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**STATUTES  
OF  
CANADA**

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**1953-54**

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**2-3 ELIZABETH II  
Vol. I**

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# PREFIX TO STATUTES, 1953-54

ACTS PROCLAIMED IN FORCE

LIST OF PROCLAMATIONS FROM JULY, 1953,  
TO SEPTEMBER, 1954

MISCELLANEOUS PROCLAMATIONS



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QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1954

PROCLAMATIONS OF CANADA, JULY, 1953, TO SEPTEMBER, 1954

|   | DATE IN<br>FORCE | CANADA<br>GAZETTE                           |
|---|------------------|---|
| Acts proclaimed—  |                  |   |
| Bank Act—Chap. 48, Statutes, 1953-54—proclaimed in force  | 1 July, 1954     | Vol. 88, p. 2312,<br>Extra, June 30, 1954.  |
| Bank of Canada Act—amendment—Chap. 33, Statutes,<br>1953-54—proclaimed in force.....  | 1 July, 1954     | Vol. 88, p. 2311,<br>Extra, June 30, 1954.  |
| Canada-France Income Tax Convention Act, 1951—Chap.<br>40, Statutes, 1951 (First Session)—proclaimed in force.  | 2 July, 1953     | Vol. 87, 2008.                              |
| Canada-France Succession Duty Convention Act, 1951—<br>Chap. 41, Statutes, 1951 (First Session)—proclaimed in<br>force.....   | 2 July, 1953     | Vol. 87, p. 2008.                           |
| Canada Shipping Act—Chap. 29, R.S.C., 1952—Section 734<br>(with exception of para. (b) of section 329, section 373<br>and section 374)—proclaimed in force.....   | 15 Sept., 1953   | Vol. 87, p. 2955,<br>Extra, Oct. 2, 1953.   |
| Canada Shipping Act—Chap. 20, Statutes, 1952-53—Section<br>7 declared in force.....   | 1 Jan., 1954     | Vol. 87, p. 3114.                           |
| Criminal Code—Chap. 51, Statutes, 1953-54—proclaimed in<br>force as of.....   | 1 April, 1955    | Vol. 88, p. 3297,<br>Extra, Sept. 20, 1954. |
| Export and Import Permits Act—Chap. 27, Statutes,<br>1953-54—proclaimed in force.....   | 1 June, 1954     | Vol. 88, p. 1740.                           |
| Food and Drugs Act—Chap. 38, Statutes, 1952-53—pro-<br>claimed in force.....  | 1 July, 1954     | Vol. 88, p. 2312,<br>Extra, June 30, 1954.  |
| Government Companies Operation Act—Chap. 24, Statutes,<br>1946—applicable to Eldorado Aviation Limited.....   | 6 July, 1953     | Vol. 87, p. 2314.                           |
| Immigration Act—Chap. 325, R.S.C., 1952—proclaimed in<br>force.....   | 15 Sept., 1953   | Vol. 87, p. 2956,<br>Extra Oct. 2, 1953.    |
| Indian Act—Chap. 149, R.S.C., 1952—Subsection (2) of<br>section 4 not to apply to Mohawks of Bay of Quinte....  | 26 Nov., 1953    | Vol. 88, p. 187.                            |
| Section 95—in force in Prov. of Ontario.....  | 1 July, 1954     | Vol. 88, p. 2311,<br>Extra, June 25, 1954.  |
| International Rapids Development Act—Chap. 157, R.S.C.,<br>1952—proclaimed in force.....  | 15 Sept., 1953   | Vol. 87, p. 2957,<br>Extra, Oct. 2, 1953.   |
| Juvenile Delinquents Act—Chap 160, R.S.C., 1952—in force<br>in—   |                  |   |
| County of Elgin, Prov. of Ontario.....  | 19 Mar., 1954    | Vol. 88, p. 1395.                           |
| County of Guysborough, Prov. of Nova Scotia....   | 8 Apr., 1954     | Vol. 88, p. 1467.                           |
| District of Parry Sound, Prov. of Ontario.....  | 3 July, 1954     | Vol. 88, p. 2238.                           |
| Motor Vehicle Transport Act—Chap. 59, Statutes, 1953-54<br>—proclaimed in force in—   |                  |   |
| Provinces of Nova Scotia, Manitoba, British Co-<br>lumbia, Prince Edward Island, Saskatchewan<br>and Alberta.....   | 1 Aug., 1954     | Vol. 88, p. 2662.                           |
| Province of Ontario.....  | 15 Sept., 1954   | Vol. 88, p. 2727.                           |
| National Housing Act, 1954—Chap. 23, Statutes, 1953-54—<br>Parts I, II, III, IV, V, VI and VII proclaimed in force<br>throughout Canada, but the type of loan that may be<br>made under Part IV of the said Act throughout Canada<br>(except in the Municipal District of Yellowknife, North-<br>west Territories) shall be limited to home extension<br>loans..... | 22 Mar., 1954    | Vol. 88, p. 1192,<br>Extra, Mar. 19, 1954.  |
| Navigable Waters Protection Act—Chap. 193, R.S.C.,<br>1952—   |                  |   |
| Marmion Lake, Rainy River District, Prov. of<br>Ont., declared exempt from operation of sections<br>18, 19 and 20.....  | 13 May, 1954     | Vol. 88, p. 2146.                           |
| North Pacific Halibut Fishing Convention Act—Chap. 43,<br>Statutes, 1952-53—proclaimed in force.....  | 1 Nov., 1953     | Vol. 87, p. 3431.                           |
| Northwest Territories—amendment—Chap. 8, Statutes,<br>1953-54—proclaimed in force.....  | 30 June, 1954    | Vol. 88, p. 2,<br>Extra, Jun 30, 1954.      |

## 2 - 3 ELIZABETH II.

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### CHAP. 51.

An Act respecting the Criminal Law.

[Assented to 26th June, 1954]

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

#### SHORT TITLE.

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

#### INTERPRETATION.

2. In this Act, Definitions.
- (1) "Act" includes "Act."
- (a) an Act of the Parliament of Canada,
  - (b) an Act of the legislature of the late province of Canada,
  - (c) an Act of the legislature of a province, and
  - (d) an Act or ordinance of the legislature of a province, territory or place in force at the time that province, territory or place became a province of Canada;
- (2) "Attorney General" means the Attorney General or Solicitor General of a province in which proceedings to which this Act applies are taken and, with respect to the Northwest Territories and the Yukon Territory, means the Attorney General of Canada; "Attorney General."
- (3) "bank-note" includes any negotiable instrument "Bank-note."
- (a) issued by or on behalf of a person carrying on the business of banking in or out of Canada,
  - (b) issued under the authority of the Parliament of Canada or under lawful authority of the government of a state other than Canada,

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

"Canadian Forces."

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

"Cattle."

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

"Clerk of the court."

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

"Counsel."

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

"Count."

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

"Court of appeal."

(9) "court of appeal" means  
 (a) in the province of Ontario, the Court of Appeal,  
 (b) in the province of Quebec, the Court of Queen's Bench, appeal side,  
 (c) in the province of Nova Scotia, the Supreme Court *in banco*,  
 (d) in the province of New Brunswick, the Court of Appeal, otherwise known as the Appeal Division of the Supreme Court,  
 (e) in the province of British Columbia, the Court of Appeal,  
 (f) in the province of Prince Edward Island, the Supreme Court,  
 (g) in the province of Manitoba, the Court of Appeal,  
 (h) in the province of Saskatchewan, the Court of Appeal,  
 (i) in the province of Alberta, the Appellate Division of the Supreme Court,  
 (j) in the province of Newfoundland, the Supreme Court, constituted by two or more of the judges thereof,  
 (k) in the Yukon Territory, the Court of Appeal for the province of British Columbia, and  
 (l) in the Northwest Territories  
 (i) for those parts of the Territories west of the one hundred and second meridian of west longitude, the court of appeal for the province of Alberta, and

- (ii) for those parts of the Territories east of the one hundred and second meridian of west longitude, the court of appeal for the province of Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland;
- (10) "court of criminal jurisdiction" means
- (a) a court of general or quarter sessions of the peace, when presided over by a superior court judge or a county or district court judge, or in the cities of Montreal and Quebec, by a municipal judge of the city, as the case may be, or a judge of the sessions of the peace,
  - (b) a magistrate or judge acting under Part XVI, and
  - (c) in the province of New Brunswick, the county court;
- (11) "day" means the period between six o'clock in the forenoon and nine o'clock in the afternoon of the same day; "Day."
- (12) "document of title to goods" includes a bought and sold note, bill of lading, warrant, certificate or order for the delivery or transfer of goods or any other valuable thing, and any other document used in the ordinary course of business as evidence of the possession or control of goods, authorizing or purporting to authorize, by endorsement or by delivery, the person in possession of the document to transfer or receive any goods thereby represented or therein mentioned or referred to; "Document of title to goods."
- (13) "document of title to lands" includes any writing that is or contains evidence of the title, or any part of the title to real property, or to any interest in real property, and any notarial or registrar's copy thereof, and any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada with respect to registration of titles, that relates to title to real property or to an interest in real property; "Document of title to lands."
- (14) "dwelling house" means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes a building within the curtilage of a dwelling house that is connected to it by a doorway or by a covered and enclosed passageway; "Dwelling house."
- (15) "every one," "person," "owner," and similar expressions include Her Majesty and public bodies, corporate, societies, companies and inhabitants of counties, parishes, municipalities or other districts in relation to the acts and things that they are capable of doing and owning respectively; "Every one." "Person." "Owner."

- "Explosive substance." (16) "explosive substance" includes  
 (a) anything intended to be used to make an explosive substance, and  
 (b) anything, or any part thereof, used or intended to be used, or adapted to cause, or to aid in causing an explosion in or with an explosive substance;
- "Feeble-minded person." (17) "feeble-minded person" means a person in whom there exists and has existed from birth or from an early age, mental defectiveness not amounting to imbecility, but so pronounced that he requires care, supervision and control for his protection or for the protection of others;
- "Highway." (18) "highway" means a road to which the public has the right of access, and includes bridges over which or tunnels through which a road passes;
- "Her Majesty's Forces." (19) "Her Majesty's Forces" means the naval, army and air forces of Her Majesty wheresoever raised, and includes the Canadian Forces;
- "Indictment." (20) "indictment" includes  
 (a) information, presentment and a count therein,  
 (b) a plea, replication or other pleading, and  
 (c) any record;
- "Justice." (21) "justice" means a justice of the peace or a magistrate, and includes two or more justices where two or more justices are, by law, required to act or, by law, act or have jurisdiction;
- "Magistrate." (22) "magistrate" means a police magistrate, a stipendiary magistrate, a district magistrate, a provincial magistrate, a judge of the sessions of the peace, a recorder, or any person having the power and authority of two or more justices of the peace, and includes the lawful deputy of each of them;
- "Military." (23) "military" shall be construed as relating to all or any of the Canadian Forces;
- "Military law." (24) "military law" includes all laws, regulations or orders relating to the Canadian Forces;
- "Motor vehicle." (25) "motor vehicle" means a vehicle that is drawn, propelled or driven by any means other than by muscular power, but does not include a vehicle of a railway that operates on rails;
- "Municipality." (26) "municipality" includes the corporation of a city, town, village, county, township, parish or other territorial or local division of a province, the inhabitants of which are incorporated or are entitled to hold property collectively for a public purpose;
- "Newly-born child." (27) "newly-born child" means a person under the age of one year;

- (28) "night" means the period between nine o'clock in the afternoon and six o'clock in the forenoon of the following day;
- (29) "offensive weapon" or "weapon" means "Offensive  
weapon."  
"Weapon."  
(a) anything that is designed to be used as a weapon,  
and  
(b) anything that a person uses or intends to use as a weapon, whether or not it is designed to be used as a weapon,  
and, without restricting the generality of the foregoing, includes a firearm, air-gun or air-pistol and ammunition for a firearm, air-gun or air-pistol;
- (30) "peace officer" includes "Peace  
officer."  
(a) a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace,  
(b) a warden, deputy warden, instructor, keeper, gaoler, guard and any other officer or permanent employee of a prison,  
(c) a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process, and  
(d) an officer or person having the powers of a customs or excise officer when performing any duty in the administration of the *Customs Act* or the *Excise Act*;
- (31) "prison" includes a penitentiary, common gaol, public or reformatory prison, lock-up, guard-room or other place in which persons who are charged with or convicted of offences are usually kept in custody;
- (32) "property" includes "Property."  
(a) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods,  
(b) property originally in the possession or under the control of any person, and any property into or for which it has been converted or exchanged and anything acquired at any time by such conversion or exchange, and  
(c) any postal card, postage stamp or other stamp issued or prepared for issue under the authority of the Parliament of Canada or of the legislature of a province for the payment to the Crown or a corporate body of any fee, rate or duty, whether or not it is in the possession of the Crown or of any person;

- "Prosecutor." (33) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who institutes proceedings to which this Act applies, and includes counsel acting on behalf of either of them;
- "Public department." "Public officer." (34) "public department" means a department of the Government of Canada or a branch thereof or a board, commission, corporation or other body that is an agent of Her Majesty in right of Canada;
- (35) "public officer" includes  
 (a) an officer of customs or excise,  
 (b) an officer of the Canadian Forces,  
 (c) an officer of the Royal Canadian Mounted Police, and  
 (d) any officer while he is engaged in enforcing the laws of Canada relating to revenue, customs, excise, trade or navigation;
- "Public stores." (36) "public stores" includes any movable property that is under the care, supervision, administration or control of a public department or of any person in the service of a public department;
- "Steal." (37) "steal" means to commit theft;
- "Superior court of criminal jurisdiction." (38) "superior court of criminal jurisdiction" means  
 (a) in the province of Ontario, the Supreme Court,  
 (b) in the province of Quebec, the Court of Queen's Bench,  
 (c) in the provinces of Nova Scotia, New Brunswick, Alberta and Newfoundland respectively, the Supreme Court,  
 (d) in the province of British Columbia, the Supreme Court or the Court of Appeal,  
 (e) in the province of Prince Edward Island, the Supreme Court of Judicature,  
 (f) in the provinces of Manitoba and Saskatchewan respectively, the Court of Appeal or the Court of Queen's Bench,  
 (g) in the Yukon Territory, the Territorial Court, and  
 (h) in the Northwest Territories, the Territorial Court;
- "Territorial division." (39) "territorial division" includes any province, county, union of counties, township, city, town, parish or other judicial division or place to which the context applies;
- "Testamentary instrument." (40) "testamentary instrument" includes any will, codicil or other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be as after his death, whether it relates to real or personal property, or to both;

- (41) "trustee" means a person who is declared by any Act to be a trustee or is, by the law of the province, a trustee, and without restricting the generality of the foregoing, includes a trustee on an express trust created by deed, will or instrument in writing, or by parol; "Trustee."
- (42) "valuable security" includes "Valuable security."
- (a) an order, exchequer acquittance or other security that entitles or evidences the title of any person
    - (i) to a share or interest in a public stock or fund or in any fund of a body corporate, company or society, or
    - (ii) to a deposit in a savings bank or other bank,
  - (b) a debenture, deed, bond, bill, note, warrant, order or other security for money or for the payment of money,
  - (c) a document of title to lands or goods wheresoever situate,
  - (d) a stamp or writing that secures or evidences title to or an interest in a chattel personal, or that evidences delivery of a chattel personal, and
  - (e) a release, receipt, discharge or other instrument evidencing payment of money;
- (43) "wreck" includes the cargo, stores and tackle of a vessel and all parts of a vessel separated from the vessel, and the property of persons who belong to, are on board or have quitted a vessel that is wrecked, stranded or in distress at any place in Canada; and "Wreck."
- (44) "writing" includes a document of any kind and any mode in which, and any material on which, words or figures, whether at length or abridged, are written, printed or otherwise expressed, or a map or plan is inscribed. "Writing."

## PART I.

### GENERAL.

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

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

Value of  
valuable  
security.

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

- (a) where the valuable security is one mentioned in subparagraph (a) or (b) of paragraph (42) of section 2, the value is the value of the share, interest, deposit or unpaid money, as the case may be, that is secured by the valuable security;
- (b) where the valuable security is one mentioned in subparagraph (c) or (d) of paragraph (42) of section 2, the value is the value of the lands, goods, chattel personal or interest in the chattel personal, as the case may be; and
- (c) where the valuable security is one mentioned in subparagraph (e) of paragraph (42) of section 2, the value is the amount of money that has been paid.

Possession.

(4) For the purposes of this Act,

- (a) a person has anything in possession when he has it in his personal possession or knowingly
  - (i) has it in the actual possession or custody of another person, or
  - (ii) has it in any place, whether or not that place belongs to or is occupied by him, for the use or benefit of himself or of another person; and
- (b) where one of two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

Meaning of  
expressions  
taken from  
other Acts.

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

Sexual  
intercourse.

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

Canadian  
Forces not  
affected.

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

Punishment  
only after  
conviction.

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

- (a) a person shall be deemed not to be guilty of that offence until he is convicted thereof; and
- (b) a person who is convicted of that offence is not liable to any punishment in respect thereof other than the punishment prescribed by this Act or by the enactment that creates the offence.

Offences  
outside of  
Canada.

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

**6.** The provisions of this Act apply throughout Canada except Application to territories.

- (a) in the Northwest Territories, in so far as they are inconsistent with the *Northwest Territories Act*, and
- (b) in the Yukon Territory, in so far as they are inconsistent with the *Yukon Act*.

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

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

**8.** Notwithstanding anything in this Act or any other Act no person shall be convicted Criminal offences to be under law of Canada.

- (a) of an offence at common law,
- (b) of an offence under an Act of the Parliament of England, or of Great Britain, or of the United Kingdom of Great Britain and Ireland, or
- (c) of an offence under an Act or ordinance in force in any province, territory or place before that province, territory or place became a province of Canada,

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

**9.** (1) Where a court, judge, justice or magistrate summarily convicts a person for a contempt of court committed in the face of the court and imposes punishment in respect thereof, that person may appeal against the punishment imposed. Appeal.

(2) Where a court or judge summarily convicts a person for a contempt of court not committed in the face of the court and punishment is imposed in respect thereof, that person may appeal Idem.

- (a) from the conviction, or
- (b) against the punishment imposed.

(3) An appeal under this section lies to the court of appeal of the province in which the proceedings take place, and, for the purposes of this section, the provisions of Part XVIII apply, *mutatis mutandis*. Part XVIII applies.

Civil  
remedy not  
suspended.

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

Offence  
punishable  
under more  
than one Act.

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

Child under  
seven.

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

Person  
between  
seven and  
fourteen.

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

Consent to  
death.

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

Obedience to  
*de facto* law.

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

Insanity.

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

When insane.

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

Delusions.

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

Presumption  
of sanity.

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

Compulsion  
by threats.

**17.** A person who commits an offence under compulsion by threats of immediate death or grievous bodily harm from a person who is present when the offence is committed

is excused for committing the offence if he believes that the threats will be carried out and if he is not a party to a conspiracy or association whereby he is subject to compulsion, but this section does not apply where the offence that is committed is treason, murder, piracy, attempted murder, assisting in rape, forcible abduction, robbery, causing bodily harm or arson.

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

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

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

#### PARTIES TO OFFENCES.

**21.** (1) Every one is a party to an offence who Parties to offence.  
 (a) actually commits it,  
 (b) does or omits to do anything for the purpose of aiding any person to commit it, or  
 (c) abets any person in committing it.

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

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

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

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

Husband or wife, when not accessory. (2) No married person whose spouse has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting the spouse for the purpose of enabling the spouse to escape.

When wife not accessory. (3) No married woman whose husband has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to that offence for the purpose of enabling her husband or that other person to escape.

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

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

#### PROTECTION OF PERSONS ADMINISTERING AND ENFORCING THE LAW.

Protection of persons acting under authority. **25.** (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person,
- (b) as a peace officer or public officer,
- (c) in aid of a peace officer or public officer, or
- (d) by virtue of his office,

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

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

When not protected. (3) Subject to subsection (4), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless he believes on reasonable and probable grounds that it is necessary for the purpose of preserving himself or any one under his protection from death or grievous bodily harm.

(4) A peace officer who is proceeding lawfully to arrest, with or without warrant, any person for an offence for which that person may be arrested without warrant, and every one lawfully assisting the peace officer, is justified, if the person to be arrested takes flight to avoid arrest, in using as much force as is necessary to prevent the escape by flight, unless the escape can be prevented by reasonable means in a less violent manner.

When  
protected.

Exception

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

Excessive  
force.

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

Use of force  
to prevent  
commission  
of offence.

(a) to prevent the commission of an offence

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

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

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

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

Arrest of  
wrong person.

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

Person  
assisting.

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

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

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

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

Duty of  
person  
arresting.

Notice.

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

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

(b) the reason for the arrest.

Failure to comply.

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

Preventing breach of peace.

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

Arrest for breach of peace.

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

Giving person in charge.

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

#### SUPPRESSION OF RIOTS.

Use of force to suppress riot.

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

(a) is necessary to suppress a riot, and

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

Person bound by military law.

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

Obeying order of peace officer.

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

(a) he acts in good faith, and

(b) the order is not manifestly unlawful.

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

Apprehension  
of serious  
mischief.

(a) is necessary to suppress the riot, and

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

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

Question of  
law.

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

Duty of  
officers if  
rioters do not  
disperse.

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

Protection of  
officers.

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

Section not  
restrictive.

#### DEFENCE OF PERSON.

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

Self  
defence  
against  
unprovoked  
assault.

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

Extent of  
justification.

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

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

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

Self defence  
in case of  
aggression.

- (a) he uses the force
  - (i) under reasonable apprehension of death or grievous bodily harm from the violence of the person whom he has assaulted or provoked, and
  - (ii) in the belief, on reasonable and probable grounds, that it is necessary in order to preserve himself from death or grievous bodily harm;
- (b) he did not, at any time before the necessity of preserving himself from death or grievous bodily harm arose, endeavour to cause death or grievous bodily harm; and
- (c) he declined further conflict and quitted or retreated from it as far as it was feasible to do so before the necessity of preserving himself from death or grievous bodily harm arose.

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

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

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

#### DEFENCE OF PROPERTY.

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

- (a) in preventing a trespasser from taking it, or
  - (b) in taking it from a trespasser who has taken it,
- if he does not strike or cause bodily harm to the trespasser.

