total number of votes polled in the said list is , and that, to the best of my knowledge and belief it contains a true and exact record of the votes given at the polling station in the said polling district as the said votes were taken thereat, that I have faithfully counted the votes given for each interest, in the manner by law provided, and performed all duties required of me by law, and that the report, packets of ballot papers, and other documents required by law to be returned by me, to the returning officer, have been faithfully and truly prepared and placed within the ballot box, as this oath (or affirmation) will be to the end that the said ballot box being 2901

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being first carefully sealed with my seal, may be transmitted to
the returning officer according to law.

(Signature) G. H.,
Deputy Returning Officer.

Sworn before me at , in the county of , this
day of 19 .

(Signature) X. Y.,
Justice of the Peace.
or A. B.,
Returning Officer.

R.S., c. 106, sch. form L.

Form M.

Form of notice and petition for revocation of an order in
council passed for bringing Part II. of the Canada Temperance Act, into force.

To the Honourable the Secretary of State of Canada.

Sir,—We, the undersigned electors of the county (or city) of request you to take notice that we propose presenting the following petition to His Excellency the Governor General of Canada in Council:—

The petition of the electors of the county (or city) of qualified and competent to vote at the election of a member of the House of Commons in the said county (or city) respectfully shows that your petitioners are desirous that the order in council passed for bringing into force within the said county (or city), Part II. of the Canada Temperance Act, should be revoked, wherefore your petitioners humbly pray that Your Excellency will be pleased by an order in council under section one hundred and fifteen of the Canada Temperance Act, to declare that the said order in council which brought into force and effect Part II. of the said the Canada Temperance Act, in the said county (or city) shall no longer be in force.

And that we desire that the votes of the electors of the said county (or city) be taken for and against the revocation of the said order in council.

And your petitioners will ever pray, etc.

51 V., c. 35, sch. form O.

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Sch. Temperance. Chap. 152. 47

Form N.

Form of Ballot Paper.

Voting on the petition to the Governor General for the revocation of the order in council which brought into force Part II. of the Canada Temperance Act in the county (or city) of

N.B.—The Crosses are for illustration.

(The dotted line will be a line of perforations for easily detaching the counterfoil.)

Counterfoil

51 V., c. 35, form P.

Form O.

Directions for Guidance of Electors in Voting.

The voter will go into one of the compartments, and with the pencil there provided place a cross thus × in the upper space if he votes against the Act and in the lower space if he votes for the Act.

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The voter will then fold the ballot so as to show a portion of the back only with the number and initials of the deputy returning officer and deliver it to the deputy returning officer, who will place it in the ballot box. The voter will then, forthwith, quit the polling station.

If a voter inadvertently spoils a ballot paper he can return it to the proper officer who, on being satisfied of the fact, will give him another.

If the voter places on the ballot paper more than one mark, or places any marks on it by which he can afterwards be identified, his vote will be void and will not be counted.

If the voter takes a ballot paper out of the polling station, or fraudulently puts any other paper into the ballot box than the ballot paper given him by the deputy returning officer, he will be subject to be punished by fine or by imprisonment for a term not exceeding six months, with or without hard labour. 51 V., c. 35, sch. form Q.

**Form P.**

*General form of Information.*

Canada,

Province of

District (or county), or as the case may be) of To wit:

The information of A. B., of the of in the of collector of Inland Revenue (or as the case may be), laid before me, C. D., police magistrate (or as the case may be) in and for the city of (or one of His Majesty's justices of the peace in and for the of ) this day of , in the year of Our Lord one thousand nine hundred and

The said informant says he is informed and believes that X. Y., on or about the day of , in the year of Our Lord one thousand nine hundred and at the of , in the of , unlawfully did sell intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act then in force in the said county (or city, as the case may be).

N.B.—For an information for a second or third offence add the appropriate clauses from forms U and V.

A. B.

Laid and signed before me, the day and year and at the place first above mentioned.

C.D.,

P.M. or J.P.

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Forms

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2. Unlawfully keeping intoxicating liquor for sale:

' That X. Y., on [date], at [place], unlawfully did keep intoxicating liquor for sale, contrary to the provisions of Part II. of the Canada Temperance Act then in force in the said county (or city, as the case may be).'

3. Unlawful sale by a distiller or brewer in small quantities:

' That X. Y., being a licensed distiller (or brewer) having his distillery (or brewery) within the county (or city or as the case may be) of [county], on [date], at [place], unlawfully did sell whiskey (or other liquor manufactured in his distillery) in a quantity of less than ten gallons (or ale or beer in a quantity of less than eight gallons) at one time (or unlawfully did sell whiskey to be removed and taken away in quantities of less than ten gallons, or unlawfully did sell beer to be removed and taken away in quantities of less than eight gallons), contrary to, etc.' (as in 2.)

4. Unlawful sale by a vine-growing company in small quantities:

' That the company, being an incorporated company authorized by law to carry on the business of cultivating and growing vines, and of making and selling wine and other liquors produced from grapes, having their manufactory within the county (or city) of [county], on [date], at [place], unlawfully did sell intoxicating liquor in a quantity of less than ten gallons at one time (or unlawfully did sell intoxicating liquor to be removed and taken away in quantities of less than ten gallons at one time) contrary to, etc.' (as in 2.)

5. Unlawful sale by a manufacturer of native wines:

' That X. Y., being a manufacturer of pure native wines made from grapes grown and produced by him in the Dominion of Canada, and being duly licensed to sell the same, on [date], at [place], unlawfully did sell such wines in a quantity of less than ten gallons (or unlawfully did sell such wine for sacramental or medicinal purposes in a quantity of less than one gallon) contrary to, etc.' (as in 2.)

6. Unlawful sale by a wholesale merchant in small quantities:

' That X. Y., having a license to sell intoxicating liquor by wholesale, on [date], at [place], unlawfully did sell intoxicating liquor in a quantity of less than ten gallons (or unlawfully did sell intoxicating liquor to be removed and taken away in quantities of less than ten gallons at one time) contrary to, etc.' (as in 2.)
7. Physician unlawfully giving certificate:
‘That X. Y., being a legally qualified physician, on at , unlawfully did give a certificate to obtain intoxicating liquor for other than strictly medicinal purposes, contrary to, etc.’ (as in 2.)

8. Tampering with a witness:
‘That X. Y., on a certain prosecution under the Canada Temperance Act, on , at , unlawfully did tamper with O. P., a witness in such prosecution, before (or after) he was summoned (or appeared) as a witness in such case (or by an offer of money, or by threat or otherwise) unlawfully did induce (or attempt to induce) such witness to absent himself (or herself), (or to swear falsely) contrary to, etc.’ (as in 2.)

9. Compromising or compounding a prosecution:
‘That X. Y., having violated a provision of the Canada Temperance Act, on , at , unlawfully did compromise (or compound or settle or offer or attempt to compromise, compound or settle) the offence with E. F., with the view of preventing any complaint being made in respect thereof (or with the view of getting rid of, or of stopping, or of having the complaint made in respect thereof, dismissed) (as the case may be) contrary to the provisions of the Canada Temperance Act.’

10. Being a party to compromise a prosecution:
‘That X. Y., on , at , unlawfully was concerned in (or party to) a compromise (or a composition or a settlement) of an offence committed by O. P., against a provision of the Canada Temperance Act.’

Form Q.

Information to obtain a Search Warrant.

Canada,
Province of
District (or county, or as the case may be) of

The information of K. L., of the said district (or county, etc., yeoman), taken this day of in the year of Our Lord before me W.S., Esq., one of His Majesty’s justices of the peace, in and for the district (or county, or united counties, or as the case may be) of , who saith that he hath just and reasonable cause to suspect, and doth suspect that intoxicating liquor is kept for sale in violation of Part II. of the Canada Temperance Act.

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Temperance Act, in the (dwelling-house, etc.) of P. Q. of in the said district (or county, etc.) (here add the causes of suspicion.) Wherefore he prays that a search warrant may be granted him to search the (dwelling-house, etc.) of the said P. Q. as aforesaid for the said intoxicating liquor.

Sworn (or affirmed) on the day and year first above mentioned at in the said district (or county, etc.) of before me.

(Signature) W. S., J. P.

51 V., c. 34, s. 15, sch. form M.

Form R.

Form of Search Warrant.

Canada, Province of
District (or county, or as the case may be) of

To all or any of the constables, or other peace officers, in the district (or county, or as the case may be) of

Whereas, K. L., of the of in the said district (or county, etc.) hath this day made oath before me the undersigned, one of His Majesty’s justices of the peace in and for the said district (or county, etc.) of that he hath just and reasonable cause to suspect and doth suspect that intoxicating liquor is kept for sale in violation of Part II. of the Canada Temperance Act, in the (dwelling-house, etc.) of one P. Q. of in the said district (or county, etc.) of : These are therefore, in the name of Our Sovereign Lord the King, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day time into the said (dwelling-house, etc.) of the said P. Q., and there diligently search for the said intoxicating liquor; and if the same, or any part thereof, shall be found upon such search, that you bring the intoxicating liquor so found, and also all barrels, kegs, cases, boxes, packages and other receptacles of any kind whatever containing the same before me to be disposed of and dealt with according to law.

Given under my hand and seal at in the said district (or county, etc.) this day of , in the year of Our Lord

(Seal) W. S.,
J. P.

51 V., c. 34, sch. form N.

2907 Form R.S., 1906.
FORM S.

Summons to Witness.

Canada,
Province of
District (or county, or as the case may be) of To Wit:

To J. K., of the of , in the of

Whereas information has been laid before me, C. D., one of His Majesty's justices of the peace, in and for the of , (or police magistrate for the city of ), that X. Y., being a druggist, on the of , A.D. 19 , at the of , in the of , unlawfully did sell intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act (or as the case may be) and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecution in this matter:

These are to require you, under pain of imprisonment in the common gaol, personally to be and appear on the day of , A.D. 19 , at o'clock in the (fore)noon, at the , in the of , before me or such justice or justices of the peace as may then be there, to testify what you shall know in the premises, and also to bring with you, and there and then to produce all and every invoices, day-books, cash-books, or ledgers and receipts, promissory notes or other security relating to the purchase or sale of liquor by the said X. Y., and all other books and papers, accounts, deeds and other documents in your possession, custody or control, relating to any matter connected with the said prosecution.

Given under my hand and seal, this day of , A.D. 19 , at the of in the of

C.D.,
J.P. (L.S.)

51 V., c. 34, sch. form S.

FORM T.

Form of Conviction for first offence.

Canada,
Province of
District (or county, or as the case may be) of To Wit:

Be it remembered that on the day of , in the year of Our Lord one thousand nine hundred and 2908 at

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at the of , in the of , X. Y., is convicted before me, C.D., police magistrate in and for the city of (or before us, E. F., and G. H., two of His Majesty's justices of the peace, in and for the ), of having unlawfully sold intoxicating liquor on the day of , in the year of Our Lord one thousand nine hundred and , at the of , in the of , in the of , in the of , in the premises, (or of having unlawfully kept intoxicating liquor for sale, or as the case may be) contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said , A.B., being the informant; and I (or we) adjudge the said X. Y., for his said offence, to forfeit and pay the sum of fifty dollars, to be paid and applied according to law, and also to pay the said A.B., the sum of dollars for his costs in this behalf, and if the said several sums be not paid forthwith* I (or we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf** [or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks***say—'inasmuch as it has now been made to appear to me (or us) that the issuing of a warrant of distress in this behalf would be ruinous to said X. Y., and his family,' or 'that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress,'] I (or we) adjudge the said X. Y., to be imprisoned in the common gaol for the of , at the of , in the said , and there to be kept for the space of , unless the said sums and the costs and charges of the commitment and of the conveying of the said X. Y., to the said common gaol, shall be sooner paid.

Given under my hand and seal (or our hands and seals) the day and year first above mentioned, at the of in the aforesaid.

C.D., (L.S.)

Police Magistrate

or E.F., (L.S.)

J.P.

G.H., (L.S.)

J.P.