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

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

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

Defence  
without  
claim of  
right.

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

Defence of  
dwelling

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

Defence of  
house or  
real property.

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

Assault by  
trespasser.

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

Assertion of  
right to house  
or real  
property.

(2) Where a person

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

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

Assault in  
case of  
lawful entry.

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

(3) Where a person

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

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

Trespasser  
provoking  
assault.

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

#### PROTECTION OF PERSONS IN AUTHORITY.

Correction of  
child by  
force.

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

Master of  
ship main-  
taining  
discipline.

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

Surgical  
operations.

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

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

#### PART II.

#### OFFENCES AGAINST PUBLIC ORDER.

##### TREASON AND OTHER OFFENCES AGAINST THE QUEEN'S AUTHORITY AND PERSON.

Treason

- 46.** (1) Every one commits treason who, in Canada,
- (a) kills or attempts to kill Her Majesty, or does her any bodily harm tending to death or destruction, maims or wounds her, or imprisons or restrains her;
  - (b) levies war against Canada or does any act preparatory thereto;
  - (c) assists an enemy at war with Canada, or any armed forces against whom Canadian forces are engaged in hostilities whether or not a state of war exists between Canada and the country whose forces they are;
  - (d) uses force or violence for the purpose of overthrowing the government of Canada or a province;
  - (e) without lawful authority, communicates or makes available to an agent of a state other than Canada, military or scientific information or any sketch, plan,

model, article, note or document of a military or scientific character that he knows or ought to know may be used by that state for a purpose prejudicial to the safety or defence of Canada;

(f) conspires with any person to do anything mentioned in paragraphs (a) to (d);

(g) forms an intention to do anything mentioned in paragraphs (a) to (d) and manifests that intention by an overt act; or

(h) conspires with any person to do anything mentioned in paragraph (e) or forms an intention to do anything mentioned in paragraph (e) and manifests that intention by an overt act.

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

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

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

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

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

(c) to be sentenced to death or to imprisonment for life if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while a state of war exists between Canada and another country; or

(d) to be sentenced to imprisonment for fourteen years if he is guilty of an offence under paragraph (e) or (h) of subsection (1) of section 46, committed while no state of war exists between Canada and another country.

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

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

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

- (a) an information setting out the overt act and the words by which it was expressed or declared is laid under oath before a justice within six days after the time when the words are alleged to have been spoken, and
- (b) a warrant for the arrest of the accused is issued within ten days after the time when the information is laid.

#### PROHIBITED ACTS.

Acts intended to alarm Her Majesty or break public peace.

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

- (a) does an act with intent to alarm Her Majesty or to break the public peace, or
- (b) does an act that is intended or is likely to cause bodily harm to Her Majesty,

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

Assisting alien enemy to leave Canada.

**50.** (1) Every one commits an offence who

- (a) incites or wilfully assists a subject of
  - (i) a state that is at war with Canada, or
  - (ii) a state against whose forces Canadian forces are engaged in hostilities, whether or not a state of war exists between Canada and the state whose forces they are,

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

Omitting to prevent treason.

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

Punishment.

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

Intimidating Parliament or legislature.

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

Sabotage.

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

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

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

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

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

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

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

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

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

(c) he stops work as a result of his taking part in a combination of workmen or employees for their own reasonable protection as workmen or employees.

(4) No person does a prohibited act within the meaning of this section by reason only that he attends at or near or approaches a dwelling house or place for the purpose only of obtaining or communicating information. Idem.

**53.** Every one who

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

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

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

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

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

Resisting  
execution of  
search  
warrant.

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

Offences in  
relation to  
members of  
R.C.M.Po-  
lice.

**57.** Every one who wilfully  
(a) procures, persuades or counsels a member of the Royal Canadian Mounted Police to desert or absent himself without leave,  
(b) aids, assists, harbours or conceals a member of the Royal Canadian Mounted Police who he knows is a deserter or absentee without leave, or  
(c) aids or assists a member of the Royal Canadian Mounted Police to desert or absent himself without leave, knowing that the member is about to desert or absent himself without leave,  
is guilty of an offence punishable on summary conviction.

#### PASSPORTS.

False  
statement to  
procure  
passport.

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

"Passport."

(2) In this section, "passport" includes  
(a) a document issued by or under the authority of the Secretary of State for External Affairs for the purpose of identifying the holder thereof, and  
(b) an emergency certificate authorized by the Secretary of State for External Affairs to be issued in lieu of a passport by a person duly authorized to issue passports outside of Canada.

Fraudulent  
use of  
certificate of  
citizenship.

**59.** (1) Every one who  
(a) uses a certificate of citizenship or a certificate of naturalization for a fraudulent purpose, or  
(b) being a person to whom a certificate of citizenship or a certificate of naturalization has been granted, knowingly parts with the possession of that certificate with intent that it should be used for a fraudulent purpose,  
is guilty of an indictable offence and is liable to imprisonment for two years.

"Certificate  
of citizen-  
ship."  
"Certificate  
of naturali-  
zation."

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

## SEDITION.

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

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

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

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

(a) teaches or advocates, or

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

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

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

(b) to point out errors or defects in

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

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

(iii) the administration of justice in Canada,

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

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

**62.** Every one who

(a) speaks seditious words,

(b) publishes a seditious libel, or

(c) is a party to a seditious conspiracy,

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

**63.** (1) Every one who wilfully

(a) interferes with, impairs or influences the loyalty or discipline of a member of a force, Offences in relation to military forces.

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

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

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

"Member of  
a force."

- (2) In this section, "member of a force" means a member of
- (a) the Canadian Forces, or
  - (b) the naval, army or air forces of a state other than Canada that are lawfully present in Canada.

#### UNLAWFUL ASSEMBLIES AND RIOTS.

"Unlawful  
assembly."

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

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

Lawful  
assembly  
becoming  
unlawful.

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

Exception.

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

"Riot."

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

Punishment  
of rioter.

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

Punishment  
of member of  
unlawful  
assembly.

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

Reading  
proclamation.

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

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

### GOD SAVE THE QUEEN.

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

- (a) opposes, hinders or assaults, wilfully and with force, a person who begins to make or is about to begin to make or is making the proclamation referred to in section 68 so that it is not made, Preventing proclamation.
- (b) does not peaceably disperse and depart from a place where the proclamation referred to in section 68 is made within thirty minutes after it is made, or Failure to disperse and depart.
- (c) does not depart from a place within thirty minutes when he has reasonable ground to believe that the proclamation referred to in section 68 would have been made in that place if some person had not opposed, hindered or assaulted, wilfully and with force, a person who would have made it. Failure to depart.

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

### UNLAWFUL DRILLING.

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

- (a) to prohibit assemblies, without lawful authority, of persons for the purpose
  - (i) of training or drilling themselves,
  - (ii) of being trained or drilled to the use of arms, or
  - (iii) of practising military exercises; or
- (b) to prohibit persons when assembled for any purpose from training or drilling themselves or from being trained or drilled.

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

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

## DUELS.

Duelling.

**72.** Every one who

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

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

(c) accepts a challenge to fight a duel,

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

## FORCIBLE ENTRY AND DETAINER.

"Forcible entry."

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

"Forcible detainer."

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

Questions of law.

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

Punishment.

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

## PIRACY.

Piracy by law of nations

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

Punishment.

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

Piratical acts.

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

(a) steals a Canadian ship,

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

(c) does or attempts to do a mutinous act on a Canadian ship, or  
 (d) counsels or procures a person to do anything mentioned in paragraph (a), (b) or (c),  
 is guilty of an indictable offence and is liable to imprisonment for fourteen years.

#### DANGEROUS SUBSTANCES.

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

**78.** Every one who, being under a legal duty within the meaning of section 77, fails without lawful excuse to perform that duty, is guilty of an indictable offence and if as a result an explosion of an explosive substance occurs that  
 (a) causes death or is likely to cause death to any person, is liable to imprisonment for life, or  
 (b) causes bodily harm or damage to property or is likely to cause bodily harm or damage to property, is liable to imprisonment for fourteen years. Breach of duty.

**79.** (1) Every one commits an offence who Causing injury with intent.  
 (a) does anything with intent to cause an explosion of an explosive substance that is likely to cause serious bodily harm or death to persons or is likely to cause serious damage to property,  
 (b) with intent to do bodily harm to any person  
     (i) causes an explosive substance to explode,  
     (ii) sends or delivers to a person or causes a person to take or receive an explosive substance or any other dangerous substance or thing,  
     (iii) places or throws anywhere or at or upon a person a corrosive fluid, explosive substance or any other dangerous substance or thing,  
 (c) with intent to destroy or damage property without lawful excuse, places or throws an explosive substance anywhere, or  
 (d) makes or has in his possession or has under his care or control any explosive substance with intent thereby  
     (i) to endanger life or to cause serious damage to property, or  
     (ii) to enable another person to endanger life or to cause serious damage to property.  
 (2) Every one who commits an offence under subsection (1) is guilty of an indictable offence and is liable Punishment.  
 (a) for an offence under paragraph (a) or (b), to imprisonment for life, or  
 (b) for an offence under paragraph (c) or (d), to imprisonment for fourteen years.

Possessing  
explosive  
without  
lawful  
excuse.

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

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

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

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

#### PRIZE FIGHTS.

Engaging in  
prize fight.

**81.** (1) Every one who

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

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

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

is guilty of an offence punishable on summary conviction.

"Prize  
fight."

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

#### OFFENSIVE WEAPONS.

Possession of  
weapon.

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

Carrying  
weapon  
while in  
possession of  
anything  
liable to  
seizure.

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

Carrying  
concealed  
weapon

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

Short-barrel  
shot-gun or  
rifle.

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

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

Silencers.

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

Pointing  
firearm.

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

While attend-  
ing public  
meeting.

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

Delivering  
firearms to  
minors.

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

Seizure

(3) Everyone who without lawful excuse, the proof of which lies upon him, has in his possession or sells, barter, gives, lends, transfers or delivers a spring-knife or switch-knife is guilty of an offence punishable on summary conviction.

Spring-knives.

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

Unauthorized  
issue of  
certificates  
or permits.

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

Unregistered  
firearm in  
dwelling  
house.

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

Firearm else-  
where than in  
dwelling  
house with-  
out permit.

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

Firearm in  
motor  
vehicle.

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

Buying and  
selling  
firearms.

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

Transfer of  
firearm.

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

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

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

Accepting  
firearm.

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

(a) it is registered in his name, or

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

Finding  
firearm.

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

(a) deliver it to a peace officer, or

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

Tampering  
with serial  
number,  
certificate or  
permit.

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

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

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

Punishment.

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

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

(b) an offence punishable on summary conviction.

Retail  
transactions  
in  
firearms.

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

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

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

Punishment.

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

Onus of  
proof.

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

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

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

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

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

- (a) send one copy thereof to the Commissioner,
- (b) deliver one copy thereof to the applicant, and
- (c) retain one copy thereof.

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

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

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

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

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

**94.** (1) A permit in Form 42 may be issued by Who may  
(a) the Commissioner or a person authorized in writing issue permits  
by him, or in Form 42.

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

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

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

Permit in  
Form 42—  
when  
issued.

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

- (a) to protect his life or property,
- (b) for use in connection with his profession or occupation, or
- (c) for use in target practice in connection with a shooting club approved by the Attorney General of the province in which the shooting club is situated.

Validity of  
permit in  
Form 42 or 45.

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

- (a) the expiration of the period for which it is expressed to be issued,
- (b) it is revoked, or
- (c) the expiration of the calendar year in which it is issued,

whichever is the earliest.

Validity of  
permit in  
Form 43.

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

Validity of  
permit in  
Form 44.

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

Permits  
supplied by  
Commissioner.

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

Revocation.

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

Search and  
seizure.

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

Detention.

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

Forfeiture.

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

Persons who  
do not  
commit  
offences.  
Wholesalers.

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

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

- (a) the business of repairing firearms, or Exception
- (b) the business of buying and selling firearms or revolvers at retail, if he has a permit in Form 43. Repairers.  
Retailers
- (3) Notwithstanding anything in sections 82 to 90,
- (a) a member of the Canadian Forces or of the naval, army or air forces of a state other than Canada that are lawfully present in Canada, Members of Forces
- (b) a peace officer or public officer, or Peace officers.  
public officers.
- (c) an officer under the *Immigration Act*, the *Customs Act* or the *Excise Act*, Other officers.

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

- 98.** For the purposes of sections 89 to 97, Definitions.
- (a) "Commissioner" means the Commissioner of the Royal Canadian Mounted Police, "Commissioner."
  - (b) "firearm" means a pistol, revolver, or a firearm that is capable of firing bullets in rapid succession during one pressure of the trigger; and "Firearm."
  - (c) "local registrar of firearms" means "Local registrar of firearms."
    - (i) the Commissioner or a person appointed in writing by him, or
    - (ii) the Attorney General of a province or a person appointed in writing by him.

### PART III

#### OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE.

##### INTERPRETATION.

**99.** In this Part,

- (a) "evidence" means an assertion of fact, opinion, belief or knowledge whether material or not and whether admissible or not; "Evidence."
- (b) "government" means "Government."
  - (i) the Government of Canada,
  - (ii) the government of a province, or
  - (iii) Her Majesty in right of Canada or in right of a province;

"Judicial proceeding."

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

"Office."

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

"Official."

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

"Witness."

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

#### CORRUPTION AND DISOBEDIENCE.

Bribery of  
judicial  
officers, etc.

- 100.** (1) Every one who
- (a) being the holder of a judicial office, or being a member of the Parliament of Canada or of a legislature, corruptly
- (i) accepts or obtains,
  - (ii) agrees to accept, or
  - (iii) attempts to obtain,
- any money, valuable consideration, office, place or employment for himself or another person in respect of anything done or omitted or to be done or omitted by him in his official capacity; or
- (b) gives or offers corruptly to a person who holds a judicial office, or is a member of the Parliament of Canada or of a legislature, any money, valuable consideration, office, place or employment in respect of

anything done or omitted or to be done or omitted by him in his official capacity for himself or another person, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

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

**101.** Every one who

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

- (i) accepts or obtains,
- (ii) agrees to accept, or
- (iii) attempts to obtain,

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

- (iv) to interfere with the administration of justice,
- (v) to procure or facilitate the commission of an offence, or

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

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

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

**102.** (1) Every one commits an offence who

(a) directly or indirectly

- (i) gives, offers, or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or Frauds upon the Government.  
Offer or gift to influence official.

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

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

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

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

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

Giving  
reward or  
commission  
to official  
without  
consent

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

Acceptance  
of com-  
mission or  
gift without  
consent.

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

Compensation  
for procuring  
settlement  
of claim, etc.

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

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

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

Offer of  
reward for  
appointment.

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

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

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

Reward for  
withdrawal  
of tender.

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

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

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

(2) Every one commits an offence who, in order to obtain or retain a contract with the government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes, gives, or agrees to subscribe or give, to any person any valuable consideration

Contractor  
subscribing  
to election  
fund.

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

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

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

Punishment.

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

Breach of  
trust by  
public officer.

**104.** (1) Every one who

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

Municipal  
corruption.

(b) being a municipal official, demands, accepts or offers or agrees to accept from any person, a loan, reward, advantage or benefit of any kind as consideration for the official

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

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

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

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

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

(2) Every one who

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

Influencing  
municipal  
official.

(b) by threats or deceit, or

(c) by any unlawful means,

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

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

"Municipal  
official."

- 105.** Every one who
- Selling office. (a) purports to sell or agrees to sell an appointment to or resignation from an office, or a consent to any such appointment or resignation, or receives, or agrees to receive a reward or profit from the purported sale thereof, or
- Purchasing office. (b) purports to purchase or gives a reward or profit for the purported purchase of any such appointment, resignation or consent, or agrees or promises to do so, is guilty of an indictable offence and is liable to imprisonment for five years.
- 106.** Every one who
- Reward for influencing appointment. (a) receives, agrees to receive, gives or procures to be given, directly or indirectly, a reward, advantage or benefit of any kind as consideration for co-operation, assistance or exercise of influence to secure the appointment of any person to an office;
- Reward for negotiating appointment. (b) solicits, recommends or negotiates in any manner with respect to an appointment to or resignation from an office, in expectation of a direct or indirect reward, advantage or benefit; or
- Establishment for dealing in offices. (c) keeps without lawful authority, the proof of which lies upon him, a place for transacting or negotiating any business relating to
- (i) the filling of vacancies in offices,
- (ii) the sale or purchase of offices, or
- (iii) appointments to or resignations from offices,
- is guilty of an indictable offence and is liable to imprisonment for five years.
- 107.** Every one who, without lawful excuse, contravenes an Act of the Parliament of Canada by wilfully doing anything that it forbids or by wilfully omitting to do anything that it requires to be done is, unless some penalty or punishment is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years.
- 108.** Every one who, without lawful excuse, disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order, other than an order for the payment of money is, unless some penalty or punishment or other mode of proceeding is expressly provided by law, guilty of an indictable offence and is liable to imprisonment for two years.
- 109.** Every peace officer or coroner who, being entrusted with the execution of a process, wilfully
- (a) misconducts himself in the execution of the process, or
- (b) makes a false return to the process,
- is guilty of an indictable offence and is liable to imprisonment for two years.

**110.** Every one who

- (a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer, Obstructing public or peace officer.
- (b) omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, Neglect to aid public or peace officer.
- or
- (c) resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure, Resisting execution of process.
- is guilty of an indictable offence and is liable to imprisonment for two years.

**111.** Every one who

- (a) falsely represents himself to be a peace officer or a public officer, or Personating peace officer.
- (b) not being a peace officer or public officer uses a badge or article of uniform or equipment in a manner that is likely to cause persons to believe that he is a peace officer or a public officer, as the case may be,
- is guilty of an offence punishable on summary conviction.

## MISLEADING JUSTICE.

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

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

(2) Where a person is charged with an offence under section 112 or 116, a certificate specifying with reasonable particularity the proceeding in which that person is alleged to have given the evidence in respect of which the offence is charged, is *prima facie* evidence that it was given in a judicial proceeding, without proof of the signature or official character of the person by whom the certificate purports to be signed if it purports to be signed by the clerk of the court or other official having the custody of the record of that proceeding or by his lawful deputy. Proof of former trial upon trial of indictment for perjury.

**114.** Every one who, not being a witness in a judicial proceeding but being permitted, authorised or required by law to make a statement by affidavit, by solemn declaration or orally under oath, makes in such a statement, before a person who is authorised by law to permit it to be made False statements in extra-judicial proceedings.

before him, an assertion with respect to a matter of fact, opinion, belief or knowledge, knowing that the assertion is false, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Corrobor-  
ation

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

Witness  
giving  
contradictory  
evidence.

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

"Evidence."

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

Consent  
required.

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

Fabricating  
evidence.

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

Signing  
pretended  
affidavit.

**118.** Every one who

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

Using  
pretended  
affidavit.

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

Writing  
purporting  
to be  
affidavit.

(c) signs as affiant or declarant a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared by him, as the case may be, when the writing was not so sworn or declared, is guilty of an indictable offence and is liable to imprisonment for two years.

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

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

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

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

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

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

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

**120.** Every one who, with intent to mislead, causes a peace officer to enter upon an investigation by Public mischief.

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

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

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

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

**121.** Every one who asks or obtains or agrees to receive or obtain any valuable consideration for himself or any other person by agreeing to compound or conceal an indictable offence is guilty of an indictable offence and is liable to imprisonment for two years. Compounding indictable offence.

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

Advertising  
reward and  
immunity.

**123.** Every one who

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

Idem.

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

Advertising  
return of  
money  
advanced on  
stolen  
property.

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

Printing  
advertisement.

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

is guilty of an offence punishable on summary conviction.

ESCAPES AND RESCUES.

Prison-  
breach.

**124.** Every one who

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

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

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

Escape.  
Being  
unlawfully  
at large.

**125.** Every one who

(a) escapes from lawful custody,

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

Skipping bail.

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

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

Permitting  
escape.

**126.** Every one who

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

Conveying  
things into  
prison.

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

(c) directs or procures, under colour of pretended authority, the discharge of a prisoner who is not entitled to be discharged,  
 is guilty of an indictable offence and is liable to imprisonment for two years.

Discharge under pretended authority.

**127.** Every one who

(a) rescues any person from lawful custody or assists any person in escaping or attempting to escape from lawful custody,  
 (b) being a peace officer, wilfully permits a person in his lawful custody to escape, or  
 (c) being an officer of or an employee in a prison, wilfully permits a person to escape from lawful custody therein,  
 is guilty of an indictable offence and is liable to imprisonment for five years.

Rescue.

Peace officer permitting escape.

Prison officer permitting escape.

**128.** Every one who knowingly and wilfully

(a) assists a prisoner of war in Canada to escape from a place where he is detained, or  
 (b) assists a prisoner of war, who is permitted to be at large on parole in Canada, to escape from the place where he is at large on parole,  
 is guilty of an indictable offence and is liable to imprisonment for five years.

Assisting prisoner of war to escape.

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

Full term to be served when retaken.

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

Service of remand.

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

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

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

Imprisonment for escape.

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

"Escape."

## PART IV.

SEXUAL OFFENCES, PUBLIC MORALS AND  
DISORDERLY CONDUCT.

## INTERPRETATION.

|                 |  |
|-----------------|--|
|                 | <b>130.</b> In this Part,  |
| "Guardian."     | (a) "guardian" includes any person who has in law or in fact the custody or control of another person;                                       |
| "Public place." | (b) "public place" includes any place to which the public have access as of right or by invitation, express or implied; and                  |
| "Theatre."      | (c) "theatre" includes any place that is open to the public where entertainments are given, whether or not any charge is made for admission. |

## SPECIAL PROVISIONS.

|  |   |
|--|---|
| Corroborat-<br>tion.                                 | <b>131.</b> (1) No accused shall be convicted of an offence under section 140, 142, 143, 144, 145, 146 or 155 upon the evidence of only one witness unless the evidence of the witness is corroborated in a material particular by evidence that implicates the accused.  |
| Marriage a<br>defence.                               | (2) No accused shall be convicted of an offence under section 144, paragraph (b) of section 145 or section 146 where he proves that, subsequent to the time of the alleged offence, he married the person in respect of whom he is alleged to have committed the offence.   |
| Burden of<br>proof.                                  | (3) In proceedings for an offence under subsection (2) of section 138 or section 143, 144 or paragraph (b) of section 145 the burden of proving that the female person in respect of whom the offence is alleged to have been committed was not of previously chaste character is upon the accused.   |
| Previous<br>sexual inter-<br>course with<br>accused. | (4) In proceedings for an offence under subsection (2) of section 138 or under section 143 or paragraph (b) of section 145, evidence that the accused had, prior to the time of the alleged offence, sexual intercourse with the female person in respect of whom the offence is alleged to have been committed shall be deemed not to be evidence that she was not of previously chaste character. |
| Consent of<br>child under<br>fourteen<br>no defence. | <b>132.</b> Where an accused is charged with an offence under section 138, 141 or 148 in respect of a person under the age of fourteen years, the fact that the person consented to the commission of the offence is not a defence to the charge.   |
| Limitation.  | <b>133.</b> No proceedings for an offence under section 143, 144, paragraph (b) of section 145, or under section 155, 156 or 157 shall be commenced more than one year after the time when the offence is alleged to have been committed.   |

**134.** Notwithstanding anything in this Act or any other Act of the Parliament of Canada, where an accused is charged with an offence under section 136, 137, subsection (1) or (2) of section 138 or subsection (1) of section 141, the judge shall, if the only evidence that implicates the accused is the evidence, given under oath, of the female person in respect of whom the offence is alleged to have been committed and that evidence is not corroborated in a material particular by evidence that implicates the accused, instruct the jury that it is not safe to find the accused guilty in the absence of such corroboration, but that they are entitled to find the accused guilty if they are satisfied beyond a reasonable doubt that her evidence is true. Instruction to jury.

#### SEXUAL OFFENCES.

**135.** A male person commits rape when he has sexual intercourse with a female person who is not his wife, Rape.  
 (a) without her consent, or  
 (b) with her consent if the consent  
     (i) is extorted by threats or fear of bodily harm,  
     (ii) is obtained by personating her husband, or  
     (iii) is obtained by false and fraudulent representations as to the nature and quality of the act.

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

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

**138.** (1) Every male person who has sexual intercourse with a female person who Sexual intercourse with female under fourteen.  
 (a) is not his wife, and  
 (b) is under the age of fourteen years,  
 whether or not he believes that she is fourteen years of age or more, is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.

(2) Every male person who has sexual intercourse with a female person who Sexual intercourse with female between fourteen and sixteen.  
 (a) is not his wife,  
 (b) is of previously chaste character, and  
 (c) is fourteen years of age or more and is under the age of sixteen years,  
 whether or not he believes that she is sixteen years of age or more, is guilty of an indictable offence and is liable to imprisonment for five years.

|   |   |
|---|---|
| Acquittal where accused not chiefly to blame.     | (3) Where an accused is charged with an offence under subsection (2), the court may find the accused not guilty if it is of opinion that the evidence does not show that, as between the accused and the female person, the accused is wholly or chiefly to blame.  |
| Age.  | <b>139.</b> No male person shall be deemed to commit an offence under section 136, 137, 138 or 142 while he is under the age of fourteen years.   |
| Sexual intercourse with feeble-minded, etc.       | <b>140.</b> Every male person who, under circumstances that do not amount to rape, has sexual intercourse with a female person<br>(a) who is not his wife, and<br>(b) who is and who he knows or has good reason to believe is feeble-minded, insane, or is an idiot or imbecile,<br>is guilty of an indictable offence and is liable to imprisonment for five years. |
| Indecent assault on female.                       | <b>141.</b> (1) Every one who indecently assaults a female person is guilty of an indictable offence and is liable to imprisonment for five years and to be whipped.  |
| Consent by false representations                  | (2) An accused who is charged with an offence under subsection (1) may be convicted if the evidence establishes that the accused did anything to the female person with her consent that, but for her consent, would have been an indecent assault, if her consent was obtained by false and fraudulent representations as to the nature and quality of the act.      |
| Incest.   | <b>142.</b> (1) Every one commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse with that person.   |
| Punishment  | (2) Every one who commits incest is guilty of an indictable offence and is liable to imprisonment for fourteen years, and in the case of a male person is liable, in addition, to be whipped.   |
| Compulsion of female.                             | (3) Where a female person is convicted of an offence under this section and the court is satisfied that she committed the offence by reason only that she was under restraint, duress or fear of the person with whom she had the sexual intercourse, the court is not required to impose any punishment upon her.  |
| "Brother."<br>"Sister."                           | (4) In this section, "brother" and "sister", respectively, include half-brother and half-sister.  |
| Seduction of female between sixteen and eighteen. | <b>143.</b> Every male person who, being eighteen years of age or more, seduces a female person of previously chaste character who is sixteen years or more but less than eighteen years of age is guilty of an indictable offence and is liable to imprisonment for two years.   |

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

Seduction under promise of marriage.

**145.** (1) Every male person who

- (a) has illicit sexual intercourse with his step-daughter, foster daughter or female ward; or
- (b) has illicit sexual intercourse with a female person of previously chaste character and under the age of twenty-one years who
  - (i) is in his employment,
  - (ii) is in a common, but not necessarily similar, employment with him and is, in respect of her employment or work, under or in any way subject to his control or direction, or
  - (iii) receives her wages or salary directly or indirectly from him,

Sexual intercourse with step-daughter, etc.  
Sexual intercourse with female employee.

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

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

Acquittal where accused not chiefly to blame.

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

Seduction of female passengers on vessels.

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

Buggery or bestiality.

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

Indecent assault on male.

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

Acts of gross indecency.

## OFFENCES TENDING TO CORRUPT MORALS.

- 150.** (1) Every one commits an offence who
- Obscene matter. (a) makes, prints, publishes, distributes, circulates, or has in his possession for the purpose of publication, distribution or circulation any obscene written matter, picture, model, phonograph record or other thing whatsoever, or
  - Crime comic. (b) makes, prints, publishes, distributes, sells or has in his possession for the purpose of publication, distribution or circulation, a crime comic.
- (2) Every one commits an offence who knowingly, without lawful justification or excuse,
- Selling obscene matter. (a) sells, exposes to public view or has in his possession for such a purpose any obscene written matter, picture, model, phonograph record or other thing whatsoever,
  - Indecent show. (b) publicly exhibits a disgusting object or an indecent show,
  - Offering to sell contraceptives. (c) offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any means, instructions, medicine, drug or article intended or represented as a method of preventing conception or causing abortion or miscarriage, or
  - Offering to sell other drugs. (d) advertises or publishes an advertisement of any means, instructions, medicine, drug or article intended or represented as a method for restoring sexual virility or curing venereal diseases or diseases of the generative organs.
- (3) No person shall be convicted of an offence under this section if he establishes that the public good was served by the acts that are alleged to constitute the offence and that the acts alleged did not extend beyond what served the public good.
- (4) For the purposes of this section it is a question of law whether an act served the public good and whether there is evidence that the act alleged went beyond what served the public good, but it is a question of fact whether the acts did or did not extend beyond what served the public good.
- (5) For the purposes of this section the motives of an accused are irrelevant.
- (6) Where an accused is charged with an offence under subsection (1) the fact that the accused was ignorant of the nature or presence of the matter, picture, model, phonograph record, crime comic or other thing by means of or in relation to which the offence was committed is not a defence to the charge.
- (7) In this section, "crime comic" means a magazine, periodical or book that exclusively or substantially comprises matter depicting pictorially

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

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

Restriction on publication of reports of judicial proceedings.

- (a) in relation to any judicial proceedings any indecent matter or indecent medical, surgical or physiological details, being matter or details that, if published, are calculated to injure public morals;
- (b) in relation to any judicial proceedings for dissolution of marriage, nullity of marriage, judicial separation or restitution of conjugal rights, any particulars other than
  - (i) the names, addresses and occupations of the parties and witnesses,
  - (ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given,
  - (iii) submissions on a point of law arising in the course of the proceedings, and the decision of the court in connection therewith, and
  - (iv) the summing up of the judge, the finding of the jury and the judgment of the court and the observations that are made by the judge in giving judgment.

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

Saving.

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

Consent of Attorney General.

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

Exceptions.

- (a) prints or publishes any matter for use in connection with any judicial proceedings or communicates it to persons who are concerned in the proceedings;
- (b) prints or publishes a notice or report pursuant to directions of a court; or
- (c) prints or publishes any matter
  - (i) in a volume or part of a *bona fide* series of law reports that does not form part of any other publication and consists solely of reports of proceedings in courts of law, or
  - (ii) in a publication of a technical character that is *bona fide* intended for circulation among members of the legal or medical professions.

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

Immoral theatrical performance.

Person  
taking  
part.

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

Mailing  
obscene  
matter.

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

Punishment.

**154.** Every one who commits an offence under section 150, 151, 152 or 153 is guilty of  
(a) an indictable offence and is liable to imprisonment for two years, or  
(b) an offence punishable on summary conviction.

Parent or  
guardian  
procuring  
defilement.

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

(a) procures her to have illicit sexual intercourse with a person other than the procurer, or  
(b) orders, is party to, permits or knowingly receives the avails of, the defilement, seduction or prostitution of the female person,

is guilty of an indictable offence and is liable to

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

Householder  
permitting  
defilement.

**156.** Every one who

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

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

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

Corrupting  
children.

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

Limitation.

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

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

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

Who may  
institute  
prosecutions.

### DISORDERLY CONDUCT.

**158.** Every one who wilfully does an indecent act  
(a) in a public place in the presence of one or more persons, or  
(b) in any place, with intent thereby to insult or offend any person,  
is guilty of an offence punishable on summary conviction.

Indecent  
acts.

**159.** (1) Every one who, without lawful excuse,  
(a) is nude in a public place, or  
(b) is nude and exposed to public view while on private property, whether or not the property is his own,  
is guilty of an offence punishable on summary conviction.  
(2) For the purposes of this section a person is nude who "Nude."  
is so clad as to offend against public decency or order.  
(3) No proceedings shall be commenced under this section without the consent of the Attorney General.

Nudity.

Consent of  
Attorney  
General.

**160.** Every one who  
(a) not being in a dwelling house causes a disturbance in or near a public place,  
(i) by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,  
(ii) by being drunk, or  
(iii) by impeding or molesting other persons;  
(b) openly exposes or exhibits an indecent exhibition in a public place;  
(c) loiters in a public place and in any way obstructs persons who are there; or  
(d) disturbs the peace and quiet of the occupants of a dwelling house by discharging firearms or by other disorderly conduct in a public place,  
is guilty of an offence punishable on summary conviction.

Causing  
disturbance.

Indecent  
exhibition.

Loitering in  
public place.

Disturbing  
occupants of  
dwelling.

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

Obstructing  
officiating  
clergyman.

|  |   |
|--|---|
| Violence to<br>or arrest of<br>officiating<br>clergyman.                   | (b) knowing that a clergyman or minister is about to perform, is on his way to perform, or is returning from the performance of any of the duties or functions mentioned in paragraph (a)<br>(i) assaults or offers any violence to him, or<br>(ii) arrests him upon a civil process, or under the pretence of executing a civil process,<br>is guilty of an indictable offence and is liable to imprisonment for two years.  |
| Disturbing<br>religious<br>worship or<br>certain<br>meetings.<br><br>Idem. | (2) Every one who wilfully disturbs or interrupts an assemblage of persons met for religious worship or for a moral, social or benevolent purpose is guilty of an offence punishable on summary conviction.<br>(3) Every one who, at or near a meeting referred to in subsection (2), wilfully does anything that disturbs the order or solemnity of the meeting is guilty of an offence punishable on summary conviction.  |
| Trespassing<br>at night.   | <b>162.</b> Every one who, without lawful excuse, the proof of which lies upon him, loiters or prowls at night upon the property of another person near a dwelling house situated on that property is guilty of an offence punishable on summary conviction.  |
| Offensive<br>volatile<br>substance.  | <b>163.</b> Every one other than a peace officer engaged in the discharge of his duty who has in his possession in a public place or who deposits, throws or injects or causes to be deposited, thrown or injected in, into or near any place,<br>(a) an offensive volatile substance that is likely to alarm, inconvenience, discommode or cause discomfort to any person or to cause damage to property, or<br>(b) a stink or stench bomb or device from which any substance mentioned in paragraph (a) is or is capable of being liberated,<br>is guilty of an offence punishable on summary conviction. |
| No apparent<br>means of<br>support.  | <b>164.</b> (1) Every one commits vagrancy who<br>(a) not having any apparent means of support is found wandering abroad or trespassing and does not, when required, justify his presence in the place where he is found;   |
| Begging.<br><br>Prostitute or<br>night walker.                             | (b) begs from door to door or in a public place;<br>(c) being a common prostitute or night walker is found in a public place and does not, when required, give a good account of herself;   |
| Living by<br>gaming or<br>crime.   | (d) supports himself in whole or in part by gaming or crime and has no lawful profession or calling by which to maintain himself; or  |

- (e) having at any time been convicted of an offence under a provision mentioned in paragraph (a) or (b) of subsection (1) of section 661, is found loitering or wandering in or near a school ground, playground, public park or bathing area. Sexual offenders loitering near schools, etc.
- (2) Every one who commits vagrancy is guilty of an offence punishable on summary conviction. Punishment.
- (3) No person who is aged or infirm shall be convicted of an offence under paragraph (a) of subsection (1). Aged or infirm persons.

#### NUISANCES.

- 165.** (1) Every one who commits a common nuisance and thereby Common nuisance
- (a) endangers the lives, safety or health of the public, or
- (b) causes physical injury to any person,
- is guilty of an indictable offence and is liable to imprisonment for two years.
- (2) For the purposes of this section, every one commits a common nuisance who does an unlawful act or fails to discharge a legal duty and thereby Definition.
- (a) endangers the lives, safety, health, property or comfort of the public, or
- (b) obstructs the public in the exercise or enjoyment of any right that is common to all the subjects of Her Majesty in Canada.
- 166.** Every one who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence and is liable to imprisonment for two years. Spreading false news.

- 167.** Every one who
- (a) neglects, without lawful excuse, to perform any duty that is imposed upon him by law or that he undertakes with reference to the burial of a dead human body or human remains, or Not burying dead.
- (b) improperly or indecently interferes with or offers any indignity to a dead human body or human remains, whether buried or not, Indignity to dead body.
- is guilty of an indictable offence and is liable to imprisonment for five years.

#### PART V.

#### DISORDERLY HOUSES, GAMING AND BETTING

##### INTERPRETATION.

- 168.** (1) In this Part,
- (a) "bet" means a bet that is placed on any contingency or event that is to take place in or out of Canada, and without restricting the generality of the foregoing, "Bet."

includes a bet that is placed on any contingency relating to a horse-race, fight, match or sporting event that is to take place in or out of Canada;

"Common bawdy-house."

- (b) "common bawdy-house" means a place that is
- (i) kept or occupied, or
  - (ii) resorted to by one or more persons for the purpose of prostitution or the practice of acts of indecency;

"Common betting house."

- (c) "common betting house" means a place that is opened, kept or used for the purpose of
- (i) enabling, encouraging or assisting persons who resort thereto to bet between themselves or with the keeper, or
  - (ii) enabling any person to receive, record, register, transmit or pay bets or to announce the results of betting;

"Common gaming house."

- (d) "common gaming house" means a place that is
- (i) kept for gain to which persons resort for the purpose of playing games; or
  - (ii) kept or used for the purpose of playing games
    - (A) in which a bank is kept by one or more but not all of the players,
    - (B) in which all or any portion of the bets on or proceeds from a game is paid, directly or indirectly, to the keeper of the place,
    - (C) in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game or using gaming equipment, or
    - (D) in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game;

"Disorderly house."

- (e) "disorderly house" means a common bawdy-house, a common betting house or a common gaming house;

"Game."

- (f) "game" means a game of chance or mixed chance and skill;

"Gaming equipment."

- (g) "gaming equipment" means anything that is or may be used for the purpose of playing games or for betting;

"Keeper."

- (h) "keeper" includes a person who
- (i) is an owner or occupier of a place,
  - (ii) assists or acts on behalf of an owner or occupier of a place,
  - (iii) appears to be, or to assist or act on behalf of an owner or occupier of a place,
  - (iv) has the care or management of a place, or
  - (v) uses a place permanently or temporarily, with or without the consent of the owner or occupier;
- and

- (i) "place" includes any place, whether or not "Place."  
 (i) it is covered or enclosed,  
 (ii) it is used permanently or temporarily, or  
 (iii) any person has an exclusive right of user with respect to it.
- (2) A place is not a common gaming house within the meaning of subparagraph (i) or clause (B) or (C) of subparagraph (ii) of paragraph (d) of subsection (1) Exception.
- (a) while it is occupied and used by an incorporated bona fide social club or branch thereof if  
 (i) the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof, and  
 (ii) no fee in excess of ten cents an hour or fifty cents a day is charged to persons for the right or privilege of participating in the games played therein; or
- (b) while occasionally it is used by charitable or religious organizations for the purpose of playing games for which a direct fee is charged to persons for the right or privilege of playing, if the proceeds from the games are to be used for a charitable or religious object. Charitable organizations.
- (3) The onus of proving that, by virtue of subsection (2), a place is not a common gaming house is on the accused. Onus.
- (4) A place may be a common gaming house notwithstanding that  
 (a) it is used for the purpose of playing part of a game and another part of the game is played elsewhere; or Effect when game partly played on premises.  
 (b) the stake that is played for is in some other place.

## PRESUMPTIONS.

**169.** In proceedings under this Part,

- (a) evidence that a peace officer who was authorized to enter a place was wilfully prevented from entering or was wilfully obstructed or delayed in entering is *prima facie* evidence that the place is a disorderly house; From obstruction.
- (b) evidence that a place was found to be equipped with gaming equipment or any device for concealing, removing or destroying gaming equipment is *prima facie* evidence that the place is a common gaming house or a common betting house, as the case may be; From device for concealment.
- (c) evidence that gaming equipment was found in a place entered under a warrant issued pursuant to this Part, or on or about the person of anyone found therein, is *prima facie* evidence that the place is a common gaming house and that the persons found therein were playing games, whether or not any person acting under the warrant observed any persons playing games therein; and From gaming equipment.

From  
previous  
conviction.

(d) evidence that a person was convicted of keeping a disorderly house is, for the purpose of proceedings against any one who is alleged to have been an inmate or to have been found in that house at the time the person committed the offence of which he was convicted, *prima facie* evidence that the house was, at that time, a disorderly house.

Conclusive  
presumption  
from slot  
machine.

**170.** (1) For the purpose of proceedings under this Part, a place that is found to be equipped with a slot machine shall be conclusively presumed to be a common gaming house.

"Slot  
machine."

(2) In this section "slot machine" means any automatic machine or slot machine

(a) that is used or intended to be used for any purpose other than vending merchandise or services; or

(b) that is used or intended to be used for the purpose of vending merchandise or services if

(i) the result of one of any number of operations of the machine is a matter of chance or uncertainty to the operator,

(ii) as a result of a given number of successive operations by the operator the machine produces different results, or

(iii) on any operation of the machine it discharges or emits a slug or token.

#### SEARCH.

Warrant to  
search.

**171.** (1) A justice who receives from a peace officer a report in writing that he has reasonable ground to believe and does believe that an offence under section 176, 177, 179 or 182 is being committed at any place within the jurisdiction of the justice, may issue a warrant under his hand authorizing a peace officer to enter and search the place by day or night and seize anything found therein that may be evidence that an offence under section 176, 177, 179 or 182, as the case may be, is being committed at that place, and to take into custody all persons who are found in or at that place and requiring those persons and things to be brought before him or before another justice having jurisdiction, to be dealt with according to law.

Search  
without  
warrant,  
seizure and  
arrest.

(2) A peace officer may, whether or not he is acting under a warrant issued pursuant to this section, take into custody any person whom he finds keeping a common gaming house and any person whom he finds therein, and may seize anything that may be evidence that such an offence is being committed and shall bring those persons and things before a justice having jurisdiction, to be dealt with according to law.

(3) Except where otherwise expressly provided by law, a court, judge, justice or magistrate before whom anything that is seized under this section is brought may

Disposal of property seized.

(a) declare that any money or security for money so seized is forfeited, and

(b) direct that anything so seized, other than money or security for money, shall be destroyed,

if no person shows sufficient cause why it should not be forfeited or destroyed, as the case may be.

(4) No declaration or direction shall be made pursuant to subsection (3) in respect of anything seized under this section until

When declaration or direction may be made.

(a) it is no longer required as evidence in any proceedings that are instituted pursuant to the seizure, or

(b) the expiration of thirty days from the time of seizure where it is not required as evidence in any proceedings.

(5) Where any security for money is forfeited under this section, the Attorney General may, for the purpose of converting the security into money, deal with the security in all respects as if he were the person entitled to the proceeds thereof.

Converting security into money.

(6) Nothing in this section or in section 431 authorizes the seizure, forfeiture or destruction of telephone, telegraph or other communication facilities or equipment that may be evidence of or that may have been used in the commission of an offence under section 176, 177, 179 or 182 and that is owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of such a person.

Telephones exempt from seizure.

**172.** A justice who is satisfied by information upon oath that there is reasonable ground to believe that a female person has been enticed to or is concealed in a common bawdy-house may issue a warrant under his hand authorizing a peace officer or other person named therein to enter and search the place, by day or night, and requiring her and the keeper of the place to be brought before him or another justice having jurisdiction to be kept in custody or released as he considers proper.

Search for woman in bawdy-house.

**173.** A peace officer may, for the purpose of executing a warrant issued under section 171 or 172, use as much force as is necessary to effect entry into the place in respect of which the warrant is issued.

Use of force.

**174.** (1) A justice before whom a person is taken pursuant to a warrant issued under section 171 or 172 may require that person to be examined on oath and to give evidence with respect to

Examination of persons arrested in disorderly houses.

- (a) the purpose for which the place referred to in the warrant is or has been used, kept or occupied, and  
 (b) any matter relating to the execution of the warrant.
- Person refusing to be examined.** (2) A person to whom this section applies who  
 (a) refuses to be sworn, or  
 (b) refuses to answer a question,  
 may be dealt with in the same manner as a witness appearing before a superior court of criminal jurisdiction pursuant to a subpoena.
- Use of evidence.** (3) No evidence that is given by a person under this section may be used or received in evidence in any criminal proceedings against him, except proceedings for perjury in giving that evidence.