51 V., c. 34, sch. form T.
Form of Conviction for a second offence.

Canada

Province of

District (or County, or as the case may be) of To Wit:

Be it remembered that on the day of , in the year of Our Lord one thousand nine hundred and , at the of , in the of , X. Y. is convicted before me, C. D., police magistrate in and for the city of (or before us, E. F. and G. H., two of His Majesty's justices of the peace, in and for the ), of having unlawfully sold intoxicating liquor on the day of , in the year of Our Lord, one thousand nine hundred and , at the of , in the of , in his sale, as the case may be) contrary to the provisions of premises, (or of having unlawfully kept intoxicating liquor for Part II. of the Canada Temperance Act, then in force in the said , A.B. being the informant, and it appearing to me (or us) that the said X. Y. was previously, to wit, on the day of , A.D. 19 , at the of : I before, etc., duly convicted of having unlawfully sold intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act then in force, in the said on the day of A.D. 19 , at the of : I [or we] adjudge the offence of the said X. Y., hereinbefore first mentioned, to be his second offence against the Canada Temperance Act, then in force in the said , and I (or we) adjudge the said X. Y., for his second offence, to forfeit and pay the sum of one hundred dollars, to be paid and applied according to law, and also to pay to the said A. B. the sum of dollars for his costs in this behalf; and if the said several sums be not paid forthwith, then* I (or we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf,* [or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks** say—'inasmuch as it has now been made to appear to me (or us) that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family,' or 'that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress,'] I (or we) adjudge the said X. Y. to be imprisoned in the common gaol for the of , at in the said , and there to be kept for the space of 2910 unless

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unless the said sums and the costs and charges of the commitment and of the conveying of the said X. Y. to the said common gaol, shall be sooner paid.

Given under my hand and seal (or our hands and seals) the day and year first above mentioned, at the of in the aforesaid.

C. D., (L.S.)

Police Magistrate.

or E.F., (L.S.)

J. P.

G. H., (L.S.)

J. P.

51 V., c. 34, sch. form U.

FORM V.

Form of Conviction for a third offence.

CANADA,
Province of
District (or County, or as the case may be) of To wit:

Be it remembered that on the day of in the year of Our Lord one thousand nine hundred and
in the of , in the X. Y. is convicted before the undersigned, C. D., police magistrate in and for the city of , in the said (or E. F. and G. H., two of His Majesty's justices of the peace in and for the said ), for that he, the said X. Y., on the day of , in the year of Our Lord, one thousand nine hundred and , at the city of (or of ) in the said (as the case may be) of having unlawfully sold intoxicating liquor (or of having unlawfully kept intoxicating liquor for sale, or as the case may be) contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said .

And it also appearing to me (or us) that the said X. Y. was previously, to wit, on the day of , A.D. 19 , at the of , before, &c., duly convicted of having unlawfully sold intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said , on the day of , A.D. 19 , at the of . And it also appearing to me (or us) that the said X. Y. was previously, to wit, on the day of , A.D. 19 , at the of before &c., (see above) again duly convicted of having unlawfully sold intoxicating

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intoxicating liquor contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said on the day of , A.D. 19 , at the . (or as the case may be).

I (or we) adjudge the offence of the said X. Y. hereinbefore firstly mentioned, to be his third offence against the Canada Temperance Act, then in force in the said (A. B. being the informant), and I (or we) adjudge the said X. Y. for his said third offence to be imprisoned in the common gaol of the said of at , in the said of , there to be kept for the space of calendar months (or as the case may be) with (or without) hard labour.

Given under my hand and seal (or our hands and seals) the day and year above mentioned, at the of in the aforesaid.

C.D., (L.S.)
Police Magistrate.

or E.F., (L.S.)
J.P.,

G.H., (L.S.)
J.P.,

51 V., c. 34, sch. form V.

FORM W.

Warrant of Commitment for first offence where penalty is imposed.

CANADA,
Province of
District (or County, or as the case may be) of To Wit:

To all or any of the constables and other peace officers in the and to the keeper of the common gaol of the said at , in the of :

Whereas X. Y., late of the of , in the said , was this day convicted before the undersigned C. D., police magistrate in and for the city of (or E. F., and G. H., two of His Majesty’s justices of the peace in and for the, of , (or as the case may be), for that he, the said X. Y., on at unlawfully did sell intoxicating liquor (state offence as in the conviction), contrary to the provisions of Part II. of the Canada Temperance Act, then in force in the said (A. B. being the informant), and it was thereby adjudged that the said X. Y., for his said offence should forfeit and pay the sum of (as in the conviction), and should pay the said A. B. the sum of for his costs in that behalf;

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2912 And
And it was thereby ordered that if the said several sums were not paid (forthwith) the same should be levied by distress and sale of the goods and chattels of the said X, Y., and it was thereby also adjudged that the said X, Y., in default of sufficient distress, should be imprisoned in the common gaol of the said county, at , in the said county of for the space of
unless the said several sums and all costs and charges of the said distress and of the commitment and of the conveying of the said X, Y. to the said common gaol were sooner paid:
And whereas the said X, Y. has not paid the said several sums, or any part thereof, although the time for payment thereof has elapsed;

[If a distress warrant issued and was returned 'no goods,' or 'not sufficient goods' say] 'and whereas afterwards on the day of , A.D. 19 , I, the said police magistrate (or we, the said justices) issued a warrant to the said constables or peace officers, or any of them, to levy the said several sums of and by distress and sale of the goods and chattels of the said X, Y.;'

'And whereas it appears to me (or us), as well by the return of the said warrant of distress by the constable who had the execution of the same as otherwise, that the said constable has made diligent search for the goods and chattels of the said X, Y., but that no sufficient distress whereon to levy the said sums could be found;'

[Or where the issuing of a distress warrant would be ruinous to the defendant and his family, or if it appears that he has no goods whereon to levy a distress then, instead of the foregoing recitals of the issue and return of the distress warrant &c., say—

'And whereas it has been made to appear to me (or us), that the issuing of a warrant of distress in this behalf would be ruinous to the said X, Y. and his family, or that the said X, Y. has no goods or chattels whereon to levy the said sums by distress 'as the case may be;]

These are therefore to command you, the said constables or peace officers, or any of you, to take the said X, Y., and him safely convey to the common gaol aforesaid at , in the of and there deliver him to the said keeper thereof, together with this precept.

And I (or we) do hereby command you the said keeper of the said common gaol to receive the said X, Y. into your custody in the said common gaol, there to imprison him and keep him for the space of unless the said several sums and all the costs and charges of the said distress amounting to the sum of , and of the commitment and of the conveying of the said X, Y. to the said common gaol, shall be sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

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Given,

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Given under my hand and seal (or our hands and seals), this day of , A.D. 19 , at in the said of C.D., (L.S.) Police Magistrate, or E.F. (L.S.) J.P., G. H., (L.S.) J.P.

51 V., c. 34, sch. form W.

**Form X.**

Warrant of commitment for third offence, where punishment is by imprisonment only.

Canada,
Province of
District (or County) or as the case may be

To wit:

To all or any of the constables or other peace officers in the the of , and to the keeper of the common gaol of the said at , in the of Whereas X. Y., late of the of , in the said was on this day convicted before the undersigned C. D. (or E. F. and G. H., &c., as in preceding form) for what he the said X. Y., on at (state offence, with previous convictions, as set forth in the conviction for the third offence, or as the case may be, and then proceed thus): 'and it is hereby adjudged that the offence of the said X. Y., hereinbefore firstly mentioned, was his third offence against Part II. of the Canada Temperance Act, then in force in the said (A. B. being the informant); And it was thereby further adjudged that the said X. Y., for his said third offence, should be imprisoned in the common gaol of the said of , at in the said of , and there to be kept at (or without) hard labour for the space of calendar months:

These are therefore to command you, the said constables, or any one of you, to take the said X. Y., and him safely convey to the said common gaol at , aforesaid, and there deliver him to the keeper thereof, with this precept. And I (or we) do hereby command you, the said keeper of the said common gaol, to receive the said X. Y. into your custody in the said common gaol, there to imprison him and to keep him at (or without) hard labour for the space of calendar months.

Given R.S., 1906.
Given under my hand and seal (or our hands and seals),
this day of , A.D. 19 , at , in the said
of
C. D., (L.S.)
Police Magistrate.
or E. F., (L.S.)
J.P.
G. H., (L.S.)
J.P.

51 V., c. 34, sch. form X.

FORM Y.

Form of declaration of forfeiture and of order to destroy liquor seized.

If in the conviction, after adjudging penalty or imprisonment, proceed thus:

And I (or we) declare the said intoxicating liquor and vessels in which the same is kept, to wit, (two barrels) containing beer, three jars containing whiskey, two bottles containing gin, four kegs containing lager beer, and five bottles containing native wine (or as the case may be), to be forfeited to His Majesty, and I (or we) do hereby order and direct that the said liquor and vessels be destroyed by , the constable or peace officer who executed the search warrant under which the same was found or in whose custody the same was placed.

Given under my hand and seal, the day and year first above mentioned, at &c.

If by separate subsequent order.

Canada,
Province of
District (or County) or as the case may be) of
To wit:

We, E. F. and G. H., two of His Majesty's justices of the peace for the of (or C. D., police magistrate of the city of ), having on the day of , one thousand nine hundred and , at the of in the said (describe the same as above), to be forfeited to His Majesty, and we (or I) do hereby order and direct that

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that J. P. W., license inspector of the said, do forthwith destroy the said liquor and vessels.

Given under our hands and seals (or my hand and seal) this day of , at the of , in the said

E. F., (L.S.)
G. H., (L.S.)
J. P.
J. P.

or
C. D., (L.S.)

Police Magistrate.

51 V., c. 34, sch. form Y.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.
CHAPTER 153.

An Act respecting the Lord's Day.

SHORT TITLE.

1. This Act may be cited as the Lord's Day Act.

INTERPRETATION.

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

(a) 'Lord's Day' means the period of time which begins at twelve o'clock on Saturday afternoon and ends at twelve o'clock on the following afternoon;
(b) 'person' has the meaning which it has in the Criminal 'Person.' Code;
(c) 'vessel' includes any kind of vessel or boat used for conveying passengers or freight by water;
(d) 'railway' includes steam railway, electric railway, 'Railway.' street railway and tramway;
(e) 'performance' includes any game, match, sport, contest, exhibition or entertainment;
(f) 'employer' includes every person to whose orders or directions any other person is by his employment bound to conform;
(g) 'provincial Act' means the charter of any municipality, 'Provincial Act.' or any public Act of any province, whether passed before the Act, or since Confederation. 6 E. VII., c. 27, s. 1.

3. Nothing herein shall prevent the operation on the Lord's Day for passenger traffic by any railway company incorporated by or subject to the legislative authority of the Parliament of Canada of its railway where such operation is not otherwise prohibited.

2. Nothing herein shall prevent the operation on the Lord's Day for passenger traffic of any railway subject to the legislative authority of any province, unless such railway is prohibited by provincial authority from so operating. 6 E. VII., c. 27, s. 13.

COMMENCEMENT.

4. This Act shall come into force on the first day of March, 1917. 6 E. VII., c. 27, s. 16.
Lord's Day.

Prohibitions.

5. It shall not be lawful for any person on the Lord's Day, except as provided herein, or in any provincial Act or law now or hereafter in force, to sell or offer for sale or purchase any goods, chattels, or other personal property, or any real estate, or to carry on or transact any business of his ordinary calling, or in connection with such calling, or for gain to do, or employ any other person to do, on that day, any work, business, or labour. 6 E. VII., c. 27, s. 2.

6. Except in cases of emergency, it shall not be lawful for any person to require any employee engaged in any work of receiving, transmitting or delivering telegraph or telephone messages, or in the work of any industrial process, or in connection with transportation, to do on the Lord's Day the usual work of his ordinary calling, unless such employee is allowed during the next six days of such week, twenty-four consecutive hours without labour.

2. This section shall not apply to any employee engaged in the work of any industrial process in which the regular day's labour of such employee is not of more than eight hours' duration. 6 E. VII., c. 27, s. 4.