## OBSTRUCTION.

- Obstructing execution of warrant.** **175.** Every one who, for the purpose of preventing, obstructing or delaying a peace officer who is executing a warrant issued under this Part in respect of a disorderly house or who is otherwise authorized to enter a disorderly house, does anything, or being the keeper of the disorderly house, permits anything to be done to give effect to that purpose is guilty of an offence punishable on summary conviction.

## GAMING AND BETTING.

- Keeping gaming or betting house.** **176.** (1) Every one who keeps a common gaming house or common betting house is guilty of an indictable offence and is liable to imprisonment for two years.
- Person found in gaming or betting house.** (2) Every one who  
 (a) is found, without lawful excuse, in a common gaming house or common betting house, or  
 (b) as owner, landlord, lessor, tenant, occupier or agent, knowingly permits a place to be let or used for the purposes of a common gaming house or common betting house,  
 is guilty of an offence punishable on summary conviction.
- Owner permitting use.**
- Betting, pool selling, book-making, etc.** **177.** (1) Every one commits an offence who  
 (a) uses or knowingly allows a place under his control to be used for the purpose of recording or registering bets or selling a pool;  
 (b) imports, makes, buys, sells, rents, leases, hires or keeps, exhibits, employs or knowingly allows to be kept, exhibited or employed in any place under his control a device or apparatus for the purpose of recording or registering bets or selling a pool, or any machine or device for gambling or betting;  
 (c) has under his control any money or other property relating to a transaction that is an offence under this section;  
 (d) records or registers bets or sells a pool;

- (e) engages in pool-selling or book-making, or in the business or occupation of betting, or makes any agreement for the purchase or sale of betting or gaming privileges, or for the purchase or sale of information that is intended to assist in book-making, pool-selling or betting;
  - (f) prints, provides or offers to print or provide information intended for use in connection with book-making, pool-selling or betting upon any horse-race, fight, game or sport whether or not it takes place in or out of Canada or has or has not taken place;
  - (g) imports or brings into Canada any information or writing that is intended or is likely to promote or be of use in gambling, book-making, pool-selling or betting upon a horse-race, fight, game or sport, and where this paragraph applies it is immaterial
    - (i) whether the information is published before, during or after the race, fight, game or sport, or
    - (ii) whether the race, fight, game or sport takes place in Canada or elsewhere,
 but this paragraph does not apply to a newspaper, magazine or other periodical published in good faith primarily for a purpose other than the publication of such information;
  - (h) advertises, prints, publishes, exhibits, posts up, or otherwise gives notice of any offer, invitation or inducement to bet on, to guess or to foretell the result of a contest, or a result of or contingency relating to any contest;
  - (i) wilfully and knowingly sends, transmits, delivers or receives any message by telegraph, telephone, mail or express that conveys any information relating to book-making, pool-selling, betting or wagering, or that is intended to assist in book-making, pool-selling, betting or wagering; or
  - (j) aids or assists in any manner in anything that is an offence under this section.
- (2) Every one who commits an offence under this section Punishment.  
is guilty of an indictable offence and is liable to imprisonment for two years.

**178.** (1) Sections 176 and 177 do not apply to

- (a) any person or association by reason of his or their Exemption.  
becoming the custodian or depository of any money, property or valuable thing staked, to be paid to
  - (i) the winner of a lawful race, sport, game or exercise,
  - (ii) the owner of a horse engaged in a lawful race, or
  - (iii) the winner of any bets between not more than ten individuals;

(b) a private bet between individuals not engaged in any way in the business of betting;

(c) bets made or records of bets made through the agency of a pari-mutuel system only as hereinafter provided, upon the race course of an association

(i) incorporated before May 19, 1947, if

(A) the association has conducted a race meeting with pari-mutuel betting under the supervision of an officer appointed by the Minister of Agriculture at any time after January 1, 1938 but before May 19, 1947, or

(B) the Minister of Agriculture has, before May 19, 1947, made a determination under this section that the provisions of sections 176 and 177 shall not extend to the operation of a pari-mutuel system with respect to running races at a race meeting conducted by the association on a race course of another association, or

(ii) incorporated on or after May 19, 1947 by special Act of the Parliament of Canada or of the legislature of a province,

during the actual progress of a race meeting conducted by the association upon races being run thereon and if, as to race meetings at which there are running races, the following provisions are complied with, namely,

(iii) no race meeting shall continue for more than fourteen consecutive days on days on which racing may be lawfully carried on and there shall be not more than eight races on any of those days, and

(iv) no association shall hold, and on any one track there shall not be held, except as hereinafter provided, in any one calendar year more than one race meeting, at which there are running races, of more than seven and not exceeding fourteen such days or two such race meetings having an interval of at least twenty days between them of not more than seven such days each;

(d) race meetings at which there are trotting or pacing races exclusively where pool-selling, betting or wagering is permitted by an association incorporated in any manner before March 20, 1912, or incorporated after that day by special Act of the Parliament of Canada or of the legislature of a province, on a race course during the actual progress of the race meetings conducted by the association, if the following provisions are complied with, namely,

(i) the race meetings shall not in any one calendar year be conducted for more than fourteen days or fourteen nights or a total of fourteen days and nights on which racing may be lawfully carried on,

(ii) no more than eight races or dashes, or four heat races of three heats each, or six heat races of two heats each shall be held during any twenty-four hour period, and

(iii) any pari-mutuel system of betting used upon the race course shall be used as hereinafter provided; or

(e) the operation of a pari-mutuel system with respect to running races at a race meeting conducted by an association on a race course of another association, if

(i) the provisions of sections 176 and 177 do not extend to the operation of a pari-mutuel system with respect to running races on the race courses of both associations,

(ii) both race courses are in the same province, and

(iii) the Minister of Agriculture so determines in a particular case.

(2) Subsection (1) does not apply in respect of a race meeting conducted by an association mentioned in sub-paragraph (i) of paragraph (c) of that subsection in a province other than a province in which the association, before the 1st day of May, 1954, conducted a race meeting with pari-mutuel betting under the supervision of an officer appointed by the Minister of Agriculture.

When subsection (1) does not apply.

(3) No pari-mutuel system of betting shall be used upon any race course unless the system has been approved by and its operation is carried on under the supervision, at the expense of the association, of an officer appointed by the Minister of Agriculture, whose duty it shall be to stop the betting before each race and to see that no further amounts are deposited.

Operation of pari-mutuel system.

(4) Where any person or association becomes a custodian or depository of any money, bet or stakes under a pari-mutuel system during the actual progress of a race meeting conducted by and on the race course of an association in accordance with this section, upon races being run thereon, the percentage deducted and retained by the person or association in respect of each race from the total amount of money so deposited, or of which the person or association becomes the custodian, shall not exceed nine per cent, and, in addition, the person or association may retain the remainder occurring in each calculation under the regulations of the amount payable in respect of each dollar wagered, and any odd cents over any multiple of five cents in the amount so calculated.

Idem.

(5) Where the Minister of Agriculture is not satisfied that a proper proportion of gate receipts and percentages taken from the pari-mutuel pools is being given in purses to horses taking part in the race meeting or that the provisions of this section are being carried out in good faith

Purses.

by the person or association conducting the race meeting, he may at any time order the betting to be stopped for any period that he considers proper.

**Regulations.** (6) The Minister of Agriculture may make regulations with respect to the carrying out of the provisions of paragraphs (c), (d) and (e) of subsection (1) and subsections (3) and (4), and may, by the regulations, impose such fines, not exceeding in any one case five hundred dollars for any violation of any such regulations, as he considers necessary to ensure compliance with the regulations.

**Lotteries.** **179.** (1) Every one is guilty of an indictable offence and is liable to imprisonment for two years who

**Publishing lottery scheme.** (a) makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property, by lots, cards, tickets, or any mode of chance whatsoever;

**Disposing of lottery tickets.** (b) sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever;

**Conveyance of material for lottery.** (c) knowingly sends, transmits, mails, ships, delivers or allows to be sent, transmitted, mailed, shipped or delivered, or knowingly accepts for carriage or transport or conveys any article that is used or intended for use in carrying out any device, proposal, scheme or plan for advancing, lending, giving, selling or otherwise disposing of any property by any mode of chance whatsoever;

**Conducting lottery scheme.** (d) conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining who, or the holders of what lots, tickets, numbers or chances, are the winners of any property so proposed to be advanced, loaned, given, sold or disposed of;

**Conducting scheme for disposal of property.** (e) conducts, manages or is a party to any scheme, contrivance or operation of any kind by which any person, upon payment of any sum of money, or the giving of any valuable security, or by obligating himself to pay any sum of money or give any valuable security, shall become entitled under the scheme, contrivance or operation, to receive from the person conducting or managing the scheme, contrivance or operation, or any other person, a larger sum of money or amount of valuable security than the sum or amount paid or given, or to be paid or given, by reason of the

- fact that other persons have paid or given, or obligated themselves to pay or give any sum of money or valuable security under the scheme, contrivance or operation;
- (f) disposes of any goods, wares or merchandise by any game of chance or any game of mixed chance and skill in which the contestant or competitor pays money or other valuable consideration; Disposal of goods by game of chance.
- (g) induces any person to stake or hazard any money or other valuable property or thing on the result of any dice game, three-card monte, punch board, coin table or on the operation of a wheel of fortune; Inducing persons to stake money.
- (h) for valuable consideration carries on or plays or offers to carry on or to play, or employs any person to carry on or play in a public place or a place to which the public have access, the game of three-card monte; Playing three-card monte.
- (i) receives bets of any kind on the outcome of a game of three-card monte; or Receiving bets on three-card monte.
- (j) being the owner of a place, permits any person to play the game of three-card monte therein. Permitting three-card monte.
- (2) In this section "three-card monte" means the game commonly known as three-card monte and includes any other game that is similar to it, whether or not the game is played with cards and notwithstanding the number of cards or other things that are used for the purpose of playing. "Three-card monte."
- (3) Paragraphs (f) and (g) of subsection (1), in so far as they do not relate to a dice game, three-card monte, punch board or coin table, do not apply to an agricultural fair or exhibition, or to any operator of a concession leased by an agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair on those grounds. Exemption of Agricultural fairs.
- (4) Every one who buys, takes or receives a lot, ticket or other device mentioned in subsection (1) is guilty of an offence punishable on summary conviction. Offence.
- (5) Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending upon or to be determined by chance or lot, is void, and all property so sold, lent, given, bartered or exchanged, is forfeited to Her Majesty. Lottery sale void.
- (6) Subsection (5) does not affect any right or title to property acquired by any *bona fide* purchaser for valuable consideration without notice. Bona fide purchase.
- (7) This section applies to the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery. Foreign lottery included.

|  |   |
|--|---|
| Saving.<br>Dividing<br>property<br>by lot. | (8) This section does not apply to<br>(a) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests in any such property;  |
| Raffles at<br>church<br>bazaars.           | (b) raffles for prizes of small value at any bazaar held for any charitable or religious object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held, and the articles raffled for thereat have first been offered for sale and none of them has a value exceeding fifty dollars; |
| Rewards to<br>promote<br>thrift.           | (c) the distribution by lot of premiums given as rewards to promote thrift by punctuality in making periodical deposits of weekly savings in any chartered savings bank; or   |
| Recalling<br>securities by<br>lot.         | (d) bonds, debentures, debenture stock or other securities recallable by drawing of lots and redeemable with interest and providing for payment of premiums upon redemption or otherwise.   |
| Gambling in<br>public<br>conveyances.      | <b>180.</b> (1) Every one who obtains or attempts to obtain anything from any person by playing a game in a vehicle, aircraft or vessel used as a public conveyance for passengers is guilty of an indictable offence and is liable to imprisonment for two years.  |
| Arrest<br>without<br>warrant.              | (2) Every person in charge of a vehicle, aircraft or vessel and any person authorized by him may arrest, without warrant, a person who he has good reason to believe has committed or attempted to commit or is committing or attempting to commit an offence under this section.   |
| Posting up<br>section.                     | (3) Every person who owns or operates a vehicle, aircraft or vessel to which this section applies shall keep posted up, in some conspicuous part thereof, a copy of this section or a notice to the like effect, and in default thereof is guilty of an offence punishable on summary conviction.   |
| Cheating<br>at play.                       | <b>181.</b> Every one who, with intent to defraud any person, cheats while playing a game or in holding the stakes for a game or in betting is guilty of an indictable offence and is liable to imprisonment for two years.   |

#### BAWDY-HOUSES.

|                                       |  |
|---------------------------------------|--|
| Keeping<br>common<br>bawdy-<br>house. | <b>182.</b> (1) Every one who keeps a common bawdy-house is guilty of an indictable offence and is liable to imprisonment for two years. |
| Inmate.                               | (2) Every one who  |
| Person<br>found.                      | (a) is an inmate of a common bawdy-house,<br>(b) is found, without lawful excuse, in a common bawdy-house, or                            |

(c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy-house, is guilty of an offence punishable on summary conviction.

*Liability of landlord.*

(3) Where a person is convicted of an offence under subsection (1), the court shall cause a notice of the conviction to be served upon the owner, landlord or lessor of the place in respect of which the person is convicted or his agent, and the notice shall contain a statement to the effect that it is being served pursuant to this section.

*Notice of conviction to be served on owner.*

(4) Where a person upon whom a notice is served under subsection (3) fails forthwith to exercise any right he may have to determine the tenancy or right of occupation of the person so convicted, and thereafter any person is convicted of an offence under subsection (1) in respect of the same premises, the person upon whom the notice was served shall be deemed to have committed an offence under subsection (1) unless he proves that he has taken all reasonable steps to prevent the recurrence of the offence.

*Duty of landlord on notice.*

**183.** Every one who knowingly takes, transports, directs, or offers to take, transport, or direct any other person to a common bawdy-house is guilty of an offence punishable on summary conviction.

*Transporting person to bawdy-house.*

#### PROCURING.

**184.** (1) Every one who

*Procuring.*

(a) procures, attempts to procure or solicits a female person to have illicit sexual intercourse with another person, whether in or out of Canada,

(b) inveigles or entices a female person who is not a common prostitute or a person of known immoral character to a common bawdy-house or house of assignation for the purpose of illicit sexual intercourse or prostitution,

(c) knowingly conceals a female person in a common bawdy-house or house of assignation,

(d) procures or attempts to procure a female person to become, whether in or out of Canada, a common prostitute,

(e) procures or attempts to procure a female person to leave her usual place of abode in Canada, if that place is not a common bawdy-house, with intent that she may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,

(f) on the arrival of a female person in Canada, directs or causes her to be directed, or takes or causes her to be taken, to a common bawdy-house or house of assignation,

- (g) procures a female person to enter or leave Canada, for the purpose of prostitution,
  - (h) for the purposes of gain, exercises control, direction or influence over the movements of a female person in such manner as to show that he is aiding, abetting or compelling her to engage in or carry on prostitution with any person or generally,
  - (i) applies or administers to a female person or causes her to take any drug, intoxicating liquor, matter, or thing with intent to stupefy or overpower her in order thereby to enable any person to have illicit sexual intercourse with her,
  - (j) being a male person, lives wholly or in part on the avails of prostitution, or
  - (k) being a female person, lives wholly or in part on the avails of prostitution of another female person,
- is guilty of an indictable offence and is liable to imprisonment for ten years.

**Presumption.** (2) Evidence that a male person lives with or is habitually in the company of prostitutes, or lives in a common bawdy-house or house of assignation is *prima facie* evidence that he lives on the avails of prostitution.

**Corroboration.** (3) No person shall be convicted of an offence under subsection (1), other than an offence under paragraph (j) of that subsection, upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

**Limitation.** (4) No proceedings for an offence under this section shall be commenced more than one year after the time when the offence is alleged to have been committed.

## PART VI.

### OFFENCES AGAINST THE PERSON AND REPUTATION.

#### INTERPRETATION.

**185.** In this Part,

- "Abandon."  
"Expose." (a) "abandon" or "expose" includes
  - (i) a wilful omission to take charge of a child by a person who is under a legal duty to do so, and
  - (ii) dealing with a child in a manner that is likely to leave that child exposed to risk without protection;
- "Child." (b) "child" includes an adopted child and an illegitimate child;

- (c) "form of marriage" includes a ceremony of marriage that is recognized as valid "Form of marriage."
- (i) by the law of the place where it was celebrated, or
  - (ii) by the law of the place where an accused is tried, notwithstanding that it is not recognized as valid by the law of the place where it was celebrated; and
- (d) "guardian" includes a person who has in law or in fact the custody or control of a child. "Guardian."

#### DUTIES TENDING TO PRESERVATION OF LIFE.

**186.** (1) Every one is under a legal duty Duty of persons to provide necessities.

(a) as a parent, foster parent, guardian or head of a family, to provide necessities of life for a child under the age of sixteen years;

(b) as a husband, to provide necessities of life for his wife; and

(c) to provide necessities of life to a person under his charge if that person

- (i) is unable, by reason of detention, age, illness, insanity or other cause, to withdraw himself from that charge, and

- (ii) is unable to provide himself with necessities of life.

(2) Every one commits an offence who, being under a legal duty within the meaning of subsection (1), fails without lawful excuse, the proof of which lies upon him, to perform that duty, if Offence.

(a) with respect to a duty imposed by paragraph (a) or (b) of subsection (1),

- (i) the person to whom the duty is owed is in destitute or necessitous circumstances, or

- (ii) the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently; or

(b) with respect to a duty imposed by paragraph (c) of subsection (1), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.

(3) Every one who commits an offence under subsection (2) is guilty of Punishment.

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

(b) an offence punishable on summary conviction.

(4) For the purpose of proceedings under this section, Presump-tions.

(a) evidence that a man has cohabited with a woman or has in any way recognized her as being his wife is *prima facie* evidence that they are lawfully married;

- (b) evidence that a person has in any way recognized a child as being his child is *prima facie* evidence that the child is his child;
- (c) evidence that a man has left his wife and has failed, for a period of any one month subsequent to the time of his so leaving, to make provision for her maintenance or for the maintenance of any child of his under the age of sixteen years, is *prima facie* evidence that he has failed without lawful excuse to provide necessaries of life for them; and
- (d) the fact that a wife or child is receiving or has received necessaries of life from another person who is not under a legal duty to provide them is not a defence.

Duty of persons undertaking acts dangerous to life.

**187.** Every one who undertakes to administer surgical or medical treatment to another person or to do any other lawful act that may endanger the life of another person is, except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing.

Duty of persons undertaking acts.

**188.** Every one who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life.

Abandoning child.

**189.** Every one who unlawfully abandons or exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured, is guilty of an indictable offence and is liable to imprisonment for two years.

Causing bodily harm to apprentice or servant.

Master failing to provide necessaries.

**190.** Every master who

- (a) unlawfully does, or causes to be done, bodily harm to his apprentice or servant so that his life is endangered or his health is or is likely to be permanently injured, or
- (b) omits, without lawful excuse, to provide necessaries of life for an apprentice or servant in accordance with any contract that he has entered into with respect to that apprentice or servant,

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

#### CRIMINAL NEGLIGENCE.

"Criminal negligence."

**191.** (1) Every one is criminally negligent who

- (a) in doing anything, or
- (b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

"Duty."

(2) For the purposes of this section, "duty" means a duty imposed by law.

**192.** Every one who by criminal negligence causes death to another person is guilty of an indictable offence and is liable to imprisonment for life.

Causing death by criminal negligence.

**193.** Every one who by criminal negligence causes bodily harm to another person is guilty of an indictable offence and is liable to imprisonment for ten years.

Causing bodily harm by criminal negligence.

#### HOMICIDE.

**194.** (1) A person commits homicide when, directly or indirectly, by any means, he causes the death of a human being.

Homicide.

(2) Homicide is culpable or not culpable.

Kinds of homicide.

(3) Homicide that is not culpable is not an offence.

Non culpable homicide.

(4) Culpable homicide is murder or manslaughter or infanticide.

Culpable homicide.

(5) A person commits culpable homicide when he causes the death of a human being,

Idem.

(a) by means of an unlawful act,

(b) by criminal negligence,

(c) by causing that human being, by threats or fear of violence or by deception, to do anything that causes his death, or

(d) by wilfully frightening that human being, in the case of a child or sick person.

(6) Notwithstanding anything in this section, a person does not commit homicide within the meaning of this Act by reason only that he causes the death of a human being by procuring, by false evidence, the conviction and death of that human being by sentence of the law.

Exception.

**195.** (1) A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother whether or not

When child becomes human being.

(a) it has breathed,

(b) it has an independent circulation, or

(c) the navel string is severed.

(2) A person commits homicide when he causes injuries to a child before or during its birth as a result of which the child dies.

Killing child.

**196.** Where a person, by an act or omission, does any thing that results in the death of a human being, he causes the death of that human being notwithstanding that death from that cause might have been prevented by resorting to proper means.

Death which might have been prevented.

Death from  
treatment of  
injury.

**197.** Where a person causes to a human being a bodily injury that is of itself of a dangerous nature and from which death results, he causes the death of that human being notwithstanding that the immediate cause of death is proper or improper treatment that is applied in good faith.

Death within  
year and a  
day.

**198.** No person commits culpable homicide or the offence of causing the death of a human being by criminal negligence unless the death occurs within one year and one day commencing with the time of the occurrence of the last event by means of which he caused or contributed to the cause of death.

Acceleration  
of death.

**199.** Where a person causes bodily injury to a human being that results in death, he causes the death of that human being notwithstanding that the effect of the bodily injury is only to accelerate his death from a disease or disorder arising from some other cause.

Killing by  
influence on  
the mind.

**200.** No person commits culpable homicide where he causes the death of a human being

(a) by any influence on the mind alone, or,

(b) by any disorder or disease resulting from influence on the mind alone,

but this section does not apply where a person causes the death of a child or sick person by wilfully frightening him.

#### MURDER, MANSLAUGHTER AND INFANTICIDE.

Murder.