7. It shall not be lawful for any person, on the Lord's Day, except as provided in any provincial Act or law now or hereafter in force, to engage in any public game or contest for gain, or for any prize or reward, or to be present thereat, or to provide, engage in, or be present at any performance or public meeting, elsewhere than in a church, at which any fee is charged, directly or indirectly, either for admission to such performance or meeting, or to any place within which the same is provided, or for any service or privilege thereat.

2. When any performance at which an admission fee or any other fee is so charged is provided in any building or place to which persons are conveyed for hire by the proprietors or managers of such performance or by any one acting as their agent or under their control, the charge for such conveyance shall be deemed an indirect payment of such fee within the meaning of this section. 6 E. VII., c. 27, s. 5.

8. It shall not be lawful for any person on the Lord's Day, except as provided by any provincial Act or law now or hereafter in force, to run, conduct, or convey by any mode of conveyance any excursion on which passengers are conveyed for hire, and having for its principal or only object the carriage on that day of such passengers for amusement or pleasure, and passengers so conveyed shall not be deemed to be travellers within the meaning of this Act. 6 E. VII., c. 27, s. 6.

9.

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9. It shall not be lawful for any person to advertise in any manner whatsoever any performance or other thing prohibited by this Act.

2. It shall not be lawful for any person to advertise in Canada in any manner whatsoever any performance or other thing which if given or done in Canada would be a violation of this Act. 6 E. VII., c. 27, s. 7.

10. It shall not be lawful for any person on the Lord’s Day shooting, to shoot with or use any gun, rifle or other similar engine, either for gain, or in such a manner or in such places as to disturb other persons in attendance at public worship or in the observance of that day. 6 E. VII., c. 27, s. 8.

11. It shall not be lawful for any person to bring into Canada for sale or distribution, or to sell or distribute within Canada, on the Lord’s Day, any foreign newspaper or publication classified as a newspaper. 6 E. VII., c. 27, s. 9.

WORKS OF NECESSITY AND MERCY EXCEPTED.

12. Notwithstanding anything herein contained, any person may on the Lord’s Day do any work of necessity or mercy, and for greater certainty, but not so as to restrict the ordinary meaning of the expression ‘work of necessity or mercy,’ it is hereby declared that it shall be deemed to include the following classes of work:

(a) Any necessary or customary work in connection with divine worship;

(b) Work for the relief of sickness and suffering, including the sale of drugs, medicines and surgical appliances by retail;

(c) Receiving, transmitting, or delivering telegraph or telephone messages;

(d) Starting or maintaining fires, making repairs to furnaces and repairs in cases of emergency, and doing any other work, when such fires, repairs or work are essential to any industry or industrial process of such a continuous nature that it cannot be stopped without serious injury to such industry, or its product, or to the plant or property used in such process;

(e) Starting or maintaining fires, and ventilating, pumping out and inspecting mines, when any such work is essential to the protection of property, life or health;

(f) Any work without the doing of which on the Lord’s Day, electric current, light, heat, cold air, water or gas cannot be continuously supplied for lawful purposes;

(g) The conveying of travellers and work incidental thereto;

(h) The continuance to their destination of trains and vessels in transit when the Lord’s Day begins, and work incidental thereto;

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(i) R.S., 1906.
Loading and unloading goods.
Clearing snow and ice, repairs, etc., in case of railways.
Work in railway yards.
Loading and unloading vessels.

(i) Loading and unloading merchandise, at intermediate points, on or from passenger boats or passenger trains;

(j) Keeping railway tracks clear of snow or ice, making repairs in cases of emergency, or doing any other work of a like incidental character necessary to keep the lines and tracks open on the Lord's Day;

(k) Work before six o'clock in the forenoon and after eight o'clock in the afternoon of yard crews in handling cars in railway yards;

(l) Loading, unloading and operating any ocean-going vessel which otherwise would be unduly delayed after her scheduled time of sailing, or any vessel which otherwise would be in imminent danger of being stopped by the closing of navigation; or loading or unloading before seven o'clock in the morning or after eight o'clock in the afternoon any grain, coal or ore carrying vessel after the fifteenth of September;

(m) The caring for milk, cheese, and live animals, and the unloading of and caring for perishable products and live animals, arriving at any point during the Lord's Day;

(n) The operation of any toll or drawbridge, or any ferry or boat authorized by competent authority to carry passengers on the Lord's Day;

(o) The hiring of horses and carriages or small boats for the personal use of the hirer or his family for any purpose not prohibited by this Act;

(p) Any unavoidable work after six o'clock in the afternoon of the Lord's Day, in the preparation of the regular Monday morning edition of a daily newspaper;

(q) The conveying His Majesty's mails and work incidental thereto;

(r) The delivery of milk for domestic use, and the work of domestic servants and watchmen;

(s) The operation by any Canadian electric street railway company, whose line is interprovincial or international, of its cars, for passenger traffic, on the Lord's Day, on any line or branch which is, on the day of the coming into force of this Act, regularly so operated;

(t) Work done by any person in the public service of His Majesty while acting therein under any regulation or direction of any department of the Government;

(u) Any unavoidable work by fishermen after six o'clock in the afternoon of the Lord's Day, in the taking of fish;

(v) All operations connected with the making of maple sugar and maple syrup in the maple grove;

(w) Any unavoidable work on the Lord's Day to save property in cases of emergency, or where such property is in imminent danger of destruction or serious injury;

(x) Any work which the Board of Railway Commissioners for Canada, having regard to the object of this Act, and

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with the object of preventing undue delay, deems necessary Railway Commisioners.

OFFENCES AND PENALTIES.

13. Any person who violates any of the provisions of this Act shall for each offence be liable, on summary conviction, to a fine, not less than one dollar and not exceeding forty dollars, together with the cost of prosecution. 6 E. VII., c. 27, s. 3.

14. Every employer who authorizes or directs anything to be done in violation of any provision of this Act, shall for each offence be liable, on summary conviction, to a fine not exceeding one hundred dollars and not less than twenty dollars, in addition to any other penalty prescribed by law for the same offence. 6 E. VII., c. 27, s. 11.

15. Every corporation which authorizes, directs or permits its employees to carry on any part of the business of such corporation in violation of any of the provisions of this Act, shall be liable, on summary conviction before two justices of the peace, for the first offence, to a penalty not exceeding two hundred and fifty dollars and not less than fifty dollars, and, for each subsequent offence, to a penalty not exceeding five hundred dollars and not less than one hundred dollars, in addition to any other penalty prescribed by law for the same offence. 6 E. VII., c. 27, s. 12.

PROCEDURE.

16. Nothing herein shall be construed to repeal or in any way affect any provisions of any Act or law relating in any way to the observance of the Lord's Day in force in any province of Canada when this Act comes into force; and where any person violates any of the provisions of this Act, and such offence is also a violation of any other Act or law, the offender may be proceeded against either under the provisions of this Act or under the provisions of any other Act or law applicable to the offence charged. 6 E. VII., c. 27, s. 14.

17. No action or prosecution for a violation of this Act shall be commenced without the leave of the Attorney General for the province in which the offence is alleged to have been committed, nor after the expiration of sixty days from the time of the commission of the alleged offence. 6 E. VII., c. 27, s. 15.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.

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R.S., 1906.
CHAPTER 154.

An Act respecting fugitive offenders in Canada from other parts of His Majesty's Dominions.

SHORT TITLE.

1. This Act may be cited as the Fugitive Offenders Act. Short title. R.S., c. 143, s. 1.

INTERPRETATION.

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

(a) 'magistrate' means any justice of the peace or any person having authority to issue a warrant for the apprehension of persons accused of offences, and to commit such persons for trial;

(b) 'deposition' includes every affidavit, affirmation, or statement made upon oath;

(c) 'court' means,
   in the province of Ontario, the High Court of Justice,
   in the province of Quebec, the Superior Court,
   in the province of Nova Scotia, New Brunswick, Prince Edward Island or British Columbia, respectively, the Supreme Court for the province,
   in the province of Manitoba, the Court of King's Bench,
   in the province of Saskatchewan or Alberta, a judge of the Supreme Court of the Northwest Territories, pending the abolition of that Court by the legislature of the province, and, after the abolition of the said Court, a judge of such superior court as is established by the legislature of the province in lieu of the Supreme Court of the Northwest Territories,
   in the Northwest Territories, such court, or magistrate, or other judicial authority as is designated from time to time by proclamation of the Governor in Council published in the Canada Gazette,
   in the Yukon Territory, the Territorial Court, or a court, magistrate, or other judicial authority designated as aforesaid;

(d) 'fugitive' means a person accused of having committed an offence to which this Act applies in any part of His Majesty's

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Majesty's dominions, except Canada, and who has left that part. R.S., c. 143, ss. 2 and 4; 62-63 V., c. 11, s. 6.

APPLICATION.

3. This Act shall apply to treason and to piracy, and to every offence, whether called felony, misdemeanour, crime or by any other name, which is, for the time being, punishable in the part of His Majesty's dominion in which it was committed, either on indictment or information, by imprisonment with hard labour for a term of twelve months or more, or by any greater punishment; and, for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labour, by whatever name it is called, shall be deemed to be imprisonment with hard labour. R.S., c. 143, s. 3.

4. This Act shall apply to every such offence, notwithstanding that, by the law of Canada, it is not an offence or not an offence punishable in manner aforesaid; and all the provisions of this Act, including those relating to a provisional warrant and to a committal to prison, shall be construed as if the offence were in Canada an offence to which this Act applies. R.S., c. 143, s. 3.

5. This Act shall apply, so far as is consistent with the tenor thereof, to every person convicted by a court in any part of His Majesty's dominions of an offence committed either in His Majesty's dominions or elsewhere who is unlawfully at large before the expiration of his sentence, in like manner as it applies to a person accused of the like offence committed in the part of His Majesty's dominions in which such person was convicted. R.S., c. 143, s. 3.

6. This Act shall apply in respect to offences committed before the commencement of this Act, in like manner as if such offences were committed after such commencement. R.S., c. 143, s. 3.

PROCEEDURE.

7. Any fugitive, if found in Canada, shall be liable to be apprehended and returned, in the manner provided by this Act, to the part of His Majesty's dominions from which he is a fugitive.

2. A fugitive may be so apprehended under an endorsed warrant or a provisional warrant. R.S., c. 143, s. 4.

8. Whenever a warrant has been issued in a part of His Majesty's dominions for the apprehension of a fugitive from that part who is or is suspected to be in or on the way to Canada,
Canada, the Governor General or a judge of a court, if satisfied that the warrant was issued by some person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend the fugitive in Canada and bring him before a magistrate. R.S., c. 143, s. 5.

9. A magistrate in Canada may issue a provisional warrant for the apprehension of a fugitive who is or is suspected of being in or on his way to Canada, on such information and under such circumstances as would, in his opinion, justify the issue of a warrant, if the offence of which the fugitive is accused had been committed within his jurisdiction; and such warrant may be backed and executed accordingly. R.S., c. 143, s. 6.

10. A magistrate issuing a provisional warrant shall forthwith send a report of the issue, together with the information or a certified copy thereof, to the Governor General; and the Governor General may, if he thinks fit, discharge the person apprehended under such warrant. R.S., c. 143, s. 6.

11. A fugitive, when apprehended, shall be brought before a magistrate, who, subject to the provisions of this Act, shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, including the power to remand and admit to bail, as if the fugitive was charged with an offence committed within his jurisdiction. R.S., c. 143, s. 7.

12. If the endorsed warrant for the apprehension of the fugitive is duly authenticated, and such evidence is produced as, subject to the provisions of this Act, according to the law ordinarily administered by the magistrate, raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that the offence is one to which this Act applies, the magistrate shall commit the fugitive to prison to await his return, and shall forthwith send a certificate of the committal and such report of the case, as he thinks fit, to the Governor General. R.S., c. 143, s. 7.

13. Whenever the magistrate commits the fugitive to prison, he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus or other like process. R.S., c. 143, s. 7.