**201.** Culpable homicide is murder

(a) where the person who causes the death of a human being

(i) means to cause his death, or

(ii) means to cause him bodily harm that he knows is likely to cause his death, and is reckless whether death ensues or not;

(b) where a person, meaning to cause death to a human being or meaning to cause him bodily harm that he knows is likely to cause his death, and being reckless whether death ensues or not, by accident or mistake causes death to another human being, notwithstanding that he does not mean to cause death or bodily harm to that human being; or

(c) where a person, for an unlawful object, does anything that he knows or ought to know is likely to cause death, and thereby causes death to a human being, notwithstanding that he desires to effect his object without causing death or bodily harm to any human being.

**202.** Culpable homicide is murder where a person causes the death of a human being while committing or attempting to commit treason or an offence mentioned in section 52, piracy, escape or rescue from prison or lawful custody, resisting lawful arrest, rape, indecent assault, forcible abduction, robbery, burglary or arson, whether or not the person means to cause death to any human being and whether or not he knows that death is likely to be caused to any human being, if

Murder in commission of offences.

- (a) he means to cause bodily harm for the purpose of
  - (i) facilitating the commission of the offence, or
  - (ii) facilitating his flight after committing or attempting to commit the offence,
 and the death ensues from the bodily harm;
- (b) he administers a stupefying or overpowering thing for a purpose mentioned in paragraph (a), and the death ensues therefrom;
- (c) he wilfully stops, by any means, the breath of a human being for a purpose mentioned in paragraph (a), and the death ensues therefrom; or
- (d) he uses a weapon or has it upon his person
  - (i) during or at the time he commits or attempts to commit the offence, or
  - (ii) during or at the time of his flight after committing or attempting to commit the offence,
 and the death ensues as a consequence.

Intention to cause bodily harm.

Administering overpowering thing.

Stopping the breath.

Using weapon.

**203.** (1) Culpable homicide that otherwise would be murder may be reduced to manslaughter if the person who committed it did so in the heat of passion caused by sudden provocation.

Murder reduced to manslaughter.

(2) A wrongful act or insult that is of such a nature as to be sufficient to deprive an ordinary person of the power of self-control is provocation for the purposes of this section if the accused acted upon it on the sudden and before there was time for his passion to cool.

What is provocation.

- (3) For the purposes of this section the questions
  - (a) whether a particular wrongful act or insult amounted to provocation, and
  - (b) whether the accused was deprived of the power of self-control by the provocation that he alleges he received,

Questions of fact.

are questions of fact, but no one shall be deemed to have given provocation to another by doing anything that he had a legal right to do, or by doing anything that the accused incited him to do in order to provide the accused with an excuse for causing death or bodily harm to any human being.

(4) Culpable homicide that otherwise would be murder is not necessarily manslaughter by reason only that it was committed by a person who was being arrested illegally, but

Death during illegal arrest.

the fact that the illegality of the arrest was known to the accused may be evidence of provocation for the purpose of this section.

- Infanticide.**      **204.** A female person commits infanticide when by a wilful act or omission she causes the death of her newly-born child, if at the time of the act or omission she is not fully recovered from the effects of giving birth to the child and by reason thereof or of the effect of lactation consequent on the birth of the child her mind is then disturbed.
- Man-slaughter.**      **205.** Culpable homicide that is not murder or infanticide is manslaughter.
- Punishment for murder.**      **206.** Every one who commits murder is guilty of an indictable offence and shall be sentenced to death.
- Punishment for man-slaughter.**      **207.** Every one who commits manslaughter is guilty of an indictable offence and is liable to imprisonment for life.
- Punishment for infanticide.**      **208.** Every female person who commits infanticide is guilty of an indictable offence and is liable to imprisonment for five years.
- Killing unborn child.**      **209.** (1) Every one who causes the death of a child that has not become a human being, in such a manner that, if the child were a human being, he would be guilty of murder, is guilty of an indictable offence and is liable to imprisonment for life.
- Saving.**      (2) This section does not apply to a person who, by means that, in good faith, he considers necessary to preserve the life of the mother of a child that has not become a human being, causes the death of the child.
- Attempt to commit murder**      **210.** Every one who attempts by any means to commit murder is guilty of an indictable offence and is liable to imprisonment for life.
- Accessory after fact to murder.**      **211.** Every one who is an accessory after the fact to murder is guilty of an indictable offence and is liable to imprisonment for life.

#### SUICIDE.

- Counselling or aiding suicide.**      **212.** Every one who  
     (a) counsels or procures a person to commit suicide,  
     or  
     (b) aids or abets a person to commit suicide,  
 whether suicide ensues or not, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

**213.** Every one who attempts to commit suicide is guilty of an offence punishable on summary conviction. Attempt to commit suicide.

#### NEGLECT IN CHILDBIRTH AND CONCEALING DEAD BODY.

**214.** A female person who, being pregnant and about to be delivered, with intent that the child shall not live or with intent to conceal the birth of the child, fails to make provision for reasonable assistance in respect of her delivery is, if the child is permanently injured as a result thereof or dies immediately before, during or in a short time after birth, as a result thereof, guilty of an indictable offence and is liable to imprisonment for five years. Neglect to obtain assistance in childbirth.

**215.** Every one who in any manner disposes of the dead body of a child, with intent to conceal the fact that its mother has been delivered of it, whether the child died before, during or after birth, is guilty of an indictable offence and is liable to imprisonment for two years. Concealing body of child.

#### BODILY HARM AND ACTS AND OMISSIONS CAUSING DANGER TO THE PERSON.

**216.** Every one who, with intent  
 (a) to wound, maim or disfigure any person,  
 (b) to endanger the life of any person, or  
 (c) to prevent the arrest or detention of any person,  
 discharges a firearm, air gun or air pistol at or causes bodily harm in any way to any person, whether or not that person is the one mentioned in paragraph (a), (b) or (c), is guilty of an indictable offence and is liable to imprisonment for fourteen years. Causing bodily harm with intent.

**217.** Every one who administers or causes to be administered to any person or causes any person to take poison or any other destructive or noxious thing is guilty of an indictable offence and is liable Administering noxious thing.

(a) to imprisonment for fourteen years, if he intends thereby to endanger the life of or to cause bodily harm to that person, or, Causing bodily harm.  
 (b) to imprisonment for two years, if he intends thereby to aggrieve or annoy that person. Intent to annoy.

**218.** Every one who, with intent to enable or assist himself or another person to commit an indictable offence,  
 (a) attempts, by any means, to choke, suffocate or strangle another person, or by any means calculated to choke, suffocate or strangle, attempts to render another person insensible, unconscious or incapable of resistance, or Overcoming resistance to commission of offence.

(b) administers, or causes to be administered to any person, or attempts to administer to any person, or causes or attempts to cause any person to take a stupefying or overpowering drug, matter or thing, is guilty of an indictable offence and is liable to imprisonment for life and to be whipped.

Traps likely  
to cause  
bodily harm.

**219.** (1) Every one who, with intent to cause death or bodily harm to persons, whether ascertained or not, sets or places or causes to be set or placed a trap, device or other thing whatsoever that is likely to cause death or bodily harm to persons is guilty of an indictable offence and is liable to imprisonment for five years.

Permitting  
traps on  
premises.

(2) A person who, being in occupation or possession of a place where anything mentioned in subsection (1) has been set or placed, knowingly and wilfully permits it to remain there, shall be deemed, for the purposes of that subsection, to have set or placed it with the intent mentioned therein.

Interfering  
with trans-  
portation  
facilities.

**220.** Every one who, with intent to endanger the safety of any person, places anything upon or does anything to any property that is used for or in connection with the transportation of persons or goods by land, water or air that is likely to cause death or bodily harm to persons is guilty of an indictable offence and is liable to imprisonment for life.

#### AUTOMOBILES.

#### DANGEROUS PLACES AND UNSEAWORTHY SHIPS.

Criminal  
negligence in  
operation of  
motor  
vehicle.

**221.** (1) Every one who is criminally negligent in the operation of a motor vehicle is guilty of

- (a) an indictable offence and is liable to imprisonment for five years, or
- (b) an offence punishable on summary conviction.

Failing to  
stop at scene  
of accident.

(2) Every one who, having the care, charge or control of a vehicle that is involved in an accident with a person, vehicle or cattle in charge of a person, with intent to escape civil or criminal liability fails to stop his vehicle, give his name and address and, where any person has been injured, offer assistance, is guilty of

- (a) an indictable offence and is liable to imprisonment for two years, or
- (b) an offence punishable on summary conviction.

*Prima facie*  
evidence.

(3) In proceedings under subsection (2), evidence that an accused failed to stop his vehicle, offer assistance where any person has been injured and give his name and address is *prima facie* evidence of an intent to escape civil and criminal liability.

**222.** Every one who, while intoxicated or under the influence of a narcotic drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of

Driving  
while  
intoxicated.

(a) an indictable offence and is liable

(i) for a first offence, to imprisonment for not more than three months and not less than thirty days, and

(ii) for each subsequent offence, to imprisonment for not more than one year and not less than three months; or

(b) an offence punishable on summary conviction and is liable

(i) for a first offence, to imprisonment for not more than thirty days and not less than seven days,

(ii) for a second offence, to imprisonment for not more than three months and not less than one month, and

(iii) for each subsequent offence, to imprisonment for not more than one year and not less than three months.

**223.** Every one who, while his ability to drive a motor vehicle is impaired by alcohol or a drug, drives a motor vehicle or has the care or control of a motor vehicle, whether it is in motion or not, is guilty of an indictable offence or an offence punishable on summary conviction and is liable

Driving  
while  
ability to  
drive is  
impaired.

(a) for a first offence, to a fine of not more than five hundred dollars and not less than fifty dollars or to imprisonment for three months or to both,

(b) for a second offence, to imprisonment for not more than three months and not less than fourteen days, and

(c) for each subsequent offence, to imprisonment for not more than one year and not less than three months.

**224.** (1) Where an accused is charged with an offence under section 222, and the evidence does not establish that he committed an offence under that section, but establishes that he committed an offence under section 223, the accused may be convicted of an offence under section 223 and the conviction bars further proceedings for any such offence under section 222 or 223.

Conviction  
under  
section  
223  
when  
charged  
with offence  
under  
section 222.

(2) For the purpose of sections 222 and 223, where a person occupies the seat ordinarily occupied by the driver of a motor vehicle he shall be deemed to have the care or control of the vehicle unless he establishes that he did not enter or mount the vehicle for the purpose of setting it in motion.

Presumption  
of care or  
control.

(3) In any proceedings under section 222 or 223, the result of a chemical analysis of a sample of the blood, urine, breath or other bodily substance of a person may be

Chemical  
analysis.

admitted in evidence on the issue whether that person was intoxicated or under the influence of a narcotic drug or whether his ability to drive was impaired by alcohol or a drug, notwithstanding that he was not, before he gave the sample, warned that he need not give the sample or that the results of the analysis of the sample might be used in evidence.

No obligation to give sample

(4) No person is required to give a sample of blood, urine, breath or other bodily substance for chemical analysis for the purposes of this section and evidence that a person refused to give such a sample or that such a sample was not taken is not admissible nor shall such a refusal or the fact that a sample was not taken be the subject of comment by any person in the proceedings.

Order prohibiting driving.

**225.** (1) Where an accused is convicted of an offence under section 192, 193 or 207 committed by means of a motor vehicle or of an offence under subsection (1) of section 221 or under section 222 or 223, the court, judge, justice or magistrate, as the case may be, may, in addition to any other punishment that may be imposed for that offence, make an order prohibiting him from driving a motor vehicle on the highway in Canada

(a) during any period that the court, judge, justice or magistrate considers proper, if he is liable to imprisonment for life in respect of that offence, or

(b) during any period not exceeding three years, if he is not liable to imprisonment for life in respect of that offence.

Copy of order for registrar.

(2) Where an order is made pursuant to subsection (1), a copy of the order certified under the hand of the justice or magistrate or under the hand of the judge or the clerk of the court and sealed with the seal, if any, of the court, shall

(a) where the accused holds a permit or licence to drive a motor vehicle, be sent to the registrar of motor vehicles for the province in which the licence or permit was issued, or

(b) where the accused does not hold a permit or licence to drive a motor vehicle, be sent to the registrar of motor vehicles for the province in which the accused resides.

Driving while disqualified.

(3) Every one who drives a motor vehicle in Canada while he is disqualified or prohibited from driving a motor vehicle by reason of

(a) the legal suspension or cancellation, in any province, of his permit or licence to drive a motor vehicle in that province, or

(b) an order made pursuant to subsection (1), is guilty of an offence punishable on summary conviction.

**226.** Every one who, without lawful excuse, owns or has the care, charge or control of a motor vehicle or vessel equipped with an apparatus for making a smoke screen is guilty of an offence punishable on summary conviction.

Motor vehicle equipped with smoke screen.

**227.** Every one who

(a) prevents or impedes or attempts to prevent or impede any person who is attempting to save his own life, or

Impeding attempt to save life.

(b) without reasonable cause prevents or impedes or attempts to prevent or impede any person who is attempting to save the life of another person,

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

**228.** (1) Every one who makes or causes to be made an opening in ice that is open to or frequented by the public is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident and is adequate to warn them that the opening exists.

Duty to safeguard dangerous places.

(2) Every one who leaves an excavation on land that he owns or of which he has charge or supervision is under a legal duty to guard it in a manner that is adequate to prevent persons from falling in by accident and is adequate to warn them that the excavation exists.

Idem.

(3) Every one who fails to perform a duty imposed by subsection (1) or (2)

Offences.

(a) is guilty of manslaughter, if the death of any person results therefrom,

(b) is guilty of an offence under subsection (2) of section 231, if bodily harm to any person results therefrom, or

(c) is guilty of an offence punishable on summary conviction.

**229.** (1) Every one who sends or attempts to send or being the master knowingly takes a Canadian ship

Sending or taking unseaworthy ship to sea.

(a) on a voyage from a place in Canada to any other place, whether that voyage is by sea or by coastal or inland waters, or

(b) on a voyage from a place on the inland waters of the United States to a place in Canada,

in an unseaworthy condition from any cause, and thereby endangers the life of any person, is guilty of an indictable offence and is liable to imprisonment for five years.

(2) An accused shall not be convicted of an offence under this section where he proves

Defences

(a) that he used all reasonable means to ensure that the ship was in a seaworthy state, or

(b) that to send or take the ship in that unseaworthy condition was, under the circumstances, reasonable and justifiable.

Consent of  
Attorney  
General.

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

#### ASSAULTS.

"Assault."

**230.** A person commits an assault when, without the consent of another person or with consent, where it is obtained by fraud,

(a) he applies force intentionally to the person of the other, directly or indirectly, or

(b) he attempts or threatens, by an act or gesture, to apply force to the person of the other, if he has or causes the other to believe upon reasonable grounds that he has present ability to effect his purpose.

Punishment  
for common  
assault.

**231.** (1) Every one who commits a common assault is guilty of

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

(b) an offence punishable on summary conviction.

Causing  
bodily  
harm by  
assault or  
otherwise.

(2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person is guilty of an indictable offence and is liable to imprisonment for two years.

Assault  
with intent.

**232.** (1) Every one who assaults a person with intent to commit an indictable offence is guilty of an indictable offence and is liable to imprisonment for five years.

Other  
assaults.

(2) Every one who

(a) assaults a public officer or peace officer engaged in the execution of his duty, or a person acting in aid of such an officer;

(b) assaults a person with intent to resist or prevent the lawful arrest or detention of himself or another person;

or  
(c) assaults a person

(i) who is engaged in the lawful execution of a process against lands or goods or in making a lawful distress or seizure, or

(ii) with intent to rescue anything taken under a lawful process, distress or seizure,

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

#### KIDNAPPING AND ABDUCTION.

Kidnapping.

**233.** (1) Every one who kidnaps a person with intent

(a) to cause him to be confined or imprisoned against his will,

(b) to cause him to be unlawfully sent or transported out of Canada against his will, or

(c) to hold him for ransom or to service against his will, is guilty of an indictable offence and is liable to imprisonment for life.

(2) Every one who, without lawful authority, confines, imprisons or forcibly seizes another person is guilty of an indictable offence and is liable to imprisonment for five years. Forcible confinement.

(3) In proceedings under this section the fact that the person in relation to whom the offence is alleged to have been committed did not resist is not a defence unless the accused proves that the failure to resist was not caused by threats, duress, force or exhibition of force. Non-resistance.

**234.** Every one who takes away or detains a female person, against her will, with intent Abduction of female.

(a) to marry her or to have illicit sexual intercourse with her, or

(b) to cause her to marry or to have illicit sexual intercourse with a male person, is guilty of an indictable offence and is liable to imprisonment for ten years.

**235.** (1) Every one who, without lawful authority, takes or causes to be taken an unmarried female person under the age of sixteen years out of the possession of and against the will of her parent or guardian or of any other person who has lawful care or charge of her is guilty of an indictable offence and is liable to imprisonment for five years. Abduction of female under sixteen.

(2) For the purpose of proceedings under this section it is not material whether

(a) the female person is taken with her own consent or at her own suggestion, or Consent immaterial.

(b) the accused believes that the female person is sixteen years of age or more. Belief as to age immaterial.

**236.** (1) Every one who, with intent to deprive a parent or guardian or any other person who has lawful care or charge of a child under the age of fourteen years of the possession of that child, or with intent to steal anything on or about the person of such a child, unlawfully Abduction of child under fourteen.

(a) takes or entices away or detains the child, or

(b) receives or harbours the child, is guilty of an indictable offence and is liable to imprisonment for ten years.

(2) This section does not apply to a person who, claiming in good faith a right to possession of a child, obtains possession of the child. Bona fide claim of right.

## ABORTION.

Procuring  
miscarriage.

**237.** (1) Every one who, with intent to procure the miscarriage of a female person, whether or not she is pregnant, uses any means for the purpose of carrying out his intention is guilty of an indictable offence and is liable to imprisonment for life.

Woman  
procuring her  
own mis-  
carriage.

(2) Every female person who, being pregnant, with intent to procure her own miscarriage, uses any means or permits any means to be used for the purpose of carrying out her intention is guilty of an indictable offence and is liable to imprisonment for two years.

"Means"  
defined.

(3) In this section, "means" includes

- (a) the administration of a drug or other noxious thing,
- (b) the use of an instrument, and
- (c) manipulation of any kind.

Supplying  
noxious  
things.

**238.** Every one who unlawfully supplies or procures a drug or other noxious thing or an instrument or thing, knowing that it is intended to be used or employed to procure the miscarriage of a female person, whether or not she is pregnant, is guilty of an indictable offence and is liable to imprisonment for two years.

## VENEREAL DISEASES.

Venereal  
disease.

**239.** (1) Every one who, having venereal disease in a communicable form, communicates it to another person is guilty of an offence punishable on summary conviction.

Defence.

(2) No person shall be convicted of an offence under this section where he proves that he had reasonable grounds to believe and did believe that he did not have venereal disease in a communicable form at the time the offence is alleged to have been committed.

Corrobor-  
ation.

(3) No person shall be convicted of an offence under this section upon the evidence of only one witness, unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

"Venereal  
disease."

(4) For the purposes of this section, "venereal disease" means syphilis, gonorrhea or soft chancre.

## OFFENCES AGAINST CONJUGAL RIGHTS.

"Bigamy."

**240.** (1) Every one commits bigamy who

- (a) in Canada,
  - (i) being married, goes through a form of marriage with another person,
  - (ii) knowing that another person is married, goes through a form of marriage with that person, or
  - (iii) on the same day or simultaneously, goes through a form of marriage with more than one person; or

(b) being a Canadian citizen resident in Canada leaves Canada with intent to do anything mentioned in subparagraphs (i) to (iii) of paragraph (a) and, pursuant thereto, does outside of Canada anything mentioned in those subparagraphs in circumstances mentioned therein.

(2) No person commits bigamy by going through a form of marriage if Matters of defence.

(a) that person in good faith and on reasonable grounds believes that his spouse is dead, Belief that spouse dead.

(b) the spouse of that person has been continuously absent from him for seven years immediately preceding the time when he goes through the form of marriage, unless he knew that his spouse was alive at any time during those seven years, Absence for seven years.

(c) that person has been divorced from the bond of the first marriage, or Divorce.

(d) the former marriage has been declared void by a court of competent jurisdiction. Annulment.

(3) Where a person is alleged to have committed bigamy, it is not a defence that the parties would, if unmarried, have been incompetent to contract marriage under the law of the place where the offence is alleged to have been committed. Incompetency no defence.

(4) Every marriage or form of marriage shall, for the purpose of this section, be deemed to be valid unless the accused establishes that it was invalid. Validity presumed.

(5) No act or omission on the part of an accused who is charged with bigamy invalidates a marriage or form of marriage that is otherwise valid. Act or omission by accused does not invalidate.

**241.** (1) Every one who commits bigamy is guilty of an indictable offence and is liable to imprisonment for five years. Punishment.

(2) For the purposes of this section a certificate of marriage issued under the authority of law is *prima facie* evidence of the marriage or form of marriage to which it relates without proof of the signature or official character of the person by whom it purports to be signed. Certificate of marriage.

**242.** (1) Every male person who

(a) procures, or

(b) knowingly aids in procuring,

a feigned marriage between himself and a female person is guilty of an indictable offence and is liable to imprisonment for five years. Procuring feigned marriage

(2) No person shall be convicted of an offence under this section upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused. Corroboration

**243. (1) Every one who**

(a) practises or enters into or in any manner agrees or consents to practise or enter into

Polygamy.  
Conjugal  
union.

(i) any form of polygamy, or

(ii) any kind of conjugal union with more than one person at the same time,

whether or not it is by law recognized as a binding form of marriage; or

Celebrating  
rite.

(b) celebrates, assists or is a party to a rite, ceremony, contract or consent that purports to sanction a relationship mentioned in subparagraph (i) or (ii) of paragraph (a),

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

Evidence  
in case of  
polygamy.

(2) Where an accused is charged with an offence under this section, no averment or proof of the method by which the alleged relationship was entered into, agreed to or consented to is necessary in the indictment or upon the trial of the accused, nor is it necessary upon the trial to prove that the persons who are alleged to have entered into the relationship had or intended to have sexual intercourse.

#### UNLAWFUL SOLEMNIZATION OF MARRIAGE.

**244. Every one who**

Pretending to  
solemnize  
marriage.

(a) solemnizes or pretends to solemnize a marriage without lawful authority, the proof of which lies upon him, or

Procuring  
unlawful  
marriage.