14. A fugitive apprehended on a provisional warrant may, from time to time, be remanded for such reasonable time, not exceeding seven days at any one time, as under the circumstances R.S., 1906.
Order for the return of fugitive.

Warrant.

Execution of warrant.

Court may discharge fugitive, if not returned within a certain time.

Court may discharge fugitive in trivial cases.

Fugitive undergoing sentence.

Search warrant may be granted.

stances seems requisite for the production of an endorsed warrant.  R.S., c. 143, s. 7.

15. Upon the expiration of fifteen days, after a fugitive has been committed to prison to await his return, or if a writ of habeas corpus or other like process is issued by a court, with reference to such fugitive, after the final decision of the court in the case, if the fugitive is not discharged by the court, the Governor General, by warrant under his hand, if he thinks it just, may order the fugitive to be returned to the part of His Majesty’s dominions from which he is a fugitive, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or some one or more of them, and to be held in custody, and conveyed to the said part of His Majesty’s dominions, to be dealt with there, in due course of law, as if he had been there apprehended.

2. Such warrant shall be forthwith executed according to the tenor thereof.  R.S., c. 143, s. 8.

16. If a fugitive who, in pursuance of this Act, has been committed to prison in Canada to await his return, is not conveyed out of Canada within two months after such committal, the court, upon application by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make such application has been given to the Governor General, may, unless sufficient cause is shown to the contrary, order the fugitive to be discharged out of custody.  R.S., c. 143, s. 9.

17. Whenever it is made to appear to the court that by reason of the trivial nature of the case, or by reason of the application for the return of a fugitive not being made in good faith, in the interests of justice, or that, for any other reason, it would, having regard to the distance, to the facilities for communication, and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive either at all or until the expiration of a certain period, the court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises, as to the court seems just.  R.S., c. 143, s. 10.

18. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise.  R.S., c. 143, s. 11.

19. Whenever a warrant, for the apprehension of a person accused of an offence, has been endorsed in pursuance of this Act, R.S., 1906.
Act, in Canada, any magistrate in Canada shall have the same power of issuing a warrant to search for any property alleged to have been stolen or to have been otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such magistrate. R.S., c. 143, s. 12.

20. Any judge of the court may, either in term time or vacation, exercise in chambers, all the powers conferred by this Act upon the court. R.S., c. 143, s. 13.

21. An endorsement of a warrant in pursuance of this Act shall be signed by the authority endorsing the same, and shall authorize all or any of the persons named in the endorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within Canada by apprehending the person named in it, and bringing him before a magistrate in Canada, whether he is the magistrate named in the endorsement or some other.

2. Every warrant, summons, subpoena and process, and every endorsement made in pursuance of this Act thereon, shall, for the purposes of this Act, remain in force, notwithstanding that the person signing the warrant or such endorsement dies or ceases to hold office. R.S., c. 143, s. 14.

RETURN OF FUGITIVE.

22. Whenever a fugitive or prisoner is authorized to be returned to any part of His Majesty’s dominions in pursuance of this Act, such fugitive or prisoner may be sent thither in any ship registered in Canada or belonging to the Government of Canada. R.S., c. 143, s. 15.

23. The Governor General, may, by the warrant for the return of the fugitive, order the master of any ship registered in Canada, bound to the said part of His Majesty’s dominions, to receive such fugitive or prisoner, and afford a passage and subsistence during the voyage to him, and to the person having him in custody, and to the witnesses; but such master shall not be required to receive more than one fugitive or prisoner for every hundred tons of his ship’s registered tonnage, or more than one witness for every fifty tons of such tonnage. R.S., c. 143, s. 15.

24. The Governor General shall cause to be endorsed upon the agreement of the ship such particulars with respect to any fugitive prisoner or witness sent in her, as the Minister of Marine and Fisheries, from time to time, requires. R.S., c. 143, s. 15.
25. Every such master shall, on his ship's arrival in the said part of His Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable there, to be dealt with according to law. R.S., c. 143, s. 15.

26. Every master who fails, on payment or tender of a reasonable amount for expenses, to comply with an order made in pursuance of this Act, or to cause a fugitive or prisoner committed to his charge to be given into custody as required by this Act, shall be liable, on summary conviction, to a penalty not exceeding two hundred dollars. R.S., c. 143, s. 15.

EVIDENCE.

27. A magistrate may take depositions for the purposes of this Act, in the absence of a person accused of an offence, in like manner as he might take the same if such person was present and accused of the offence before him. R.S., c. 143, s. 16.

28. Depositions whether taken in the absence of the fugitive or otherwise and copies thereof, and official certificates of, or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act. R.S., c. 143, s. 17.

29. Warrants and depositions, and copies thereof, and official certificates of facts, or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or if they purport to be signed by or authenticated by the signature of a judge, magistrate or officer of the part of His Majesty's dominions in which the same are issued, taken or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a secretary of state, or with the public seal of a British possession, or with the official seal of a governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession.

2. All courts and magistrates shall take judicial notice of every such seal, and shall admit in evidence without further proof the documents authenticated by it. R.S., c. 143, s. 18.

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CHAPTER 155.

An Act respecting the Extradition of Fugitive Criminals.

SHORT TITLE.

1. This Act may be cited as the Extradition Act. R.S., Short title. c. 142, s. 1.

INTERPRETATION.

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

(a) 'extradition arrangement,' or 'arrangement,' means a treaty, convention or arrangement made by His Majesty with a foreign state for the surrender of fugitive criminals and which extends to Canada;

(b) 'extradition crime' may mean any crime which, if committed in Canada, or within Canadian jurisdiction, would be one of the crimes described in the first schedule to this Act; and, in the application of this Act to the case of any extradition arrangement, the said expression means any crime described in such arrangement, whether comprised in the said schedule or not;

(c) 'conviction' or 'convicted' does not include the case of a condemnation under foreign law by reason of continuance; but 'accused person' includes a person so condemned;

(d) 'fugitive' or 'fugitive criminal' means a person being or suspected of being in Canada, who is accused or convicted of an extradition crime committed within the jurisdiction of any foreign state;

(e) 'foreign state' includes every colony, dependency and constituent part of the foreign state; and every vessel of any such state shall be deemed to be within the jurisdiction of and to be part of the state;

(f) 'warrant' in the case of a foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime;

(g) 'judge' includes any person authorized to act judicially in extradition matters. R.S., c. 142, s. 2.
As to existing arrangements.

As to limitations, qualifications and exceptions Imp. Act 33-34 V., c. 92 and amendments.

Orders under this Part may be revoked.

If the application of this Part depends on an order in council.

Publication of orders in council required.

Effect of publication in Canada Gazette.

**PART I.**

**EXTRADITION UNDER TREATY.**

**Application of Part.**

3. In the case of any foreign state with which there is an extradition arrangement, this Part shall apply during the continuance of such arrangement; but no provision of this Part, which is inconsistent with any of the terms of the arrangement, shall have effect to contravene the arrangement: and this Part shall be so read and construed as to provide for the execution of the arrangement. R.S., c. 142, s. 3.

4. In the case of any foreign state with respect to which the application to the United Kingdom of the Act of the Parliament of the United Kingdom, passed in the year one thousand eight hundred and seventy, and intituled An Act for amending the Law relating to the Extradition of Criminals, and any Act or Acts amending the same, is made subject to any limitation, condition, qualification or exception, the Governor in Council shall make the application of this Part, subject to such limitation, condition, qualification or exception. R.S., c. 142, s. 3.

5. The Governor in Council may, at any time, revoke or alter, subject to the restrictions of this Part, any order made by him in council under this Part, and all the provisions of this Part with respect to the original order shall, so far as applicable, apply mutatis mutandis to the new order. R.S., c. 142, s. 3.

6. This Part, so far as its application in the case of any foreign state, depends on or is affected by any order in council, made under this Part or referred to therein, shall apply, or its application shall be affected from and after the time specified in the order, or, if no time is specified, after the date of the publication of the order in the Canada Gazette. R.S., c. 142, s. 1.

7. Any order of His Majesty in Council, referred to in this Part, and any order of the Governor in Council made under this Part, and any extradition arrangement shall be, as soon as possible, published in the Canada Gazette and laid before both Houses of Parliament. R.S., c. 142, s. 4.

8. The publication in the Canada Gazette of an extradition arrangement, or an order in council, shall be evidence of such arrangement or order, and of the terms thereof, and of the application of this Part, pursuant and subject thereto; and the court or judge shall take judicial notice, without proof, of such arrangement or order, and the validity of the order and the application of this Part, pursuant and subject thereto, shall not be questioned. R.S., c. 142, s. 4.

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Judges and Commissioners.

9. All judges of the superior courts and of the county courts of any province, and all commissioners who are, from time to time, appointed for the purpose, in any province by the Governor in Council, under the Great Seal of Canada, by virtue of this Part, are authorized to act judicially in extradition matters under this Part, within the province; and every such person shall, for the purposes of this Part, have all the powers and jurisdiction of any judge or magistrate of the province.

2. Nothing in this section shall be construed to confer on any judge any jurisdiction in habeas corpus matters. R.S., c. 142, s. 5.

Extradition from Canada.

10. Whenever this Part applies, a judge may issue his warrant for the apprehension of a fugitive on a foreign warrant of arrest, or an information or complaint laid before him, and on such evidence or after such proceedings as in his opinion would, subject to the provisions of this Part, justify the issue of his warrant if the crime of which the fugitive is accused, or of which he is alleged to have been convicted, had been committed in Canada.

2. The judge shall forthwith send a report of the fact of the issue of the warrant, together with certified copies of the evidence and foreign warrant, information or complaint, to the Minister of Justice. R.S., c. 142, s. 6.

11. A warrant issued under this Part may be executed in any part of Canada, in the same manner as if it had been originally issued, or subsequently endorsed, by a justice of the peace having jurisdiction in the place where it is executed. R.S., c. 142, s. 7.

12. Every fugitive criminal of a foreign state, to which this Part applies, shall be liable to be apprehended, committed and surrendered in the manner provided in this Part, whether the crime or conviction, in respect of which the surrender is sought, was committed or took place before or after the date of the arrangement, or before or after the time when this Part is made to apply to such state, and whether there is or is not any criminal jurisdiction in any court of His Majesty's dominions over the fugitive in respect of the crime. R.S., c. 142, s. 8.

13. The fugitive shall be brought before a judge, who shall, subject to the provisions of this Part, hear the case, in the same manner, as nearly as may be, as if the fugitive was brought before a justice of the peace, charged with an indictable offence committed in Canada. R.S., c. 142, s. 9.

14. The judge shall receive upon oath, or affirmation, if affirmation is allowed by law, the evidence of any witness tendered to show the truth of the charge or the fact of the conviction. R.S., c. 142, s. 9.

15. The judge shall receive, in like manner, any evidence tendered to show that the crime of which the fugitive is accused or alleged to have been convicted is an offence of a political character, or is, for any other reason, not an extradition crime; or that the proceedings are being taken with a view to prosecute or punish him for an offence of a political character. R.S., c. 142, s. 9.

16. Depositions or statements taken in a foreign state on oath, or on affirmation, where affirmation is allowed by the law of the state, and copies of such depredations or statements and foreign certificates of, or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Part. R.S., c. 142, s. 10.

17. Such papers shall be deemed duly authenticated if authenticated in manner provided, for the time being, by law, or if,—

(a) the warrant purports to be signed by, or the certificate purports to be certified by, or the depredations or statements, or the copies thereof, purport to be certified to be the originals or true copies, by a judge, magistrate or officer of the foreign state; and,

(b) if the papers are authenticated by the oath or affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other minister of the foreign state, or of a colony, dependency or constituent part of the foreign state; of which seal the judge shall take judicial notice without proof. R.S., c. 142, s. 10.

18. (a) In the case of a fugitive alleged to have been convicted of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to the provisions of this Part, prove that he was so convicted; and,

(b) in the case of a fugitive accused of an extradition crime, if such evidence is produced as would, according to the law of Canada, subject to the provisions of this Part, justify his committal for trial, if the crime had been committed in Canada;

the judge shall issue his warrant for the committal of the fugitive to the nearest convenient prison, there to remain until surrendered to the foreign state, or discharged according to law.