(b) procures a person to solemnize a marriage knowing that he is not lawfully authorized to solemnize the marriage,

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

Marriage  
contrary  
to law.

**245.** Every one who, being lawfully authorized to solemnize marriage, knowingly and wilfully solemnizes a marriage in violation of the laws of the province in which the marriage is solemnized is guilty of an indictable offence and is liable to imprisonment for two years.

#### BLASPHEMOUS LIBEL.

Offence.

**246. (1)** Every one who publishes a blasphemous libel is guilty of an indictable offence and is liable to imprisonment for two years.

Question of  
fact.

(2) It is a question of fact whether or not any matter that is published is a blasphemous libel.

(3) No person shall be convicted of an offence under this section for expressing in good faith and in decent language, or attempting to establish by argument used in good faith and conveyed in decent language, an opinion upon a religious subject. Saving.

#### DEFAMATORY LIBEL.

**247.** In sections 248 to 267, "newspaper" means any paper, magazine or periodical containing public news, intelligence or reports of events, or any remarks or observations thereon, printed for sale and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and any paper, magazine or periodical printed in order to be dispersed and made public, weekly or more often, or at intervals not exceeding thirty-one days, that contains advertisements, exclusively or principally. "Newspaper."

**248.** (1) A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published. Definition.

(2) A defamatory libel may be expressed directly or by insinuation or irony Mode of expression.  
 (a) in words legibly marked upon any substance, or  
 (b) by any object signifying a defamatory libel otherwise than by words.

**249.** A person publishes a libel when he "Publishing."  
 (a) exhibits it in public,  
 (b) causes it to be read or seen, or  
 (c) shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by the person whom it defames or by any other person.

**250.** Every one who publishes a defamatory libel that he knows is false is guilty of an indictable offence and is liable to imprisonment for five years. Punishment of libel known to be false.

**251.** Every one who publishes a defamatory libel is guilty of an indictable offence and is liable to imprisonment for two years. Punishment for defamatory libel.

**252.** (1) Every one commits an offence who, with intent Extortion by libel.  
 (a) to extort money from any person, or  
 (b) to induce a person to confer upon or procure for another person an appointment or office of profit or trust,  
 publishes or threatens to publish or offers to abstain from publishing or to prevent the publication of a defamatory libel.

|   |  |
|---|--|
| Idem.   | (2) Every one commits an offence who, as the result of the refusal of any person to permit money to be extorted or to confer or procure an appointment or office of profit or trust, publishes or threatens to publish a defamatory libel.   |
| Punish-<br>ment.  | (3) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for five years.   |
| Proprietor of<br>newspaper<br>presumed<br>responsible.    | <b>253.</b> (1) The proprietor of a newspaper shall be deemed to publish defamatory matter that is inserted and published therein, unless he proves that the defamatory matter was inserted in the newspaper without his knowledge and without negligence on his part.   |
| General<br>authority<br>to manager<br>when<br>negligence. | (2) Where the proprietor of a newspaper gives to a person general authority to manage or conduct the newspaper as editor or otherwise, the insertion by that person of defamatory matter in the newspaper shall, for the purposes of subsection (1), be deemed not to be negligence on the part of the proprietor unless it is proved that<br>(a) he intended the general authority to include authority to insert defamatory matter in the newspaper, or<br>(b) he continued to confer general authority after he knew that it had been exercised by the insertion of defamatory matter in the newspaper. |
| Selling<br>newspapers.                                    | (3) No person shall be deemed to publish a defamatory libel by reason only that he sells a number or part of a newspaper that contains a defamatory libel, unless he knows that the number or part contains defamatory matter or that defamatory matter is habitually contained in the newspaper.  |
| Selling book<br>containing<br>defamatory<br>libel.        | <b>254.</b> (1) No person shall be deemed to publish a defamatory libel by reason only that he sells a book, magazine, pamphlet or other thing, other than a newspaper that contains defamatory matter if, at the time of the sale, he does not know that it contains the defamatory matter.   |
| Sale by<br>servant.                                       | (2) Where a servant, in the course of his employment, sells a book, magazine, pamphlet or other thing, other than a newspaper, the employer shall be deemed not to publish any defamatory matter contained therein unless it is proved that the employer authorized the sale knowing that<br>(a) defamatory matter was contained therein, or<br>(b) defamatory matter was habitually contained therein, in the case of a periodical.   |
| Exemption<br>of master.                                   |  |
| Publishing<br>proceedings<br>of courts of<br>justice.     | <b>255.</b> No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter<br>(a) in a proceeding held before or under the authority of a court exercising judicial authority, or  |

(b) in an inquiry made under the authority of an Act or by order of Her Majesty, or under the authority of a public department or a department of the government of a province.

**256.** No person shall be deemed to publish a defamatory libel by reason only that he Parliamentary papers.

- (a) publishes to the Senate or House of Commons or to a legislature, defamatory matter contained in a petition to the Senate or House of Commons or to the legislature, as the case may be,
- (b) publishes by order or under the authority of the Senate or House of Commons or of a legislature, a paper containing defamatory matter, or
- (c) publishes, in good faith and without ill-will to the person defamed, an extract from or abstract of a petition or paper mentioned in paragraph (a) or (b).

**257.** (1) No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons or a legislature, or a committee thereof, or of the public proceedings before a court exercising judicial authority, or publishes, in good faith, any fair comment upon any such proceedings. Fair reports of parliamentary or judicial proceedings.

(2) This section does not apply to a person who publishes a report of evidence taken or offered in any proceeding before the Senate or House of Commons or any committee thereof, upon a petition or bill relating to any matter of marriage or divorce, if the report is published without authority from or leave of the House in which the proceeding is held or is contrary to any rule, order or practice of that House. Divorce proceedings an exception.

**258.** No person shall be deemed to publish a defamatory libel by reason only that he publishes in good faith, in a newspaper, a fair report of the proceedings of any public meeting if Fair report of public meeting.

- (a) the meeting is lawfully convened for a lawful purpose and is open to the public,
- (b) the report is fair and accurate,
- (c) the publication of the matter complained of is for the public benefit, and
- (d) he does not refuse to publish in a conspicuous place in the newspaper a reasonable explanation or contradiction by the person defamed in respect of the defamatory matter.

Public  
benefit.

**259.** No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter that, on reasonable grounds, he believes is true, and that is relevant to any subject of public interest, the public discussion of which is for the public benefit.

Fair  
comment.  
On public  
person.

**260.** No person shall be deemed to publish a defamatory libel by reason only that he publishes fair comments

(a) upon the public conduct of a person who takes part in public affairs, or

On work of  
art or  
literature.

(b) upon a published book or other literary production, or on any composition or work of art or performance publicly exhibited, or on any other communication made to the public on any subject, if the comments are confined to criticism thereof.

When truth  
a defence.

**261.** No person shall be deemed to publish a defamatory libel where he proves that the publication of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published and that the matter itself was true.

Publication  
invited or  
necessary.

**262.** No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter

(a) on the invitation or challenge of the person in respect of whom it is published, or

(b) that it is necessary to publish in order to refute defamatory matter published in respect of him by another person,

if he believes that the defamatory matter is true and it is relevant to the invitation, challenge or necessary refutation, as the case may be, and does not in any respect exceed what is reasonably sufficient in the circumstances.

Answer to  
inquiries.

**263.** No person shall be deemed to publish a defamatory libel by reason only that he publishes, in answer to inquiries made to him, defamatory matter relating to a subject matter in respect of which the person by whom or on whose behalf the inquiries are made has an interest in knowing the truth or who, on reasonable grounds, the person who publishes the defamatory matter believes has such an interest, if

(a) the matter is published, in good faith, for the purpose of giving information in answer to the inquiries,

(b) the person who publishes the defamatory matter believes that it is true,

(c) the defamatory matter is relevant to the inquiries, and

(d) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

**264.** No person shall be deemed to publish a defamatory libel by reason only that he publishes to another person defamatory matter for the purpose of giving information to that person with respect to a subject matter in which the person to whom the information is given has, or is believed on reasonable grounds by the person who gives it to have, an interest in knowing the truth with respect to that subject matter if

Giving  
information  
to person  
interested.

- (a) the conduct of the person who gives the information is reasonable in the circumstances, Conditions.
- (b) the defamatory matter is relevant to the subject matter, and
- (c) the defamatory matter is true, or if it is not true, is made without ill-will towards the person who is defamed and is made in the belief, on reasonable grounds, that it is true.

**265.** No person shall be deemed to publish a defamatory libel by reason only that he publishes defamatory matter in good faith for the purpose of seeking remedy or redress for a private or public wrong or grievance from a person who has, or who on reasonable grounds he believes has the right or is under an obligation to remedy or redress the wrong or grievance, if

Publication  
in good faith  
for redress  
of wrong.

- (a) he believes that the defamatory matter is true,
- (b) the defamatory matter is relevant to the remedy or redress that is sought, and
- (c) the defamatory matter does not in any respect exceed what is reasonably sufficient in the circumstances.

**266.** (1) An accused who is alleged to have published a defamatory libel may, at any stage of the proceedings, adduce evidence to prove that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or a legislature.

Proving  
publication  
by order of  
legislature.

(2) Where at any stage in proceedings referred to in subsection (1) the court, judge, justice or magistrate is satisfied that matter alleged to be defamatory was contained in a paper published by order or under the authority of the Senate or House of Commons or a legislature, he shall direct a verdict of not guilty to be entered and shall discharge the accused.

Directing  
verdict.

(3) For the purposes of this section a certificate under the hand of the Speaker or clerk of the Senate or House of Commons or a legislature to the effect that the matter that is alleged to be defamatory was contained in a paper published by order or under the authority of the Senate, House of Commons or legislature, as the case may be, is conclusive evidence thereof.

Certificate  
of order.

## VERDICTS.

Verdicts  
in cases  
of defama-  
tory libel.

**267.** Where, on the trial of an indictment for publishing a defamatory libel, a plea of not guilty is pleaded, the jury that is sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon the indictment, and shall not be required or directed by the judge to find the defendant guilty merely on proof of publication by the defendant of the alleged defamatory libel, and of the sense ascribed thereto in the indictment, but the judge may, in his discretion, give a direction or opinion to the jury on the matter in issue as in other criminal proceedings, and the jury may, on the issue, find a special verdict.

## PART VII.

## OFFENCES AGAINST RIGHTS OF PROPERTY.

## INTERPRETATION

- 268.** In this Part,
- "Break." (a) "break" means
    - (i) to break any part, internal or external, or
    - (ii) to open any thing that is used or intended to be used to close or to cover an internal or external opening;
  - "Document." (b) "document" means any paper, parchment or other material used for writing or printing, marked with matter capable of being read, but does not include trade-marks on articles of commerce or inscriptions on stone or metal or other like material;
  - "Exchequer bill." (c) "exchequer bill" means a bank note, bond, note, debenture or security that is issued or guaranteed by Her Majesty under the authority of the Parliament of Canada or the legislature of a province;
  - "Exchequer bill paper." (d) "exchequer bill paper" means paper that is used to manufacture exchequer bills;
  - "False document." (e) "false document" means a document
    - (i) the whole or some material part of which purports to be made by or on behalf of a person
      - (A) who did not make it or authorize it to be made, or
      - (B) who did not in fact exist;
    - (ii) that is made by or on behalf of the person who purports to make it but is false in some material particular;
    - (iii) that is made in the name of an existing person, by him or under his authority, with a fraudulent intention that it should pass as being made by

some person, real or fictitious, other than the person who makes it or under whose authority it is made; and

- (f) "revenue paper" means paper that is used to make stamps, licences or permits or for any purpose connected with the public revenue. "Revenue paper."

### THEFT.

**269.** (1) Every one commits theft who fraudulently and without colour of right takes, or fraudulently and without colour of right converts to his use or to the use of another person, anything whether animate or inanimate, with intent, "Theft."

- (a) to deprive, temporarily or absolutely, the owner of it or a person who has a special property or interest in it, of the thing or of his property or interest in it,
- (b) to pledge it or deposit it as security,
- (c) to part with it under a condition with respect to its return that the person who parts with it may be unable to perform, or
- (d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted.

(2) A person commits theft when, with intent to steal anything, he moves it or causes it to move or to be moved, or begins to cause it to become movable. Time when theft completed.

(3) A taking or conversion of anything may be fraudulent notwithstanding that it is effected without secrecy or attempt at concealment. Secrecy.

(4) For the purposes of this Act the question whether anything that is converted is taken for the purpose of conversion, or whether it is, at the time it is converted, in the lawful possession of the person who converts it is not material. Purpose of taking.

(5) For the purposes of this section a person who has a wild living creature in captivity shall be deemed to have a special property or interest in it while it is in captivity and after it has escaped from captivity. Living creature wild by nature.

**270.** (1) Where oysters and oyster brood are in oyster beds, layings or fisheries that are the property of any person and are sufficiently marked out or known as the property of that person, he shall be deemed to have a special property or interest in them. Oysters.

(2) An indictment is sufficient if it describes an oyster bed, laying or fishery by name or in some other way, without stating that it is situated in a particular territorial division. Oyster bed.

Theft by  
bailee of  
things under  
seizure

**271.** Every one who is a bailee of anything that is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and who is obliged by law or agreement to produce and deliver it to that officer or to another person entitled thereto at a certain time and place, or upon demand, steals it if he does not produce and deliver it in accordance with his obligation, but he does not steal it if his failure to produce and deliver it is not the result of a wilful act or omission by him.

Agent  
pledging  
goods, when  
not theft.

**272.** A factor or agent does not commit theft by pledging or giving a lien on goods or documents of title to goods that are entrusted to him for the purpose of sale or for any other purpose, if the pledge or lien is for an amount that does not exceed the sum of

- (a) the amount due to him from his principal at the time the goods or documents are pledged or the lien is given, and
- (b) the amount of any bill of exchange that he has accepted for or on account of his principal.

Theft of  
services.

**273.** Every one commits theft who fraudulently or maliciously

- (a) abstracts, consumes or uses electricity or gas or causes it to be wasted or diverted, or
- (b) uses a telephone or telegraph line or obtains telephone or telegraph service.

Theft by or  
from person  
having special  
property or  
interest.

**274.** A person may be convicted of theft notwithstanding that anything that is alleged to have been stolen was stolen

- (a) by the owner of it from a person who has a special property or interest in it,
- (b) by a person who has a special property or interest in it from the owner of it,
- (c) by a lessee of it from his reversioner,
- (d) by one of several joint owners, tenants in common or partners of or in it from the other persons who have an interest in it, or
- (e) by the directors, officers or members of a company, body corporate, unincorporated body or of a society associated together for a lawful purpose from the company, body corporate, unincorporated body or society, as the case may be.

Husband or  
wife.

**275.** (1) Subject to subsection (2), no husband or wife, during cohabitation, commits theft of anything that is by law the property of the other.

(2) A husband or wife commits theft who, intending to desert or on deserting the other or while living apart from the other, fraudulently takes or converts anything that is by law the property of the other in a manner that, if it were done by another person, would be theft.

Theft by spouse while living apart.

(3) Every one commits theft who, during cohabitation of a husband and wife, knowingly,

(a) assists either of them in dealing with anything that is by law the property of the other in a manner that would be theft if they were not married, or

Theft by person assisting spouse.

(b) receives from either of them anything that is by law the property of the other and has been obtained from the other by dealing with it in a manner that would be theft if they were not married.

Receiving property of spouse.

**276.** (1) Every one commits theft who, having received anything from any person on terms that require him to account for or pay it or the proceeds of it or a part of the proceeds to that person or another person, fraudulently fails to account for or pay it or the proceeds of it or the part of the proceeds of it accordingly.

Theft by person required to account.

(2) Where subsection (1) otherwise applies, but one of the terms is that the thing received or the proceeds or part of the proceeds of it shall be an item in a debtor and creditor account between the person who receives the thing and the person to whom he is to account for or to pay it, and that the latter shall rely only on the liability of the other as his debtor in respect thereof, a proper entry in that account of the thing received or the proceeds or part of the proceeds of it, as the case may be, is a sufficient accounting therefor, and no fraudulent conversion of the thing or the proceeds or part of the proceeds of it thereby accounted for shall be deemed to have taken place.

Effect of entry in account.

**277.** Every one commits theft who, being entrusted, whether solely or jointly with another person, with a power of attorney for the sale, mortgage, pledge or other disposition of real or personal property, fraudulently sells, mortgages, pledges or otherwise disposes of the property or any part of it, or fraudulently converts the proceeds of a sale, mortgage, pledge or other disposition of the property, or any part of the proceeds, to some purpose other than that for which he was entrusted by the power of attorney.

Theft by person holding power of attorney.

**278.** (1) Every one commits theft who, having received, either solely or jointly with another person, money or valuable security or a power of attorney for the sale of real or personal property, with a direction that the money or a part of it, or the proceeds or a part of the proceeds of the security or the property shall be applied to a purpose

Misappropriation of money held under direction.

or paid to a person specified in the direction, fraudulently and contrary to the direction applies to any other purpose or pays to any other person the money or proceeds or any part of it.

Effect of  
entry in  
account.

(2) This section does not apply where a person who receives anything mentioned in subsection (1) and the person from whom he receives it deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, unless the direction is in writing.

Taking ore  
for scientific  
purpose.

**279.** No person commits theft by reason only that he takes, for the purpose of exploration or scientific investigation, a specimen of ore or mineral from land that is not enclosed and is not occupied or worked as a mine, quarry or digging.

Punishment  
for theft.

**280.** Except where otherwise prescribed by law, every one who commits theft is guilty of an indictable offence and is liable

- (a) to imprisonment for ten years, where the property stolen is a testamentary instrument or where the value of what is stolen exceeds fifty dollars, or
- (b) to imprisonment for two years, where the value of what is stolen does not exceed fifty dollars.

#### OFFENCES RESEMBLING THEFT.

Taking motor  
vehicle  
without  
consent.

**281.** Every one who, without the consent of the owner, takes a motor vehicle with intent to drive or use it or cause it to be driven or used is guilty of an offence punishable on summary conviction.

Criminal  
breach of  
trust

**282.** Every one who, being a trustee of anything for the use or benefit, whether in whole or in part, of another person, or for a public or charitable purpose, converts, with intent to defraud and in violation of his trust, that thing or any part of it to a use that is not authorized by the trust is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Public  
servant  
refusing to  
deliver  
property.

**283.** Every one who, being or having been employed in the service of Her Majesty in right of Canada or in right of a province, or in the service of a municipality, and entrusted by virtue of that employment with the receipt, custody, management or control of anything, refuses or fails to deliver it to a person who is authorized to demand it and does demand it, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

- 284.** (1) Every one who, without the consent of the owner,
- (a) fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells, cattle that are found astray; or
  - (b) fraudulently, in whole or in part,
    - (i) obliterates, alters or defaces, a brand or mark on cattle, or
    - (ii) makes a false or counterfeit brand or mark on cattle,

Fraudulently taking cattle.

Defacing brand on cattle.

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

(2) In any proceedings under this Act, evidence that cattle are marked with a brand or mark that is recorded or registered in accordance with any Act is *prima facie* evidence that the cattle are owned by the registered owner of that brand or mark.

Evidence of property in cattle.

(3) Where an accused is charged with theft of cattle or with an offence under subsection (1), the burden of proving that the cattle came lawfully into the possession of the accused or his employee or into the possession of another person on behalf of the accused is on the accused, if the accused is not the registered owner of the brand or mark with which the cattle are marked, unless it appears that possession of the cattle by an employee of the accused or by another person on behalf of the accused was without the knowledge and authority, sanction or approval of the accused.

Presumption from possession.

- 285.** (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who, without the consent of the owner,
- (a) fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells,
  - (b) removes, alters, obliterates or defaces a mark or number on, or
  - (c) refuses to deliver up to the owner or to the person in charge thereof on behalf of the owner or to a person authorized by the owner to receive it,

Taking possession etc., of drift timber.

any lumber or lumbering equipment that is found adrift, cast ashore or lying upon or embedded in the bed or bottom, or on the bank or beach of a river, stream or lake in Canada, or in the harbours or any of the coastal waters of Canada.

(2) Every one who, being a dealer in second-hand goods of any kind, trades or traffics in or has in his possession for sale or traffic any lumbering equipment that is marked with the mark, brand, registered timber mark, name or initials of a person, without the written consent of that person, is guilty of an offence punishable on summary conviction.

Dealer in second hand goods.

(3) A peace officer who suspects, on reasonable grounds, that any lumber owned by any person and bearing the

Search for timber unlawfully detained.

registered timber mark of that person is kept or detained in or on any place without the knowledge or consent of that person, may enter into or upon that place to ascertain whether or not it is detained there without the knowledge or consent of that person.

Evidence of property in timber.

(4) Where any lumber or lumbering equipment is marked with a timber mark or a boom chain brand registered under any Act, the mark or brand is *prima facie* evidence, in proceedings under subsection (1), that it is the property of the registered owner of the mark or brand.

Presumption from possession.

(5) Where an accused or his servants or agents are in possession of lumber or lumbering equipment marked with the mark, brand, registered timber mark, name or initials of another person, the burden of proving that it came lawfully into his possession or into possession of his servants or agents is, in proceedings under subsection (1), on the accused.

"Coastal waters."

(6) In this section,

(a) "coastal waters of Canada" includes all of Queen Charlotte Sound, all the Strait of Georgia and the Canadian waters of the Strait of Juan de Fuca,

"Lumber."

(b) "lumber" means timber, mast, spar, shingle bolt, sawlog or lumber of any description, and

"Lumbering equipment."

(c) "lumbering equipment" includes a boom chain, chain, line and shackle.

Destroying documents of title.

**286.** Every one who, for a fraudulent purpose, destroys, cancels, conceals or obliterates

(a) a document of title to goods or lands,

(b) a valuable security or testamentary instrument, or

(c) a judicial or official document,

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

Fraudulent concealment.

**287.** Every one who, for a fraudulent purpose, takes, obtains, removes or conceals anything is guilty of an indictable offence and is liable to imprisonment for two years.

#### ROBBERY AND EXTORTION.

"Robbery."