Discharge.

2. If such evidence is not produced, the judge shall order him to be discharged. R.S., c. 142, s. 11.
19. If the judge commits a fugitive to prison, he shall, on such committal,—
   (a) inform him that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus; and,
   (b) transmit to the Minister of Justice a certificate of the committal, with a copy of all the evidence taken before him not already so transmitted, and such report upon the case as he thinks fit. R.S., c. 142, s. 12.

20. A requisition for the surrender of a fugitive criminal of a foreign state who is, or is suspected to be in Canada, may be made to the Minister of Justice,—
   (a) by any person recognized by him as a consular officer of that state resident at Ottawa; or,
   (b) by any minister of that state communicating with the Minister of Justice through the diplomatic representative of His Majesty in that state.

2. If neither of these modes is convenient, then the requisition shall be made in such other mode as is settled by arrangement. R.S., c. 142, s. 13.

21. No fugitive shall be liable to surrender under this Part if it appears,—
   (a) that the offence in respect of which proceedings are taken under this Act is one of a political character; or,
   (b) that such proceedings are being taken with a view to prosecute or punish him for an offence of a political character. R.S., c. 142, s. 14.

22. If the Minister of Justice at any time determines,—
   (a) that the offence in respect of which proceedings are being taken under this Part is one of a political character;
   (b) that the proceedings are, in fact, being taken with a view to try or punish the fugitive for an offence of a political character; or,
   (c) that the foreign state does not intend to make a requisition for surrender;

he may refuse to make an order for surrender, and may, by order under his hand and seal, cancel any order made by him, or any warrant issued by a judge under this Part, and order the fugitive to be discharged out of custody on any committal made under this Part; and the fugitive shall be discharged accordingly. R.S., c. 142, s. 15.

23. A fugitive shall not be surrendered until after the expiration of fifteen days from the date of his committal for surrender; or, if a writ of habeas corpus is issued, until after the decision of the court remanding him. R.S., c. 142, s. 16.

24. Delay before surrender.
R.S., 1906.
24. A fugitive who has been accused of an offence within Canadian jurisdiction, not being the offence for which his surrender is asked, or who is undergoing sentence under a conviction in Canada, shall not be surrendered until after he has been discharged, whether by acquittal or by expiration of his sentence, or otherwise. R.S., c. 142, s. 16.

25. Subject to the provisions of this Part, the Minister of Justice, upon the requisition of the foreign state, may, under his hand and seal, order a fugitive who has been committed for surrender to be surrendered to the person or persons who are, in his opinion, duly authorized to receive him in the name and on behalf of the foreign state, and he shall be so surrendered accordingly. R.S., c. 142, s. 17.

26. Any person to whom such order of the Minister of Justice is directed may deliver, and the person thereto authorized by such order may receive, hold in custody, and convey the fugitive within the jurisdiction of the foreign state; and if he escapes out of any custody to which he is delivered, on or in pursuance of such order, he may be retaken in the same manner as any person accused or convicted of any crime against the laws of Canada may be retaken on an escape. R.S., c. 142, s. 17.

27. Everything found in the possession of the fugitive at the time of his arrest, which may be material as evidence in making proof of the crime, may be delivered up with the fugitive on his surrender, subject to all rights of third persons with regard thereto. R.S., c. 142, s. 18.

28. If a fugitive is not surrendered and conveyed out of Canada within two months after his committal for surrender, or, if a writ of habeas corpus is issued, within two months after the decision of the court on such writ, over and above, in either case, the time required to convey him from the prison to which he has been committed, by the readiest way out of Canada, any one or more of the judges of the superior courts of the province in which such person is confined, having power to grant a writ of habeas corpus, may, upon application made to him or them by or on behalf of the fugitive, and on proof that reasonable notice of the intention to make such application has been given to the Minister of Justice, order the fugitive to be discharged out of custody, unless sufficient cause is shown against such discharge. R.S., c. 142, s. 19.

29. The form set forth in the second schedule to this Act, or forms as near thereto as circumstance admit of, may be used in the matters to which such forms refer, and, when used, shall be deemed valid. R.S., c. 142, s. 20.

R.S., 1906.
Extradition from a Foreign State.

30. A requisition for the surrender of a fugitive criminal from Canada, who is or is suspected to be in any foreign state with which there is an extradition arrangement, may be made by the Minister of Justice,—

(a) to a consular officer of that state resident at Ottawa;
or,

(b) to the Minister of Justice or any other minister of that state, through the diplomatic representative of His Majesty in that state.

2. If neither of these modes is convenient, the requisition shall be made in such other mode as is settled by arrangement. R.S., c. 142, s. 21.

31. Any person accused or convicted of an extradition crime, who is surrendered by a foreign state, may, under the warrant for his surrender issued in such foreign state, be brought into Canada and delivered to the proper authorities, to be dealt with according to law. R.S., c. 142, s. 22.

32. Whenever any person accused or convicted of an extradition crime is surrendered by a foreign state, in pursuance of any extradition arrangement, such person shall not, until after he has been restored or has had an opportunity of returning to the foreign state within the meaning of the arrangement, be subject, in contravention of any of the terms of the arrangement, to any prosecution or punishment in Canada for any other offence committed prior to his surrender, for which he should not, under the arrangement, be prosecuted. R.S., c. 142, s. 23.

List of Crimes.

33. The list of crimes in the first schedule to this Act shall be construed according to the law existing in Canada at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act, and as including only such crimes, of the descriptions comprised in the list, as are, under that law, indictable offences. R.S., c. 142, s. 24.

PART II.

EXTRADITION IRRESPECTIVE OF TREATY.

34. The provisions of this Part shall not come into force, with respect to fugitive offenders from any foreign state, until this Part shall have been declared by proclamation of the Governor General to be in force and effect as regards such foreign state, from and after a day to be named in such proclamation.
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2. If by proclamation the Governor General declares this Part to be no longer in operation as regards any foreign state, the provisions thereof shall cease to have any force or effect with respect to fugitive offenders from such state from and after a day to be named in such proclamation. 52 V., c. 36, s. 4.

35. The provisions of this Part shall apply to any crime mentioned in the third schedule to this Act committed after the coming into force of this Part, as regards any foreign state to which this Part has been by proclamation declared to apply. 52 V., c. 36, s. 3.

36. In case no extradition arrangement exists between His Majesty and a foreign state, or in case such an extradition arrangement, extending to Canada, exists between His Majesty and a foreign state, but does not include the crimes mentioned in the third schedule to this Act, it shall, nevertheless, be lawful for the Minister of Justice to issue his warrant for the surrender to such foreign state of any fugitive offender from such foreign state charged with or convicted of any of the crimes mentioned in the said schedule.

2. The arrest, committal, detention, surrender and conveyance out of Canada of such fugitive offender shall be governed by the provisions of Part I. of this Act, and all the provisions of the said Part shall apply to all steps and proceedings in relation to such arrest, committal, detention, surrender and conveyance out of Canada in the same manner and to the same extent as they would apply if the said crimes were included and specified in an extradition arrangement between His Majesty and the foreign state, extending to Canada. 52 V., c. 36, s. 1.

37. All expenses connected with the arrest, committal, detention, surrender and conveyance out of Canada of any fugitive offender under this Part shall be borne by the foreign state applying for the surrender of such fugitive offender. 52 V., c. 36, s. 2.

38. The list of crimes in the third schedule to this Act shall be construed according to the law existing in Canada at the date of the commission of the alleged crime, whether by common law or by statute, and as including only such crimes, of the description comprised in the list, as are, under that law, indictable offences. 52 V., c. 36, s. 3.

39. No warrant shall issue under this Part for the extradition of any person to any state or country in which by the law in force in such state or country such person may be tried after such extradition for any other offence than that for which he
he has been extradited, unless an assurance shall first have been given by the executive authority of such state or country that the person whose extradition has been claimed will not be tried for any other offence than that on account of which such extradition has been claimed. 52 V., c. 36, s. 5.

FIRST SCHEDULE.

List of Crimes.

1. Murder, or attempt or conspiracy to murder;
2. Manslaughter;
3. Counterfeiting or altering money, and uttering counterfeit or altered money;
4. Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered;
5. Larceny or theft;
6. Embezzlement;
7. Obtaining money or goods, or valuable securities, by false pretenses;
8. Crimes against bankruptcy or insolvency law;
9. Fraud by a bailee, banker, agent, factor, trustee, or by a director or member or officer of any company, which fraud is made criminal by any Act for the time being in force;
10. Rape;
11. Abduction;
12. Child stealing;
13. Kidnapping;
14. False imprisonment;
15. Burglary, house-breaking or shop-breaking;
16. Arson;
17. Robbery;
18. Threats, by letter or otherwise, with intent to extort;
19. Perjury or subornation of perjury;
20. Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state;
21. Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so;
22. Assault on board such vessel at sea, whether on the high seas or on the great lakes of North America, with intent to destroy life or to do grievous bodily harm;
23. Revolt, or conspiracy to revolt, by two or more persons on board such a vessel at sea, whether on the high seas or on the great lakes of North America, against the authority of the master;
24. Any offence under—
   (a) Part VI. of the Criminal Code, except sections 307 to 312 inclusive, and sections 317 to 334 inclusive;
   (b) Part VII. of the Criminal Code, except sections 408 and 409, 416 to 418 inclusive, 429 to 444 inclusive, and sections 486 to 508 inclusive;
   (c) Part VIII. of the Criminal Code, except sections 516, 519, 524, 527, 529 and 538, and sections 542 to 545 inclusive; and,
   (d) Part IX. of the Criminal Code;
and which are not included in any foregoing portion of this schedule.

25. Any offence which is, in the case of the principal offender, included in any foregoing portion of this schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal.

R.S., c. 142, sch. 1.

SECOND SCHEDULE.

FORM ONE.

Form of Warrant of Apprehension.

To wit:—

To all and each of the constables of

Whereas it has been shown to the undersigned, a judge under the Extradition Act, that

late of is accused (or convicted) of the crime of

within the jurisdiction of

This is therefore to command you, in His Majesty's name, forthwith to apprehend the said and to bring him before me, or some other judge under the said Act, to be further dealt with according to law; for which this shall be your warrant.

Given under my hand and seal at this day of A.D.

FORM TWO.

Form of Warrant of Committal.

To wit:—

To one of the constables of

and to the keeper of the

at

Be it remembered that on this day of

in the year is brought before me a judge under the Extradition Act, who has been apprehended under the said Act, to be dealt with according to law.

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law; and forasmuch as I have determined that he should be surrendered in pursuance of the said Act, on the ground of his being accused (or convicted) of the crime of within the jurisdiction of

This is therefore to command you the said constable, in His Majesty's name, forthwith to convey and deliver the said into the custody of the keeper of the at and you, the said keeper to receive the said into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Act, for which this shall be your warrant.

Given under my hand and seal at this day of A.D.

**FORM THREE.**

*Form of Order of Minister of Justice for Surrender.*

To the keeper of the at and to

Whereas late of accused (or convicted) of the crime of within the jurisdiction of was delivered into the custody of you, the keeper of the at by warrant dated pursuant to the Extradition Act.

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the said into the custody of the said ; and I command you, the said to receive the said into your custody, and to convey him within the jurisdiction of the said and there place him in the custody of any person or persons (or of ) appointed by the said to receive him; for which this shall be your warrant.

Given under the hand and seal of the undersigned Minister of Justice of Canada, this day of A.D.

R.S., c. 142, sch. 2.