**288.** Every one commits robbery who

(a) steals, and for the purpose of extorting whatever is stolen or to prevent or overcome resistance to the stealing, uses violence or threats of violence to a person or property,

(b) steals from any person and, at the time he steals or immediately before or immediately thereafter, wounds, beats, strikes or uses any personal violence to that person,

- (c) assaults any person with intent to steal from him, or
- (d) steals from any person while armed with an offensive weapon or imitation thereof.

**289.** Every one who commits robbery is guilty of an indictable offence and is liable to imprisonment for life and to be whipped. Punishment for robbery

**290.** Every one who stops a mail conveyance with intent to rob or search it is guilty of an indictable offence and is liable to imprisonment for life. Stopping mail with intent.

**291.** (1) Every one who, without reasonable justification or excuse and with intent to extort or gain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the person threatened, accused or menaced or to whom violence is shown, to do anything or to cause anything to be done, is guilty of an indictable offence and is liable to imprisonment for fourteen years. Extortion.

(2) A threat to institute civil proceedings is not a threat for the purposes of this section. Saving.

#### BREAKING AND ENTERING.

- 292.** (1) Every one who
- (a) breaks and enters a place with intent to commit an indictable offence therein; Breaking and entering with intent.
  - (b) breaks and enters a place and commits an indictable offence therein; or Breaking and entering and committing.
  - (c) breaks out of a place after Breaking out.
    - (i) committing an indictable offence therein, or
    - (ii) entering the place with intent to commit an indictable offence therein,
- is guilty of an indictable offence and is liable
- (d) to imprisonment for life, if the offence is committed in relation to a dwelling house, or Punishment.
  - (e) to imprisonment for fourteen years, if the offence is committed in relation to a place other than a dwelling house. Idem.
- (2) For the purposes of proceedings under this section, evidence that an accused
- (a) broke and entered a place is *prima facie* evidence that he broke and entered with intent to commit an indictable offence therein; or Presumptions
  - (b) broke out of a place is *prima facie* evidence that he broke out after
    - (i) committing an indictable offence therein, or
    - (ii) entering with intent to commit an indictable offence therein.

Committing  
offence when  
armed.

(3) Every one who is convicted of an offence under this section who had upon his person, at the time he committed the offence or was arrested therefor, an offensive weapon or imitation thereof, is liable to be whipped in addition to any other punishment that may be imposed in respect of the offence for which he is convicted.

"Place."

(4) For the purposes of this section, "place" means

- (a) a dwelling house,
- (b) a building or structure or any part thereof, other than a dwelling house,
- (c) a railway vehicle, vessel, aircraft or trailer, or
- (d) a pen or enclosure in which fur-bearing animals are kept in captivity for breeding or commercial purposes.

Being  
unlawfully in  
dwelling  
house.

**293.** (1) Every one who without lawful excuse, the proof of which lies upon him, enters or is in a dwelling house with intent to commit an indictable offence therein is guilty of an indictable offence and is liable to imprisonment for ten years.

Presumption.

(2) For the purposes of proceedings under this section, evidence that an accused, without lawful excuse, entered or was in a dwelling house is *prima facie* evidence that he entered or was in the dwelling house with intent to commit an indictable offence therein.

"Entrance."

**294.** For the purposes of sections 292 and 293,

- (a) a person enters as soon as any part of his body or any part of an instrument that he uses is within any thing that is being entered; and
- (b) a person shall be deemed to have broken and entered if
  - (i) he obtained entrance by a threat or artifice or by collusion with a person within, or
  - (ii) he entered without lawful justification or excuse, the proof of which lies upon him, by a permanent or temporary opening.

Possession  
of house-  
breaking  
instruments.

Disguise  
with  
intent

**295.** (1) Every one who without lawful excuse, the proof of which lies upon him, has in his possession any instrument for house-breaking, vault-breaking or safe-breaking is guilty of an indictable offence and is liable to imprisonment for fourteen years.

(2) Every one who, with intent to commit an indictable offence, has his face masked or coloured or is otherwise disguised is guilty of an indictable offence and is liable to imprisonment for ten years.

#### HAVING IN POSSESSION.

Having in  
possession  
property  
obtained  
by crime.

**296.** Every one commits an offence who has anything in his possession knowing that it was obtained

- (a) by the commission in Canada of an offence punishable by indictment, or

(b) by an act or omission anywhere that, if it had occurred in Canada, would have constituted an offence punishable by indictment.

**297.** Every one who commits an offence under section 296 is guilty of an indictable offence and is liable Punishment.

- (a) to imprisonment for ten years, where the property that comes into his possession is a testamentary instrument or where the value of what comes into his possession exceeds fifty dollars, or
- (b) to imprisonment for two years, where the value of what comes into his possession does not exceed fifty dollars.

**298. (1)** Every one who

(a) steals

Theft  
from  
mail.

- (i) anything sent by post, after it is deposited at a post office and before it is delivered,
- (ii) a bag, sack or other container or covering in which mail is conveyed, whether it does or does not contain mail, or
- (iii) a key suited to a lock adopted for use by the Canada Post Office, or

(b) has in his possession anything in respect of which he knows that an offence has been committed under paragraph (a),

is guilty of an indictable offence and is liable to imprisonment for ten years and, where the offence is committed under paragraph (a), to imprisonment for not less than six months.

(2) In proceedings for an offence under this section it is not necessary to allege in the indictment or to prove on the trial that anything in respect of which the offence was committed had any value. Allegation  
of value not  
necessary.

**299.** Every one who brings into or has in Canada anything that he has obtained outside of Canada by an act that, if it had been committed in Canada, would have been the offence of theft or an offence under section 296, is guilty of an indictable offence and is liable to imprisonment for ten years. Bringing into  
Canada  
property  
obtained by  
crime.

**300.** For the purposes of section 296 and paragraph (b) of subsection (1) of section 298, the offence of having in possession is complete when a person has, alone or jointly with another person, possession of or control over anything mentioned in those sections or when he aids in concealing or disposing of it, as the case may be. Having in  
possession  
when  
complete.

- Evidence.**        **301.** (1) Where an accused is charged with an offence under section 296 or paragraph (b) of subsection (1) of section 298, evidence is admissible at any stage of the proceedings to show that property other than the property that is the subject matter of the proceedings
- (a) was found in the possession of the accused, and
- (b) was stolen within twelve months before the proceedings were commenced,
- and that evidence may be considered for the purpose of proving that the accused knew that the property forming the subject-matter of the proceedings was stolen property.
- Notice to accused.**    (2) Subsection (1) does not apply unless
- (a) at least three days' notice in writing is given to the accused that in the proceedings it is intended to prove that property other than the property that is the subject-matter of the proceedings was found in his possession, and
- (b) the notice sets out the nature or description of the property and describes the person from whom it is alleged to have been stolen.

- Evidence of previous conviction.**    **302.** (1) Where an accused is charged with an offence under section 296 or paragraph (b) of subsection (1) of section 298 and evidence is adduced that the subject matter of the proceedings was found in his possession, evidence that the accused was, within five years before the proceedings were commenced, convicted of an offence involving theft or an offence under section 296 is admissible at any stage of the proceedings and may be taken into consideration for the purpose of proving that the accused knew that the property that forms the subject matter of the proceedings was unlawfully obtained.
- Notice to accused.**        (2) Subsection (1) does not apply unless at least three days' notice in writing is given to the accused that in the proceedings it is intended to prove the previous conviction.

#### FALSE PRETENCES.

- "False pretence."**        **303.** (1) A false pretence is a representation of a matter of fact either present or past, made by words or otherwise, that is known by the person who makes it to be false and that is made with a fraudulent intent to induce the person to whom it is made to act upon it.
- Exaggeration.**        (2) Exaggerated commendation or depreciation of the quality of anything is not a false pretence unless it is carried to such an extent that it amounts to a fraudulent misrepresentation of fact.
- Question of fact.**        (3) For the purposes of subsection (2) it is a question of fact whether commendation or depreciation amounts to a fraudulent misrepresentation of fact.

**304.** (1) Every one commits an offence who

(a) by a false pretence, whether directly or through the medium of a contract obtained by a false pretence, obtains anything in respect of which the offence of theft may be committed or causes it to be delivered to another person; Obtaining by false pretence.

(b) obtains credit by a false pretence or by fraud; Obtaining credit by false pretence.

(c) knowingly makes or causes to be made, directly or indirectly, a false statement in writing with intent that it should be relied upon, with respect to the financial condition or means or ability to pay of himself or any person, firm or corporation that he is interested in or that he acts for, for the purpose of procuring, in any form whatsoever, whether for his benefit or the benefit of that person, firm or corporation, False statement in writing.

(i) the delivery of personal property,

(ii) the payment of money,

(iii) the making of a loan,

(iv) the extension of credit,

(v) the discount of an account receivable, or

(vi) the making, accepting, discounting or endorsing of a bill of exchange, cheque, draft, or promissory note; or

(d) knowing that a false statement in writing has been made with respect to the financial condition or means or ability to pay of himself or another person, firm or corporation that he is interested in or that he acts for, procures upon the faith of that statement, whether for his benefit or for the benefit of that person, firm or corporation, anything mentioned in subparagraphs (i) to (vi) of paragraph (c). Idem.

(2) Every one who commits an offence under paragraph Punishment.

(a) of subsection (1) is guilty of an indictable offence and is liable

(a) to imprisonment for ten years, where the property obtained is a testamentary instrument or where the value of what is obtained exceeds fifty dollars; or

(b) to imprisonment for two years, where the value of what is obtained does not exceed fifty dollars.

(3) Every one who commits an offence under paragraph (b), (c) or (d) of subsection (1) is guilty of an indictable offence and is liable to imprisonment for ten years. Punishment.

(4) Where, in proceedings under paragraph (a) of subsection (1), it is shown that anything was obtained by the accused by means of a cheque that, when presented for payment within a reasonable time, was dishonoured on the ground that no funds or insufficient funds were on deposit to the credit of the accused in the bank on which the cheque was drawn, it shall be presumed to have been obtained by a false pretence, unless the court is satisfied by evidence Presumption from cheque issued without funds.

that when the accused issued the cheque he had reasonable grounds to believe that it would be honoured if presented for payment within a reasonable time after it was issued.

Obtaining  
execution of  
valuable  
security by  
fraud.

**305.** Every one who, with intent to defraud or injure another person, by a false pretence causes or induces any person

(a) to execute, make, accept, endorse or destroy the whole or any part of a valuable security, or

(b) to write, impress or affix a name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security,

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

Publication  
of false  
advertisements.

**306.** (1) Every one who publishes or causes to be published an advertisement containing a statement that purports to be a statement of fact but that is untrue, deceptive or misleading or is intentionally so worded or arranged that it is deceptive or misleading, is guilty of an indictable offence and is liable to imprisonment for five years, if the advertisement is published

(a) to promote, directly or indirectly, the sale or disposal of property or any interest therein, or

(b) to promote a business or commercial interest.

Publication  
of statement  
without  
proper test.

(2) Every one who publishes or causes to be published in an advertisement a statement or guarantee of the performance, efficacy or length of life of anything that is not based upon an adequate and proper test of that thing, the proof of which lies upon the accused, is, if the advertisement is published to promote, directly or indirectly, the sale or disposal of that thing, guilty of an offence punishable on summary conviction.

Saving.

(3) Subsections (1) and (2) do not apply to a person who publishes an advertisement that he accepts in good faith for publication in the ordinary course of his business.

What is  
proper test.

(4) For the purposes of subsection (2), a test that is made by the National Research Council of Canada or by any other public department is an adequate and proper test, but no reference shall be made in an advertisement to indicate that a test has been made by the National Research Council or other public department unless the advertisement has, before publication, been approved and permission to publish it has been given in writing by the president of the National Research Council or by the deputy head of the public department, as the case may be.

Idem.

(5) Nothing in subsection (4) shall be deemed to exclude, for the purposes of this section, any other adequate or proper test.

**307.** (1) Every one who fraudulently obtains food, lodging or other accommodation at an hotel or inn or at a lodging, boarding or eating house is guilty of an offence punishable on summary conviction. Fraudulently obtaining food and lodging.

(2) In proceedings under this section, evidence that an accused obtained food, lodging or other accommodation at an hotel or inn or at a lodging, boarding or eating house, and did not pay for it and Presumption.

(a) made a false or fictitious show or pretence of having baggage,  
 (b) had any false or pretended baggage,  
 (c) surreptitiously removed or attempted to remove his baggage or any material part of it,  
 (d) absconded or surreptitiously left the premises,  
 (e) knowingly made a false statement to obtain credit or time for payment, or  
 (f) offered a worthless cheque, draft or security in payment for his food, lodging or other accommodation,  
 is *prima facie* evidence of fraud.

**308.** Every one who fraudulently

(a) pretends to exercise or to use any kind of witchcraft, sorcery, enchantment or conjuration, Pretending to practise witchcraft, etc.  
 (b) undertakes, for a consideration, to tell fortunes, or  
 (c) pretends from his skill in or knowledge of an occult or crafty science to discover where or in what manner anything that is supposed to have been stolen or lost may be found,  
 is guilty of an offence punishable on summary conviction.

#### FORGERY AND OFFENCES RESEMBLING FORGERY.

**309.** (1) Every one commits forgery who makes a "Forgery." false document, knowing it to be false, with intent

(a) that it should in any way be used or acted upon as genuine, to the prejudice of any one whether within Canada or not, or  
 (b) that some person should be induced, by the belief that it is genuine, to do or to refrain from doing anything, whether within Canada or not.

(2) Making a false document includes

(a) altering a genuine document in any material part, Making false document.  
 (b) making a material addition to a genuine document or adding to it a false date, attestation, seal or other thing that is material, or  
 (c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.

(3) Forgery is complete as soon as a document is made with the knowledge and intent referred to in subsection (1), notwithstanding that the person who makes it does not When forgery complete.

intend that any particular person should use or act upon it as genuine or be induced, by the belief that it is genuine, to do or refrain from doing anything.

Forgery  
complete  
though  
document  
incomplete.

(4) Forgery is complete notwithstanding that the false document is incomplete or does not purport to be a document that is binding in law, if it is such as to indicate that it was intended to be acted upon as genuine.

Punishment  
for forgery.

**310.** (1) Every one who commits forgery is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Corrobor-  
ation.

(2) No person shall be convicted of an offence under this section upon the evidence of only one witness unless the evidence of that witness is corroborated in a material particular by evidence that implicates the accused.

Uttering  
forged  
document.

**311.** (1) Every one who, knowing that a document is forged,

(a) uses, deals with, or acts upon it, or

(b) causes or attempts to cause any person to use, deal with, or act upon it,

as if the document were genuine, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Wherever  
forged.

(2) For the purposes of proceedings under this section, the place where a document was forged is not material.

Exchequer  
bill paper.

**312.** Every one who, without lawful authority or excuse, the proof of which lies upon him,

Making, etc.

(a) makes, uses or knowingly has in his possession

(i) any exchequer bill paper, revenue paper, or paper that is used to make bank notes, or

(ii) any paper that is intended to resemble paper mentioned in subparagraph (i);

Instruments.

(b) makes, offers or disposes of or knowingly has in his possession any plate, die, machinery, instrument or other writing or material that is adapted and intended to be used to commit forgery; or

Counterfeit-  
ing public  
seals.

(c) makes, reproduces or uses a public seal of Canada or of a province, or the seal of a public body or authority in Canada, or of a court of law,

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

Printing  
counterfeit  
proclamation.

**313.** Every one who knowingly

(a) prints a proclamation, order, regulation or appointment, or notice thereof, and causes it falsely to purport to have been printed by the Queen's Printer for Canada, or the Queen's Printer for a province, or

Tendering in  
evidence.

(b) tenders in evidence a copy of a proclamation, order, regulation or appointment that falsely purports to

have been printed by the Queen's Printer for Canada or the Queen's Printer for a province, is guilty of an indictable offence and is liable to imprisonment for five years.

**314.** Every one who, with intent to defraud, causes or procures a telegram, cablegram or radio message to be sent or delivered as being sent by the authority of another person, knowing that it is not sent by his authority and with intent that the message should be acted on as being sent by his authority, is guilty of an indictable offence and is liable to imprisonment for five years. Telegram, etc., in false name.

**315.** Every one who, with intent to injure or alarm any person sends or causes or procures to be sent by telegram, letter, radio, cable or otherwise a message that contains matter that he knows is false is guilty of an indictable offence and is liable to imprisonment for two years. False messages.

**316.** (1) Every one commits an offence who sends, delivers, utters or directly or indirectly causes any person to receive Threatening letters.

(a) a letter or writing that he knows contains a threat to cause death or injury to any person; or

(b) a letter or writing that he knows contains a threat  
(i) to burn, destroy or damage real or personal property, or  
(ii) to kill, maim, wound, poison or injure an animal or bird that is the property of any person.

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

(3) Every one who commits an offence under paragraph (b) of subsection (1) is guilty of

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

(b) an offence punishable on summary conviction.

**317.** Every one who

(a) with intent to defraud and without lawful authority makes, executes, draws, signs, accepts or endorses a document in the name or on the account of another person by procuration or otherwise, or Drawing document without authority.

(b) makes use of or utters a document knowing that it has been made, executed, signed, accepted or endorsed with intent to defraud and without lawful authority, in the name or on the account of another person, by procuration or otherwise, Uttering.

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

Obtaining,  
etc., by  
instrument  
based on  
forged  
document

**318.** Every one who demands, receives, or obtains anything, or causes or procures anything to be delivered or paid to any person under, upon, or by virtue of any instrument issued under the authority of law, knowing that it is based on a forged document, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Counterfeit  
ing stamp

Using.

Possessing.

Instruments  
for counter-  
feiting  
stamps.

Counter-  
feiting mark.  
Selling

Affixing false  
mark.

Affixing  
counterfeit  
mark.

"Mark."

"Stamp."

**319.** (1) Every one who

(a) fraudulently uses, mutilates, affixes, removes or counterfeits a stamp or part thereof;

(b) knowingly and without lawful excuse, the proof of which lies upon him, has in his possession

(i) a counterfeit stamp or a stamp that has been fraudulently mutilated, or

(ii) anything bearing a stamp of which a part has been fraudulently erased, removed or concealed; or

(c) without lawful excuse, the proof of which lies upon him, makes or knowingly has in his possession a die or instrument that is capable of making the impression of a stamp or part thereof,

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

(2) Every one who, without lawful authority,

(a) makes a mark,

(b) sells, or exposes for sale, or has in his possession a counterfeit mark, or

(c) affixes a mark to anything that is required by law to be marked, branded, sealed or wrapped other than the thing to which the mark was originally affixed or was intended to be affixed, or

(d) affixes a counterfeit mark to anything that is required by law to be marked, branded, sealed or wrapped, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

(3) In this section,

(a) "mark" means a mark, brand, seal, wrapper or design used by or on behalf of

(i) the Government of Canada or of a province,

(ii) the government of a state other than Canada,

or

(iii) a department, board, commission or agent established by a government mentioned in subparagraph (i) or (ii) in connection with the service or business of that government; and

(b) "stamp" means an impressed or adhesive stamp used for the purpose of revenue by the Government of Canada or of a province or by the government of a state other than Canada.

**320.** (1) Every one who unlawfullyInjuring  
documents.

(a) destroys, defaces or injures a register, or any part of a register of births, baptisms, marriages, deaths or burials that is required or authorized by law to be kept in Canada, or a copy or any part of a copy of such a register that is required by law to be transmitted to a registrar or other officer,

(b) inserts or causes to be inserted in a register or copy referred to in paragraph (a) an entry, that he knows is false, of any matter relating to a birth, baptism, marriage, death or burial, or erases any material part from such a register or copy,

(c) destroys, damages or obliterates an election document or causes an election document to be destroyed, damaged or obliterated, or

(d) makes or causes to be made an erasure, alteration or interlineation in or upon an election document,

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

(2) In this section, "election document" means any document or writing issued under the authority of an Act of the Parliament of Canada or of a legislature with respect to an election held pursuant to the authority of any such Act.

"Election  
document "**321.** Every one whoFalse copy  
from register.

(a) being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, knowingly makes or issues a false certified copy, extract or certificate,

(b) not being authorized or required by law to make or issue a certified copy of, extract from or certificate in respect of a register, record or document, fraudulently makes or issues a copy, extract or certificate that purports to be certified as authorized or required by law, or

Fraudulent  
copy by  
person not  
authorized.

(c) being authorized or required by law to make a certificate or declaration concerning any particular required for the purpose of making entries in a register, record or document, knowingly and falsely makes the certificate or declaration,

Giving false  
particulars.

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

## PART VIII.

FRAUDULENT TRANSACTIONS RELATING TO  
CONTRACTS AND TRADE.

## INTERPRETATION.

- 322.** In this Part,
- "Goods," (a) "goods" means anything that is the subject of trade or commerce; and
- "Trading stamps." (b) "trading stamps" includes any form of cash receipt, receipt, coupon, premium ticket or other device, designed or intended to be given to the purchaser of goods by the vendor thereof or on his behalf, and to represent a discount on the price of the goods or a premium to the purchaser thereof
- (i) that may be redeemed
- (A) by any person other than the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods,
- (B) by the vendor, the person from whom the vendor purchased the goods, or the manufacturer of the goods in cash or in goods that are not his property in whole or in part, or
- (C) by the vendor elsewhere than in the premises where the goods are purchased; or
- (ii) that does not show upon its face the place where it is delivered and the merchantable value thereof; or
- (iii) that may not be redeemed upon demand at any time,
- but an offer, endorsed by the manufacturer upon a wrapper or container in which goods are sold, of a premium or reward for the return of that wrapper or container to the manufacturer is not a trading stamp.

## FRAUD.

- 323.** (1) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security, is guilty of an indictable offence and is liable to imprisonment for ten years.
- (2) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, with intent to defraud, affects the public market price of stocks, shares, merchandise or anything that is offered for sale to the public, is guilty of an indictable offence and is liable to imprisonment for ten years.
- Fraud.
- Affecting public market.

**324.** Every one who makes use of the mails for the purpose of transmitting or delivering letters or circulars concerning schemes devised or intended to deceive or defraud the public, or for the purpose of obtaining money under false pretences, is guilty of an indictable offence and is liable to imprisonment for two years.

Using  
mails to  
defraud

**325.** Every one who, through the facility of a stock exchange, curb market or other market, with intent to create a false or misleading appearance of active public trading in a security or with intent to create a false or misleading appearance with respect to the market price of a security,

Fraudulent  
manipulation  
of stock  
exchange  
trans-  
actions.