**THIRD SCHEDULE.**

(1) Murder, or attempt or conspiracy to murder;
(2) Manslaughter;
(3) Counterfeiting or altering money and uttering counterfeit or altered money;

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(4) Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered;
(5) Larceny or theft;
(6) Embezzlement;
(7) Obtaining money or goods or valuable securities by false pretenses;
(8) Rape;
(9) Abduction; indecent assault;
(10) Child stealing;
(11) Kidnapping;
(12) Burglary, house breaking or shop breaking;
(13) Arson;
(14) Robbery;
(15) Fraud committed by a bailee, banker, agent, factor, trustee or member or public officer of any company or municipal corporation, made criminal by any law for the time being in force;
(16) Any malicious act done with intent to endanger persons in a railway train;
(17) Piracy by municipal law or law of nations, committed on board of or against a vessel of a foreign state;
(18) Criminal scuttling or destroying such a vessel at sea, whether on the high seas or on the great lakes of North America, or attempting or conspiring to do so;
(19) Assault on board such a vessel at sea, whether on the high seas or on the great lakes of North America, with intent to destroy life or to do grievous bodily harm;
(20) Revolt, or conspiracy to revolt, by two or more persons, on board such a vessel at sea, whether on the high seas or on the great lakes of North America, against the authority of the master;
(21) Administering drugs or using instruments with intent to procure the miscarriage of a woman;
(22) Any offence which is, in the case of the principal offender, included in any foregoing portion of this schedule, and for which the fugitive criminal, though not the principal, is liable to be tried or punished as if he were the principal.

52 V., c. 36, sch.

OTTAWA: Printed by SAMUEL EDWARD DAWSON, Law Printer to the King's most Excellent Majesty.

R.S., 1906.
## SCHEDULE A.

**ACTS AND PARTS OF ACTS REPEALED,** from the date of the coming into force of the Revised Statutes of Canada, 1906.

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2941 SCHEDULE R.S., 1906.
Acts and parts of Acts repealed.

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50-51 Victoria—1887.

1. An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1887, and the 30th June, 1888, and for other purposes relating to the public service.

2. An Act to amend chapter two of the Revised Statutes of Canada, intituled "An Act respecting the publication of the Statutes".

3. An Act respecting the representation of the Northwest Territories in the Senate of Canada.

4. An Act in addition to the Revised Statutes, chapter six, respecting Representation in the House of Commons.


8. An Act to provide for an additional subsidy to the Province of Prince Edward Island.

10. An Act respecting the Department of Trade and Commerce.

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SCHEDULE R.S., 1906.

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<tr>
<td>23</td>
<td>An Act to amend the General Inspection Act.</td>
<td>&quot;</td>
</tr>
<tr>
<td>24</td>
<td>An Act to confer certain powers on Boards of Trade as to the Licensing of Weighers.</td>
<td>&quot;</td>
</tr>
<tr>
<td>25</td>
<td>An Act to amend the Act respecting Canned Goods.</td>
<td>&quot;</td>
</tr>
<tr>
<td>26</td>
<td>An Act to amend the Act respecting Sick and Distressed Mariners.</td>
<td>&quot;</td>
</tr>
</tbody>
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#### 51 Victoria—1888.

<table>
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<tr>
<th>Chap.</th>
<th>Title of Act</th>
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<tbody>
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<td>1</td>
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<tr>
<td>2</td>
<td>An Act to authorize the raising, by way of loan, of certain sums of money for the Public Service.</td>
<td>&quot;</td>
</tr>
<tr>
<td>8</td>
<td>An Act relating to the interest payable on deposits in the Post Office and Government Savings Banks.</td>
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<td>10</td>
<td>An Act to amend &quot;The Northwest Territories Representation Act&quot;.</td>
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<td>12</td>
<td>An Act to amend &quot;The Civil Service Act,&quot; chapter seventeen, of the Revised Statutes of Canada.</td>
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<td>13</td>
<td>An Act to amend chapter sixteen of the Revised Statutes, respecting the High Commissioner for Canada in the United Kingdom.</td>
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</tr>
<tr>
<td>14</td>
<td>An Act to amend chapter thirty-two of the Revised Statutes, respecting the Customs.</td>
<td>&quot;</td>
</tr>
<tr>
<td>16</td>
<td>An Act to amend chapter thirty-four of the Revised Statutes, respecting the Inland Revenue.</td>
<td>&quot;</td>
</tr>
<tr>
<td>17</td>
<td>An Act to amend chapter twenty-seven of the Revised Statutes, respecting the Department of Public Printing and Stationery.</td>
<td>&quot;</td>
</tr>
<tr>
<td>19</td>
<td>An Act to amend the Revised Statutes of Canada, chapter fifty, respecting the Northwest Territories.</td>
<td>&quot;</td>
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<tr>
<td>21</td>
<td>An Act further to amend &quot;The Dominion Lands Act&quot;.</td>
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<td>22</td>
<td>An Act further to amend &quot;The Indian Act,&quot; chapter forty-three of the Revised Statutes.</td>
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<td>An Act to amend the Revised Statutes of Canada, chapter ninety-seven, respecting Ferries.</td>
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<td>26</td>
<td>An Act to amend chapter one hundred and twenty-four of the Revised Statutes, respecting Insurance.</td>
<td>&quot;</td>
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<td>30</td>
<td>An Act respecting a certain Treaty between Her Britannic Majesty and the President of the United States.</td>
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<tr>
<td>33</td>
<td>An Act respecting the application of certain laws therein mentioned to the Province of Manitoba.</td>
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<td>34</td>
<td>An Act to amend &quot;The Canada Temperance Act&quot;.</td>
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<td>35</td>
<td>An Act in amendment of &quot;The Canada Temperance Act&quot;.</td>
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<tr>
<td>36</td>
<td>An Act to amend the Act respecting Defective Letters Patent and the discharge of securities to the Crown</td>
<td>The whole.</td>
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<td>37</td>
<td>An Act further to amend 'The Supreme and Exchequer Courts Act,' chapter one hundred and thirty-five of the Revised Statutes of Canada</td>
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<td>39</td>
<td>An Act to extend the jurisdiction of the Maritime Court of Ontario</td>
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<tr>
<td>41</td>
<td>An Act to amend the law relating to fraudulent marks on Merchandise</td>
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**Acts of the Parliament of Canada—Continued.**

**51 Victoria—1888—Concluded.**

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<td>10</td>
<td>An Act to amend chapter eleven of the Revised Statutes, intituled 'An Act respecting the Senate and House of Commons'</td>
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<td>An Act to amend chapter thirteen of the Revised Statutes, intituled 'An Act respecting the House of Commons'</td>
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<td>An Act further to amend 'The Civil Service Act,' chapter seventeen of the Revised Statutes</td>
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<td>An Act respecting Expropriation of Lands</td>
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<td>An Act further to amend 'The General Inspection Act,' chapter ninety-nine of the Revised Statutes</td>
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<td>17</td>
<td>An Act to amend 'The Weights and Measures Act,' chapter one hundred and four of the Revised Statutes</td>
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<td>18</td>
<td>An Act to amend 'The Cullers' Act,' chapter one hundred and three of the Revised Statutes</td>
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<td>19</td>
<td>An Act respecting the collection of certain tolls and dues therein mentioned</td>
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<td>An Act to amend 'The Post Office Act,' chapter thirty-five of the Revised Statutes of Canada</td>
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<td>22</td>
<td>An Act to amend the Revised Statutes, chapter seventy-seven, respecting the Safety of Ships</td>
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<td>24</td>
<td>An Act to amend 'The Fisheries Act,' chapter ninety-five of the Revised Statutes</td>
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<td>26</td>
<td>An Act to authorize the granting of Pensions to members of the Northwest Mounted Police Force</td>
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<td>27</td>
<td>An Act further to amend 'The Dominion Lands Act'</td>
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<td>28</td>
<td>An Act respecting a loan therein mentioned to certain Metis Immigrants</td>
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<td>29</td>
<td>An Act to amend 'The Copyright Act,' chapter sixty-two of the Revised Statutes</td>
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<td>30</td>
<td>An Act relating to Bills of Lading</td>
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<td>31</td>
<td>An Act to amend the Revised Statute respecting Interest</td>
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<td>32</td>
<td>An Act to amend 'The Winding-up Act,' chapter one hundred and twenty-nine of the Revised Statutes</td>
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<td>33</td>
<td>An Act to make further provision respecting inquiries concerning Public Matters</td>
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<td>34</td>
<td>An Act to extend the provisions of the Extradition Act</td>
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<td>35</td>
<td>An Act further to amend the Supreme and Exchequer Courts Act</td>
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<td>36</td>
<td>An Act to amend the law respecting the Exchequer Court of Canada</td>
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<tr>
<td>37</td>
<td>An Act for the Prevention and Suppression of Combinations formed in restraint of Trade</td>
<td></td>
</tr>
<tr>
<td>38</td>
<td>An Act to provide against frauds in the supplying of Milk to Cheese, Butter and condensed Milk Manufactories</td>
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**52 Victoria—1889.**

<table>
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<tr>
<th>Chap.</th>
<th>Title of Act</th>
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**Schedule R.S., 1906.**
### Schedule A—Continued

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<tbody>
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<td>53</td>
<td>Acts of the Parliament of Canada—Continued.</td>
<td>The whole</td>
</tr>
<tr>
<td>1.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1890, and the 30th June, 1891, and for other purposes relating to the public service.</td>
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<td>6.</td>
<td>An Act respecting Grants of Public Lands.</td>
<td>&quot;</td>
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<td>7.</td>
<td>An Act to amend &quot;The Interpretation Act&quot;.</td>
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<td>11.</td>
<td>An Act respecting the Department of the Geological Survey.</td>
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<td>12.</td>
<td>An Act to amend &quot;The Copyright Act&quot;.</td>
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<td>An Act further to amend the Act respecting the Inland Revenue, chapter thirty-four of the Revised Statutes.</td>
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<td>25.</td>
<td>An Act to amend &quot;The Gas Inspection Act,&quot; chapter one hundred and one of the Revised Statutes.</td>
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<td>26.</td>
<td>An Act further to amend the Adulteration Act, chapter one hundred and seven of the Revised Statutes.</td>
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<td>29.</td>
<td>An Act further to amend &quot;The Indian Act,&quot; chapter forty-three of the Revised Statutes.</td>
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<td>31.</td>
<td>An Act respecting Banks and Banking.</td>
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</tr>
<tr>
<td>32.</td>
<td>An Act respecting certain Savings Banks in the Province of Quebec.</td>
<td>&quot;</td>
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<tr>
<td>33.</td>
<td>An Act relating to Bills of Exchange, Cheques, and Promissory Notes.</td>
<td>&quot;</td>
</tr>
<tr>
<td>34.</td>
<td>An Act to amend chapter 127 of the Revised Statutes of Canada, intituled &quot;An Act respecting Interest.&quot;</td>
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<td>35.</td>
<td>An Act to amend &quot;The Exchequer Court Act.&quot;</td>
<td>&quot;</td>
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<tr>
<td>37.</td>
<td>An Act further to amend the Criminal Law.</td>
<td>The whole.</td>
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54–55 Victoria—1891.

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<td>1.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1890, and the 30th June, 1892, and for other purposes relating to the public service.</td>
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<tr>
<td>2.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1892, and for other purposes relating to the public service.</td>
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<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending 30th June, 1892, and for other purposes relating to the public service.</td>
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<td>13.</td>
<td>An Act respecting Grants of Land to members of the Militia on active service in the Northwest.</td>
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<td>16.</td>
<td>An Act further to amend &quot;The Consolidated Revenue and Audit Act.&quot;</td>
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<td>20.</td>
<td>An Act further to amend &quot;The Dominion Controverted Elections Act.&quot;</td>
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<td>22.</td>
<td>An Act to amend the Acts respecting the Northwest Territories.</td>
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<td>27.</td>
<td>An Act further to amend chapter one hundred and thirty-eight of the Revised Statutes, respecting the Judges of Provincial Courts.</td>
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### 54-55 Victoria—1891—Concluded.

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<td>28.</td>
<td>An Act with respect to certain matters affecting the Administration of Justice,</td>
<td>The whole.</td>
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<tr>
<td>29.</td>
<td>An Act to provide for the exercise of Admiralty Jurisdiction within Canada, in accordance with 'The Colonial Courts of Admiralty Act, 1890'.</td>
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<td>30.</td>
<td>An Act further to amend 'The Indian Act'.</td>
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<td>An Act further to amend the Act respecting Trade Marks and Industrial Designs.</td>
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<td>36.</td>
<td>An Act respecting the Shipping of Live Stock.</td>
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</tr>
<tr>
<td>37.</td>
<td>An Act respecting the Inspection of Ships.</td>
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<tr>
<td>38.</td>
<td>An Act to amend chapter seventy-seven of the Revised Statutes, respecting the Safety of Ships.</td>
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<td>40.</td>
<td>An Act to provide for the Marking of Deck and Load Lines.</td>
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<td>41.</td>
<td>An Act further to amend the Act respecting Certificates to Masters and Mates of Ships.</td>
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</tr>
<tr>
<td>42.</td>
<td>An Act to amend chapter ninety-six of the Revised Statutes, intituled 'An Act to encourage the development of the Sea Fisheries and the building of Fishing Vessels'.</td>
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<td>43.</td>
<td>An Act further to amend 'The Fisheries Act', chapter ninety-five of the Revised Statutes.</td>
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<td>44.</td>
<td>An Act further to amend 'The Customs Act'.</td>
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<td>46.</td>
<td>An Act further to amend 'The Inland Revenue Act'.</td>
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<td>An Act to make further provision respecting Weighers of Grain.</td>
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<tr>
<td>50.</td>
<td>An Act respecting the Intercolonial Railway.</td>
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<td>52.</td>
<td>An Act to amend the Act respecting Government Harbours, Piers, and Breakwaters.</td>
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<td>55.</td>
<td>An Act respecting certain Female Offenders in the Province of Nova Scotia.</td>
<td>&quot;</td>
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<td>56.</td>
<td>An Act further to amend 'The Northwest Territories Representation Act'.</td>
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### 55-56 Victoria—1892.

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<td>An Act respecting aid by United States Wreckers in Canadian waters.</td>
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<td>8.</td>
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<td>An Act to readjust the Representation in the House of Commons.</td>
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<td>12.</td>
<td>An Act respecting the Voters' Lists of 1891.</td>
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<td>An Act to amend the Act respecting the Senate and House of Commons.</td>
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<td>7.</td>
<td>An Act respecting the appointment of Commissioners to the World's Columbian Exposition.</td>
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<td>An Act to amend the Act respecting the Harbour and River Police of the Province of Quebec.</td>
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<td>An Act to amend the Merchant Shipping Act, with respect to load lines.</td>
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<td>An Act to amend the law relating to Holidays.</td>
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<td>An Act to amend the Criminal Code, 1892.</td>
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<td>33.</td>
<td>An Act relating to the custody of juvenile offenders in the Province of New Brunswick.</td>
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<td>34.</td>
<td>An Act further to amend the Patent Act.</td>
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<tr>
<td>35.</td>
<td>An Act further to amend the General Inspection Act.</td>
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</tr>
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<td>37.</td>
<td>An Act to prevent the manufacture and sale of filled or imitation cheese, and to provide for the branding of dairy products.</td>
<td></td>
</tr>
<tr>
<td>57–58 Victoria—1894.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1894, and the 30th June, 1895, and for other purposes relating to the public service.</td>
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<td>11.</td>
<td>An Act respecting the Speaker of the Senate.</td>
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<td>14.</td>
<td>An Act to disfranchise voters who have taken bribes.</td>
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<td>15.</td>
<td>An Act further to amend the Northwest Territories Representation Act.</td>
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<td>An Act to provide for the examination of witnesses on oath by the Senate and House of Commons.</td>
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<td>An Act further to amend the Acts respecting the Northwest Territories.</td>
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<td>18.</td>
<td>An Act further to amend the Acts respecting the Civil Service.</td>
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<td>19.</td>
<td>An Act to amend the Consolidated Revenue and Audit Act.</td>
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<td>22.</td>
<td>An Act further to amend the Revised Statute respecting Interest.</td>
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<td>23.</td>
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<td>24.</td>
<td>An Act to make further provision respecting Grants of Land to members of the Militia Force on active service in the Northwest.</td>
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<td>An Act to amend and consolidate the Acts respecting the Northwest Mounted Police Force.</td>
<td>The whole so far as concerns the Northwest Territories and the Yukon Territory.</td>
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<td>31.</td>
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<td>32.</td>
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<td>42.</td>
<td>An Act further to amend the Act respecting Certificates to Masters of Ships.</td>
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<td>43.</td>
<td>An Act to amend the Seamen's Act.</td>
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<td>44.</td>
<td>An Act further to amend the Revised Statutes, chapter seventy-seven, respecting the Safety of Ships.</td>
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<td>An Act further to amend the Fisheries Act.</td>
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<td>52.</td>
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<td>An Act further to amend the Criminal Code, 1892.</td>
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<td>59.</td>
<td>An Act to amend an Act relating to the custody of juvenile offenders in the Province of New Brunswick.</td>
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<td>60.</td>
<td>An Act respecting Houses of Refuge for Females in Ontario.</td>
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<td>58-59 Victoria—1895.</td>
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<tr>
<td>1.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1895, and for other purposes relating to the public service.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1896, and for other purposes relating to the public service.</td>
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<tr>
<td>9.</td>
<td>An Act further to amend the Act respecting the Senate and House of Commons.</td>
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<td>10.</td>
<td>An Act further to amend the Act to readjust the Representation in the House of Commons.</td>
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<td>11.</td>
<td>An Act further to amend the Northwest Territories Representation Act.</td>
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<td>An Act further to amend the Voters' Lists Act.</td>
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<td>An Act further to amend the Act respecting the Incorporation of Boards of Trade.</td>
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<td>18.</td>
<td>An Act further to amend the Winding-up Act.</td>
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<td>19.</td>
<td>An Act to authorize the Treasury Board to exempt certain societies from the operation of the Insurance Act.</td>
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<td>An Act further to amend the Fisheries Act.</td>
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<tbody>
<tr>
<td>28.</td>
<td>An Act to amend the law respecting the Lobster Fishery</td>
<td>The whole.</td>
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<td>29.</td>
<td>An Act further to amend the Act to encourage the development of the Sea Fisheries and the building of Fishing Vessels</td>
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<td>30.</td>
<td>An Act to amend the Act respecting Roads and Road Allowances in the Province of Manitoba</td>
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<td>31.</td>
<td>An Act further to amend the Acts respecting the Northwest Territories</td>
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<tr>
<td>32.</td>
<td>An Act to legalize payments heretofore made to the general revenue fund of the Northwest Territories of certain fines, penalties, and forfeitures</td>
<td>a except ss 1 and 3</td>
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<tr>
<td>34.</td>
<td>An Act further to amend the Dominion Lands Act</td>
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<td>35.</td>
<td>An Act further to amend the Indian Act</td>
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<td>36.</td>
<td>An Act further to amend the Public Works Act</td>
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<td>37.</td>
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<td>38.</td>
<td>An Act further to amend the Act respecting the Judges of Provincial Courts</td>
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<td>39.</td>
<td>An Act to amend the law respecting the Superannuation of Judges of Provincial Courts</td>
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<td>40.</td>
<td>An Act further to amend the Criminal Code, 1892</td>
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<tr>
<td>43.</td>
<td>An Act to amend the Act respecting certain Female Offenders in the Province of Nova Scotia</td>
<td>a</td>
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</tbody>
</table>

59 Victoria—1896.

1. An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1896, and the 30th June, 1897, and for other purposes relating to the public service.

5. An Act respecting the liability of Her Majesty and public companies for labour used in the construction of public works.

7. An Act further to amend the Act respecting the Senate and House of Commons.

11. An Act respecting debentures of Loan Companies.

12. An Act further to amend the Act respecting the Adulteration of Food, Drugs and Agricultural Fertilizers.


60 Victoria—1896.

1. An Act for granting to Her Majesty the sum of $446,500, required for defraying certain expenses in connection with the annual drill of the Militia during the financial year ending the 30th June, 1897.

2. An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1897, and other purposes relating to the public service.

3. An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1897, and other purposes relating to the public service.

4. An Act further to amend the Act respecting the Senate and House of Commons.

5. An Act to amend the Northwest Territories Representation Act by dispensing with the preparation of new Voters' Lists in certain cases.

60-61 Victoria—1897.

1. An Act for granting to Her Majesty the sum of $26,000, required for defraying certain expenses in connection with the Militia Contingent to be sent to England for the Jubilee of Her Majesty in June, 1897.
### Acts and parts of Acts repealed.

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<td>2</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1897, and the 30th June, 1898, and for other purposes relating to the public service</td>
<td>The whole.</td>
</tr>
<tr>
<td>3</td>
<td>An Act to authorize the raising, by way of loan, of certain sums of money for the public service.</td>
<td>&quot;</td>
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<td>8</td>
<td>An Act respecting Interest</td>
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<td>9</td>
<td>An Act to amend 'An Act respecting certain Savings Banks in the Province of Quebec'</td>
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<td>10</td>
<td>An Act respecting forged or unauthorized endorsements of Bills</td>
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<td>11</td>
<td>An Act to restrict the importation and employment of Aliens</td>
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<td>An Act respecting the Voters' Lists of 1897</td>
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<td>13</td>
<td>An Act further to amend the Act respecting the Senate and House of Commons.</td>
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<td>15</td>
<td>An Act further to amend the Civil Service Superannuation Act.</td>
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<td>16</td>
<td>An Act to consolidate and amend the Acts respecting the Duties of Customs.</td>
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<td>An Act respecting Export Duties</td>
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<td>18</td>
<td>An Act respecting the Departments of Customs and Inland Revenue</td>
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<td>19</td>
<td>An Act further to amend the Inland Revenue Act.</td>
<td>&quot;</td>
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<tr>
<td>21</td>
<td>An Act to provide for the Registration of Cheese Factories and Creameries, and the Branding of Dairy Products, and to prohibit misrepresentation as to the dates of manufacture of such Products.</td>
<td>&quot;</td>
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<td>23</td>
<td>An Act to amend the Act respecting the Protection of Navigable Waters</td>
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<td>24</td>
<td>An Act further to amend the Fisheries Act</td>
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<td>25</td>
<td>An Act further to amend the Patent Act.</td>
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<td>26</td>
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<td>28</td>
<td>An Act further to amend the Acts respecting the Northwest Territories.</td>
<td>&quot; except ss. 7 and 9. so far as concerns the Northwest Territories and the Yukon Territory.</td>
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<td>29</td>
<td>An Act further to amend the Dominion Lands Act.</td>
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<td>30</td>
<td>An Act to amend the Land Titles Act, 1894.</td>
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<tr>
<td>31</td>
<td>An Act further to amend the law respecting Building Societies and Loan and Savings Companies.</td>
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<tr>
<td>32</td>
<td>An Act respecting Trials by Jury in certain cases in the Northwest Territories.</td>
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<td>33</td>
<td>An Act to further to amend the Act respecting the Judges of Provincial Courts.</td>
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<td>34</td>
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61 Victoria—1898.

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<td>1</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1898, and the 30th June, 1899, and for other purposes relating to the public service.</td>
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</tr>
<tr>
<td>2</td>
<td>An Act to amend chapter 11 of the Statutes of 1897, intituled 'An Act to restrict the importation and employment of Aliens'</td>
<td>&quot;</td>
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<td>5</td>
<td>An Act further to amend the Acts respecting the Northwest Territories.</td>
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<td>6</td>
<td>An Act to provide for the Government of the Yukon District.</td>
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<td>7</td>
<td>An Act to authorize certain contracts with steamship companies for Cold Storage accommodation.</td>
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<td>13</td>
<td>An Act to make further provision respecting Grants of Land to members of the Militia Force on active service in the Northwest.</td>
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<td>14</td>
<td>An Act to amend the Electoral Franchise Act, and to amend the Dominion Elections Act.</td>
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<td>An Act further to amend the Act respecting the Department of the Geological Survey</td>
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<td>21.</td>
<td>An Act in further amendment of the Post Office Act</td>
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<td>23.</td>
<td>An Act to protect Canada against the introduction of the insect best known as the San Jose Scale.</td>
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<td>An Act further to amend the Adulteration Act</td>
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<td>25.</td>
<td>An Act further to amend the General Inspection Act</td>
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<td>An Act further to amend the Weights and Measures Act</td>
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<td>31.</td>
<td>An Act further to amend the Dominion Lands Act</td>
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<td>An Act further to amend the Land Titles Act, 1894</td>
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<td>33.</td>
<td>An Act to amend the Mounted Police Pension Act, 1889</td>
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<td>An Act to amend the Companies Act</td>
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<td>9.</td>
<td>An Act to encourage the construction of Dry Docks.</td>
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<td>11.</td>
<td>An Act to amend the Yukon Territory Act.</td>
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<td>28.</td>
<td>An Act to further amend the Post Office Act</td>
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<td>29.</td>
<td>An Act for the preservation of health on Public Works</td>
<td>&quot;</td>
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<tr>
<td>30.</td>
<td>An Act further to amend the Act respecting the Protection of Navigable Waters</td>
<td>&quot;</td>
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<tr>
<td>31.</td>
<td>An Act to amend the Act respecting certain works constructed in or on Navigable Waters</td>
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<tr>
<td>32.</td>
<td>An Act to amend the Act respecting the sale of Railway Passenger Tickets</td>
<td>&quot;</td>
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<td>33.</td>
<td>An Act to amend the Expropriation Act</td>
<td>&quot;</td>
</tr>
<tr>
<td>34.</td>
<td>An Act to amend the Company Clauses Act and the Company Act</td>
<td>&quot; except as to Loan Companies formed or incorporated prior to the 11th of August, 1899</td>
</tr>
<tr>
<td>35.</td>
<td>An Act respecting Loan Companies</td>
<td>The whole.</td>
</tr>
<tr>
<td>36.</td>
<td>An Act to amend the Winding-up Act</td>
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</tr>
<tr>
<td>37.</td>
<td>An Act further to amend the Winding-up Act</td>
<td>&quot;</td>
</tr>
<tr>
<td>38.</td>
<td>An Act to provide for the Administration of Criminal Justice in the territory east of Manitoba and Keewatin and north of Ontario and Quebec</td>
<td>&quot;</td>
</tr>
<tr>
<td>39.</td>
<td>An Act to provide for the Conditional Liberation of Penitentiary Convicts</td>
<td>&quot;</td>
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#### 63-64 Victoria—1900.

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<tr>
<td>1.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1900</td>
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<td>2.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1900</td>
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<td>4.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial year ending the 30th June, 1900</td>
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<td>5.</td>
<td>An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the public service, for the financial years ending respectively the 30th June, 1900, and the 30th June, 1901, and for other purposes relating to the public service</td>
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<td>6.</td>
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<td>An Act to consolidate and amend the law relating to the Election of Members of the House of Commons</td>
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<td>An Act to amend the Dominion Controverted Elections Act</td>
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<td>An Act to amend the Civil Service Act</td>
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<td>An Act to amend the Customs Tariff, 1897</td>
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<td>16.</td>
<td>An Act to amend the Act respecting Securities for Seed Grain Indebtedness</td>
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<td>An Act respecting the Members of the Northwest Mounted Police Force on active service in South Africa</td>
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<td>20.</td>
<td>An Act to amend the Dominion Lands Act.</td>
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<td>24.</td>
<td>An Act to aid in the prevention and settlement of trade disputes, and to provide for the publication of statistical industrial information...</td>
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<td>25.</td>
<td>An Act to amend the Copyright Act.</td>
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<td>27.</td>
<td>An Act to amend the Bank Act Amendment Act, 1900.</td>
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<td>28.</td>
<td>An Act to amend the Acts respecting certain Savings Banks in the Province of Quebec.</td>
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<td>An Act to amend the Experimental Farm Station Act.</td>
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<td>An Act respecting the incorporation of Live Stock Record Associations.</td>
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<td>An Act to amend the Pilotage Act.</td>
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<td>An Act respecting the grain trade in the Inspection District of Manitoba.</td>
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<td>An Act to amend the Gas Inspection Act.</td>
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<td>An Act to amend the Companies Clauses Act.</td>
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<td>3.</td>
<td>An Act to provide for a further annual allowance to the Province of Prince Edward Island.</td>
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<td>An Act respecting the Ottawa Branch of the Royal Mint.</td>
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<td>11.</td>
<td>An Act to amend the Interpretation Act.</td>
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<td>13.</td>
<td>An Act to amend the Act to restrict the Importation and Employment of Aliens.</td>
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<td>14.</td>
<td>An Act to amend the Act respecting the Senate and House of Commons.</td>
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<td>An Act to amend the Franchise Act, 1898.</td>
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<td>17.</td>
<td>An Act respecting pensions to Officers of the Permanent Staff and Officers and Men of the Permanent Militia, and for other purposes.</td>
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<td>18.</td>
<td>An Act to amend the Act respecting the Department of Public Printing and Stationery.</td>
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<td>An Act further to amend the Post Office Act.</td>
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<td>21.</td>
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<td>25.</td>
<td>An Act further to amend the General Inspection Act.</td>
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<td>An Act to provide for the marking and Inspection of Packages containing Fruit for Sale</td>
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<td>An Act to amend the Gas Inspection Act</td>
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<td>An Act respecting the Culling of Lumber and the Inspection of Staples</td>
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<td>33.</td>
<td>An Act to amend the Inland Waters Seamen's Act</td>
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<td>An Act to further amend the Act respecting the Safety of Ships</td>
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<td>35.</td>
<td>An Act respecting Inquiries and Investigations into Shipping Casualties</td>
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<td>36.</td>
<td>An Act further to amend the Canada Evidence Act, 1893</td>
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<td>37.</td>
<td>An Act to make certain provisions necessitated by the West Demise of the Crown</td>
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<td>38.</td>
<td>An Act to remove Doubts concerning the Continuance in office of Judges of Dominion and Provincial Courts upon the Demise of the Crown</td>
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<td>39.</td>
<td>An Act to amend the Act respecting the Judges of Provincial Courts</td>
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<td>41.</td>
<td>An Act to amend the Yukon Territory Act and to make further provision for the administration of justice in the said Territory</td>
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<tr>
<td>42.</td>
<td>An Act further to amend the Criminal Code, 1892</td>
<td>&quot;</td>
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2 Edward VII.—1902.

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<tbody>
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<td>An Act for granting to His Majesty certain sums of money for the public service, of the financial years ending respectively the 30th June, 1902, and the 30th June, 1903</td>
<td>&quot;</td>
</tr>
<tr>
<td>2.</td>
<td>An Act to amend the Bills of Exchange Act, 1890</td>
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<td>3.</td>
<td>An Act to amend the Act respecting the incorporation of Boards of Trade</td>
<td>&quot;</td>
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<td>6.</td>
<td>An Act to amend the Civil Service Retirement Act, 1898</td>
<td>&quot;</td>
</tr>
<tr>
<td>7.</td>
<td>An Act respecting the coasting trade of Canada</td>
<td>&quot;</td>
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<tr>
<td>8.</td>
<td>An Act to amend the Exchequer Court Act</td>
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<td>9.</td>
<td>An Act further to amend the Canada Evidence Act, 1893</td>
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<tr>
<td>10.</td>
<td>An Act to amend the Fruit Marks Act, 1901</td>
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<td>An Act further to amend the General Inspection Act</td>
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<tr>
<td>12.</td>
<td>An Act further to amend the Unorganized Territories' Game Preservation Act, 1894</td>
<td>&quot;</td>
</tr>
<tr>
<td>13.</td>
<td>An Act further to amend the provisions of chapter one hundred and eighty-three of the Revised Statutes with respect to the Halifax Industrial School and Saint Patrick's Home at Halifax</td>
<td>&quot;</td>
</tr>
<tr>
<td>15.</td>
<td>An Act respecting the incorporation of Joint Stock Companies by Letters Patent</td>
<td>so far as concerns the Northwest Territories and the Yukon Territory.</td>
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<td>An Act to amend the Act respecting the Judges of Provincial Courts</td>
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<td>An Act to amend the Land Titles Act, 1894</td>
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<tr>
<td>20.</td>
<td>An Act to provide for the establishment of a Medical Council in Canada</td>
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<td>21.</td>
<td>An Act to amend the Mounted Police Act, 1894</td>
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<td>22.</td>
<td>An Act respecting pensions to Officers of the Mounted Police</td>
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<td>An Act to amend the Naturalization Act</td>
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<tr>
<td>24.</td>
<td>An Act further to amend the Acts respecting the Northwest Territories</td>
<td>&quot; except s. 3.</td>
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<td>26.</td>
<td>An Act respecting the remission of Penalties</td>
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<td>An Act further to amend the Pilotage Act</td>
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<td>29.</td>
<td>An Act to amend the Railway Act</td>
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<td>30.</td>
<td>An Act relating to Regina Law Library</td>
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<td>31.</td>
<td>An Act to amend the Rocky Mountains Park Act, 1887</td>
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<td>An Act to amend the Customs Tariff, 1897</td>
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SCHEDULE  
R.S., 1906.
# Acts and parts of Acts repealed.

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</table>


1. An Act for granting to His Majesty certain sums of money for the public service, of the financial year ending the 30th June, 1903.

2. An Act for granting to His Majesty certain sums of money for the public service, of the financial year ending respectively the 30th June, 1903, and the 30th June, 1904.

3. An Act for granting to His Majesty certain sums of money for the public service, of the financial year ending the 30th June, 1903.

4. An Act for granting to His Majesty certain sums of money for the public service, of the financial year ending the 30th June, 1904.

5. An Act to prohibit the importation, manufacture or sale of adulterated, process or renewed butter, oleomargarine, butterine or other substitute for butter, and to prevent the improper marking of butter.


7. An Act to amend the Civil Service Superannuation Act.


10. An Act amending the Fishery Act.

11. An Act respecting the Good Shepherd Reformatory in the City of Saint John, New Brunswick.


14. An Act to amend the Act relating to the custody of juvenile offenders in the Province of New Brunswick.


16. An Act to amend the Manitoba Grain Act, 1900.

17. An Act to amend the Act respecting certificates to Masters and Mates of Ships.

18. An Act to amend the Militia Pension Act, 1901.

19. An Act to amend the Mounted Police Act, 1884.

20. An Act to amend the Acts relating to Naturalization and Aliens.

21. An Act to amend the Northwest Territories in the Senate.

22. An Act respecting Dominion Notes.


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<td>An Act respecting the Pilotage District of Montreal, and the Port and Pilotage District of Quebec.</td>
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<td>An Act to amend the Post Office Act.</td>
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<td>An Act to amend chapter 27 of the Revised Statutes, respecting the Department of Public Printing and Stationery.</td>
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<td>51.</td>
<td>An Act further to amend the Act respecting Public and Reformatory Prisons.</td>
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<td>An Act to amend the Companies Act, 1902.</td>
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<td>An Act to amend the Animal Contagious Diseases Act, 1903.</td>
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<td>An Act to amend the Criminal Code, 1892, respecting the punishment of Fraudulent Debtors.</td>
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<td>10.</td>
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<td>from certain Summary Convictions.</td>
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<td>13.</td>
<td>An Act to amend the Franchise Act, 1898.</td>
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<td></td>
<td>of Commercial Grades and Samples.</td>
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<tr>
<td>16.</td>
<td>An Act respecting false representations to induce or deter immigration.</td>
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<td>An Act to amend the Inland Revenue Act.</td>
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<td>An Act to amend the Land Titles Act, 1894.</td>
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<td></td>
<td></td>
<td>except s. 1, so far as concerns the Northwest Territories and Yukon Territory.</td>
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<td>20.</td>
<td>An Act to amend the Revised Statute respecting the salaries of</td>
<td>The whole.</td>
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<td></td>
<td>certain public functionaries and other annual charges on the</td>
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<td>Consolidated Revenue.</td>
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<td>21.</td>
<td>An Act to amend the Act respecting the incorporation of Live Stock</td>
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<tr>
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