(a) effects a transaction in the security that involves no change in the beneficial ownership thereof,

(b) enters an order for the purchase of the security, knowing that an order of substantially the same size at substantially the same time and at substantially the same price for the sale of the security has been or will be entered by or for the same or different persons, or

(c) enters an order for the sale of the security, knowing that an order of substantially the same size at substantially the same time and at substantially the same price for the purchase of the security has been or will be entered by or for the same or different persons,

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

**326.** (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who, with intent to make gain or profit by the rise or fall in price of the stock of an incorporated or unincorporated company or undertaking, whether in or out of Canada, or of any goods, wares, or merchandise,

Gaming in  
stocks or  
merchandise.

(a) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the purchase or sale of shares of stock or goods, wares or merchandise, without the *bona fide* intention of acquiring the shares, goods, wares or merchandise or of selling them, as the case may be; or

Making  
contract  
without  
intention to  
acquire or  
sell.

(b) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of shares of stock or goods, wares or merchandise in respect of which no delivery of the thing sold or purchased is made or received, and without the *bona fide* intention of making or receiving delivery thereof, as the case may be.

Contract  
without  
delivery or  
intention to  
receive.

**Saving.** but this section does not apply where a broker, on behalf of a purchaser, receives delivery, notwithstanding that the broker retains or pledges what is delivered as security for the advance of the purchase money or any part thereof.

**Onus.** (2) Where, in proceedings under this section, it is established that the accused made or signed a contract or agreement for the sale or purchase of shares of stock or goods, wares or merchandise, or acted, aided or abetted in the making or signing thereof, the burden of proof of a *bona fide* intention to acquire or to sell the shares, goods, wares or merchandise or to deliver or to receive delivery thereof, as the case may be, lies upon the accused.

**Broker reducing stock by selling for his own account.** **327.** Every one is guilty of an indictable offence and is liable to imprisonment for five years who, being an individual, or a member or employee of a partnership, or a director, officer or employee of a corporation, where he or the partnership, or corporation is employed as a broker by any customer to buy and carry upon margin any shares of an incorporated or unincorporated company or undertaking, whether in or out of Canada, thereafter sells or causes to be sold shares of the company or undertaking for any account in which

(a) he or his firm or a partner thereof, or

(b) the corporation or a director thereof,

has a direct or indirect interest, if the effect of the sale is, otherwise than unintentionally, to reduce the amount of such shares in the hands of the broker or under his control in the ordinary course of business below the amount of such shares that the broker should be carrying for all customers.

**Fraudulent concealment.** **328.** (1) Every one who, being a vendor or mortgagor of property or of a chose in action or being a solicitor for or agent of a vendor or mortgagor of property or a chose in action, is served with a written demand for an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage, and who

**Of document of title.** (a) with intent to defraud and for the purpose of inducing the purchaser or mortgagee to accept the title offered or produced to him, conceals from him any settlement, deed, will or other instrument material to the title, or any encumbrance on the title, or

**Falsifying pedigree.** (b) falsifies any pedigree upon which the title depends, is guilty of an indictable offence and is liable to imprisonment for two years.

**Consent required.** (2) No proceedings shall be instituted under this section without the consent of the Attorney General.

**329.** Every one who, as principal or agent, in a proceeding to register title to real property, or in a transaction relating to real property that is or is proposed to be registered, knowingly and with intent to deceive,

Fraudulent registration of title.

(a) makes a material false statement or representation,

(b) suppresses or conceals from a judge or registrar or any person employed by or assisting the registrar, any material document, fact, matter or information, or

(c) is privy to anything mentioned in paragraph (a) or (b),

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

**330.** Every one who, knowing of an unregistered prior sale or of an existing unregistered grant, mortgage, hypothec, privilege or encumbrance of or upon real property, fraudulently sells the property or any part thereof is guilty of an indictable offence and is liable to imprisonment for two years.

Fraudulent sale of real property.

**331.** Every one who wilfully

(a) with intent to mislead, injure or defraud any person, whether or not that person is known to him, gives to a person anything in writing that purports to be a receipt for or an acknowledgment of property that has been delivered to or received by him, before the property referred to in the purported receipt or acknowledgment has been delivered to or received by him, or

Receipt intended to mislead.

(b) accepts, transmits or uses a purported receipt or acknowledgment to which paragraph (a) applies,

Using receipt.

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

**332.** (1) Every one who

(a) having shipped or delivered to the keeper of a warehouse or to a factor, agent or carrier, anything upon which the consignee thereof has advanced money or has given valuable security, thereafter, with intent to deceive, defraud or injure the consignee, disposes of it in a manner that is different from and inconsistent with any agreement that has been made in that behalf between him and the consignee, or

Fraudulent disposal of goods on which money advanced.

(b) knowingly and wilfully aids or assists any person to make a disposition of anything to which paragraph (a) applies for the purpose of deceiving, defrauding or injuring the consignee,

Aiding such disposal.

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

(2) No person is guilty of an offence under this section where, before disposing of anything in a manner that is different from and inconsistent with any agreement that

Saving.

has been made in that behalf between him and the consignee, he pays or tenders to the consignee the full amount of money or valuable security that the consignee has advanced.

Fraudulent  
receipts  
under  
*Bank Act*.

**333.** Every one is guilty of an indictable offence and is liable to imprisonment for two years who

(a) wilfully makes a false statement in a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the *Bank Act*; or

(b) wilfully,

(i) after giving to another person,

(ii) after a person employed by him has, to his knowledge, given to another person, or

(iii) after obtaining and endorsing or assigning to another person,

a receipt, certificate or acknowledgment for anything that may be used for a purpose mentioned in the *Bank Act*, without the consent in writing of the holder or endorsee or the production and delivery of the receipt, certificate or acknowledgment, alienates or parts with, or does not deliver to the holder or owner the property mentioned in the receipt, certificate or acknowledgment.

Saving.

**334.** Where an offence is committed under section 331, 332 or 333 by a person who acts in the name of a corporation, firm or partnership, no person other than the person who does the act by means of which the offence is committed or who is secretly privy to the doing of that act is guilty of the offence.

**335.** Every one who,

Disposal of  
property to  
defraud  
creditors.

(a) with intent to defraud his creditors,

(i) makes or causes to be made a gift, conveyance, assignment, sale, transfer or delivery of his property, or

(ii) removes, conceals or disposes of any of his property; or

Receiving.

(b) with intent that any one should defraud his creditors, receives any property by means of or in relation to which an offence has been committed under paragraph (a),

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

Fraud in  
relation to  
fares, etc.

**336.** (1) Every one whose duty it is to collect a fare, toll, ticket or admission who wilfully

(a) fails to collect it,

(b) collects less than the proper amount payable in respect thereof, or

(c) accepts any valuable consideration for failing to collect it or for collecting less than the proper amount payable in respect thereof,

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

(2) Every one who gives or offers to a person whose duty Idem. it is to collect a fare, toll, ticket or admission fee, any valuable consideration

(a) for failing to collect it, or

(b) for collecting an amount less than the amount payable in respect thereof,

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

(3) Every one who, by any false pretence or fraud, unlawfully obtains transportation by land, water or air is Fraudulently obtain transportation. guilty of an offence punishable on summary conviction.

**337.** (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who Fraud by holder of mining lease.

(a) being the holder of a lease or licence issued

(i) under an Act relating to the mining of precious metals, or

(ii) by the owner of land that is supposed to contain precious metals,

by a fraudulent device or contrivance defrauds or attempts to defraud any person of any precious metals or money payable or reserved by the lease or licence, or fraudulently conceals or makes a false statement with respect to the amount of precious metals procured by him;

(b) sells or purchases any rock, mineral, or other substance that contains precious metals or unsmelted, untreated, unmanufactured, or partly smelted, partly treated or partly manufactured precious metals, unless he establishes that he is the owner or agent of the owner or is acting under lawful authority; or Unlawful sale of substance containing precious metals.

(c) has in his possession or knowingly has upon his premises Unlawful possession.

(i) any rock or mineral of a value of twenty-five cents per pound or more,

(ii) any mica of a value of seven cents per pound or more, or

(iii) any precious metals,

that there is reasonable ground to believe have been stolen or have been dealt with contrary to this section, unless he establishes that he is lawfully in possession thereof.

(2) Where a person is convicted of an offence under this section, the court may order anything by means of or in relation to which the offence was committed, upon such conviction, to be forfeited to Her Majesty in right of the province in which the proceedings take place. Seizure and forfeiture.

Search for  
precious  
metals.

**338.** (1) Where an information in writing is laid under oath before a justice by any person having an interest in a mining claim, that any precious metals or rock, mineral or other substance containing precious metals is unlawfully deposited in any place or held by any person contrary to law, the justice may issue a warrant to search any of the places or persons mentioned in the information.

Power  
to seize.

(2) Where, upon search, anything mentioned in subsection (1) is found, it shall be seized and carried before the justice who shall order

(a) that it be detained for the purposes of an inquiry or trial, or

(b) if it is not detained for the purposes of an inquiry or trial,

(i) that it be restored to the owner, or

(ii) that it be forfeited to Her Majesty in right of the province in which the proceedings take place if the owner cannot be ascertained.

Appeal.

(3) An appeal lies from an order made under paragraph (b) of subsection (2) in the manner in which an appeal lies in summary conviction proceedings under Part XXIV and the provisions of that Part relating to appeals apply to appeals under this subsection.

Salting  
mine.

**339.** (1) Every one who

(a) adds anything to or removes anything from an existing or prospective mine, mining claim or oil well with a fraudulent intent to affect the result of an assay, test or valuation that has been made or is to be made with respect to the mine, mining claim or oil well, or

Salting  
sample

(b) adds anything to, removes anything from or tampers with a sample or material that has been taken or is being or is about to be taken from an existing or prospective mine, mining claim or oil well for the purpose of being assayed, tested or otherwise valued, with a fraudulent intent to affect the result of the assay, test or valuation,

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

Presumption

(2) For the purposes of proceedings under subsection (1), evidence that

(a) something has been added to or removed from anything to which subsection (1) applies, or

(b) anything to which subsection (1) applies has been tampered with,

is *prima facie* evidence of a fraudulent intent to affect the result of an assay, test or valuation.

## FALSIFICATION OF BOOKS AND DOCUMENTS.

- 340.** (1) Every one who, with intent to defraud,  
 (a) destroys, mutilates, alters, falsifies, or makes a false entry in, or By destruction, etc.  
 (b) omits a material particular from, or alters a material particular in,  
 a book, paper, writing, valuable security or document is guilty of an indictable offence and is liable to imprisonment for five years.
- (2) Every one who, with intent to defraud his creditors, is privy to the commission of an offence under subsection (1) To defraud creditors. is guilty of an indictable offence and is liable to imprisonment for five years.

**341.** Every one who, with intent to deceive, falsifies an employment record by any means, including the punching of a time clock, is guilty of an offence punishable on summary conviction. False employment record. Time clock.

**342.** Every one who, being entrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes a false statement or return of False return by public officer.  
 (a) any sum of money collected by him or entrusted to his care, or  
 (b) any balance of money in his hands or under his control,  
 is guilty of an indictable offence and is liable to imprisonment for five years.

**343.** (1) Every one who makes, circulates or publishes a prospectus, statement or account, whether written or oral, that he knows is false in a material particular, with intent False prospectus, etc.  
 (a) to induce persons, whether ascertained or not, to become shareholders or partners in a company,  
 (b) to deceive or defraud the members, shareholders or creditors, whether ascertained or not, of a company,  
 (c) to induce any person to entrust or advance anything to a company, or  
 (d) to enter into any security for the benefit of a company,  
 is guilty of an indictable offence and is liable to imprisonment for ten years.

(2) In this section, "company" means a syndicate, body corporate or company, whether existing or proposed to be created. "Company."

**344.** (1) Every one who, by means of a false or misleading representation, knowingly obtains or attempts to obtain the carriage of anything by any person into a Obtaining carriage by false billing.

country, province, district or other place, whether or not within Canada, where the importation or transportation of it is, in the circumstances of the case, unlawful is guilty of an offence punishable on summary conviction.

Forfeiture.

(2) Where a person is convicted of an offence under subsection (1), anything by means of or in relation to which the offence was committed, upon such conviction, in addition to any punishment that is imposed, is forfeited to Her Majesty and shall be disposed of as the court may direct.

Trader failing to keep accounts.

**345.** (1) Every one who, being a trader or in business, (a) is indebted in an amount exceeding one thousand dollars, (b) is unable to pay his creditors in full, and (c) has not kept books of account that, in the ordinary course of the trade or business in which he is engaged, are necessary to exhibit or explain his transactions, is guilty of an indictable offence and is liable to imprisonment for two years.

Saving.

(2) No person shall be convicted of an offence under this section (a) where, to the satisfaction of the court or judge, he (i) accounts for his losses, and (ii) shows that his failure to keep books was not intended to defraud his creditors; or (b) where his failure to keep books occurred at a time more than five years prior to the day on which he was unable to pay his creditors in full.

#### PERSONATION.

Personation with intent.

**346.** Every one who fraudulently personates any person, living or dead, (a) with intent to gain advantage for himself or another person, (b) with intent to obtain any property or an interest in any property, or (c) with intent to cause disadvantage to the person whom he personates or another person, is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Personation at examination.

**347.** Every one who falsely, with intent to gain advantage for himself or some other person, personates a candidate at a competitive or qualifying examination held under the authority of law or in connection with a university, college or school or who knowingly avails himself of the results of such personation is guilty of an offence punishable on summary conviction.

**348.** Every one who, without lawful authority or excuse, the proof of which lies upon him, acknowledges in the name of another person before a court or a judge or other person authorized to receive the acknowledgment, a recognizance of bail, a confession of judgment, a consent to judgment or a judgment, deed or other instrument, is guilty of an indictable offence and is liable to imprisonment for five years.

Acknowledg-  
ing  
instrument in  
false name.

#### FORGERY OF TRADE MARKS AND TRADE DESCRIPTIONS.

**349.** For the purposes of this Part, every one forges a trade mark who

- (a) without the consent of the proprietor of the trade mark, makes or reproduces in any manner that trade mark or a mark so nearly resembling it as to be calculated to deceive, or
- (b) falsifies, in any manner, a genuine trade mark.

Simulating  
trade mark

Falsifying  
trade mark.

**350.** Every one commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not, forges a trade mark.

Forging  
trade mark.

**351.** Every one commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not,

Passing  
off.

- (a) passes off other wares or services as and for those ordered or required, or
- (b) makes use, in association with wares or services, of any description that is false in a material respect as to
  - (i) the kind, quality, quantity or composition,
  - (ii) the geographical origin, or
  - (iii) the mode of the manufacture, production or performance

of such wares or services.

**352.** (1) Every one commits an offence who makes, has in his possession or disposes of a die, block, machine or other instrument, designed or intended to be used in forging a trade mark.

Instruments  
for forging  
trade mark.

(2) No person shall be convicted of an offence under this section where he proves that he acted in good faith in the ordinary course of his business or employment.

Saving.

**353.** Every one commits an offence who, with intent to deceive or defraud,

- (a) defaces, conceals or removes a trade mark or the name of another person from anything without the consent of that other person, or
- (b) being a manufacturer, dealer, trader or bottler fills any bottle or siphon that bears the trade mark or name of another person, without the consent of that other

Defacing  
trade  
mark.

Using  
bottles  
bearing  
trade mark  
of another.

person, with a beverage, milk, by-product of milk or other liquid commodity for the purpose of sale or traffic.

Used goods  
sold without  
disclosure.

**354.** Every one commits an offence who sells, exposes or has in his possession for sale, or advertises for sale, goods that have been used, reconditioned or remade and that bear the trade mark or the trade name of another person, without making full disclosure that the goods have been reconditioned, rebuilt or remade for sale and that they are not then in the condition in which they were originally made or produced.

Punishment.

**355.** (1) Every one who commits an offence under section 350, 351, 352, 353 or 354 is guilty of

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

(b) an offence punishable on summary conviction.

Forfeiture.

(2) Anything by means of or in relation to which a person commits an offence under section 350, 351, 352, 353 or 354 is, unless the court otherwise orders, forfeited upon the conviction of that person for that offence.

Falsely  
claiming  
Royal  
Warrant.

**356.** Every one who falsely represents that goods are made by a person holding a royal warrant, or for the service of Her Majesty, a member of the Royal Family or a public department is guilty of an offence punishable on summary conviction.

Presumption  
from port  
of shipment.

**357.** Where, in proceedings under this Part, the alleged offence relates to imported goods, evidence that the goods were shipped to Canada from a place outside of Canada is *prima facie* evidence that the goods were made or produced in the country from which they were shipped.

#### WRECK.

Secreting  
wreck.

**358.** Every one who

(a) secretes wreck, or defaces or obliterates the marks on wreck, or uses any means to disguise or conceal the fact that anything is wreck, or in any manner conceals the character of wreck, from a person who is entitled to inquire into the wreck,

Receiving  
wreck.

(b) receives wreck, knowing that it is wreck, from a person other than the owner thereof or a receiver of wreck, and does not within forty-eight hours thereafter inform the receiver of wreck thereof,

Offering  
wreck for  
sale.

(c) offers wreck for sale or otherwise deals with it, knowing that it is wreck, and not having a lawful authority to sell or deal with it,

- (d) keeps wreck in his possession knowing that it is wreck, without lawful authority to keep it, for any time longer than the time reasonably necessary to deliver it to the receiver of wreck, or Keeping wreck.
- (e) boards, against the will of the master, a vessel that is wrecked, stranded or in distress unless he is a receiver of wreck or a person acting under orders of a receiver of wreck, Boarding wrecked vessel.
- is guilty of
- (f) an indictable offence and is liable to imprisonment for two years, or
- (g) an offence punishable on summary conviction.

## PUBLIC STORES.

**359.** The Governor-in-Council may, by notice to be published in the *Canada Gazette*, prescribe distinguishing marks that are appropriated for use on public stores to denote the property of Her Majesty therein, whether the stores belong to Her Majesty in right of Canada or to Her Majesty in any other right. Distinguishing mark on public stores.

- 360.** (1) Every one who,
- (a) without lawful authority, the proof of which lies upon him, applies a distinguishing mark to anything, or Applying or removing marks without authority.
- (b) with intent to conceal the property of Her Majesty in public stores, removes, destroys or obliterates, in whole or in part, a distinguishing mark,
- is guilty of an indictable offence and is liable to imprisonment for two years.
- (2) Every one who, without lawful authority, the proof of which lies upon him, receives, possesses, keeps, sells or delivers public stores that he knows bear a distinguishing mark is guilty of
- (a) an indictable offence and is liable to imprisonment for two years, or
- (b) an offence punishable on summary conviction.
- (3) For the purposes of this section, "distinguishing mark" means a distinguishing mark that is appropriated for use on public stores pursuant to section 359. "Distinguishing mark."

**361.** (1) Every one who knowingly sells or delivers defective stores to Her Majesty or commits fraud in connection with the sale, lease or delivery of stores to Her Majesty or the manufacture of stores for Her Majesty is guilty of an indictable offence and is liable to imprisonment for fourteen years. Selling defective stores to Her Majesty.

Offences by  
officers and  
employees of  
corporations.

(2) Every one who, being a director, officer, agent or employee of a corporation that commits, by fraud, an offence under subsection (1),

(a) knowingly takes part in the fraud, or

(b) knows or has reason to suspect that the fraud is being committed or has been or is about to be committed and does not inform the responsible government, or a department thereof, of Her Majesty,

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

Unlawful use  
of military  
uniforms or  
certificates.

**362.** Every one who without lawful authority, the proof of which lies upon him,

(a) wears a uniform of the Canadian Forces or any other naval, army or air force or a uniform that is so similar to the uniform of any of those forces that it is likely to be mistaken therefor,

(b) wears a distinctive mark relating to wounds received or service performed in war, or a military medal, ribbon, badge, chevron or any decoration or order that is awarded for war services, or any imitation thereof, or any mark or device or thing that is likely to be mistaken for any such mark, medal, ribbon, badge, chevron, decoration or order,

(c) has in his possession a certificate of discharge, certificate of release, statement of service or identity card from the Canadian Forces or any other naval, army or air force that has not been issued to and does not belong to him, or

(d) has in his possession a commission or warrant or a certificate of discharge, certificate of release, statement of service or identity card issued to an officer or person in or who has been in the Canadian Forces or any other naval, army or air force, that contains any alteration that is not verified by the initials of the officer who issued it, or by the initials of some officer thereto lawfully authorized,

is guilty of an offence punishable on summary conviction.

Military  
stores.

**363.** (1) Every one who buys, receives or detains from a member of the Canadian Forces or a deserter or absentee without leave from those forces any military stores that are owned by Her Majesty or for which the member, deserter or absentee without leave is accountable to Her Majesty is guilty of

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

(b) an offence punishable on summary conviction.

(2) No person shall be convicted of an offence under this section where he establishes that he did not know and had no reason to suspect that the military stores in respect of which the offence was committed were owned by Her Majesty or were military stores for which the member, deserter or absentee without leave was accountable to Her Majesty.

Exception.

**364.** (1) In proceedings under sections 360 to 363, evidence that a person was at any time performing duties in the Canadian Forces is *prima facie* evidence that his enrolment in the Canadian Forces prior to that time was regular.

Evidence of enlistment.

(2) An accused who is charged with an offence under subsection (2) of section 360 shall be presumed to have known that the stores in respect of which the offence is alleged to have been committed bore a distinguishing mark within the meaning of that subsection at the time the offence is alleged to have been committed if he was, at that time, in the service or employment of Her Majesty or was a dealer in marine stores or in old metals.

Presumption when accused a dealer in stores.

#### BREACH OF CONTRACT, INTIMIDATION AND DISCRIMINATION AGAINST TRADE UNIONISTS.

**365.** (1) Every one who wilfully breaks a contract, knowing or having reasonable cause to believe that the probable consequences of doing so, whether alone or in combination with others, will be

Criminal breach of contract.

- (a) to endanger human life,
- (b) to cause serious bodily injury,
- (c) to expose valuable property, real or personal, to destruction or serious injury,
- (d) to deprive the inhabitants of a city or place, or part thereof, wholly or to a great extent, of their supply of light, power, gas or water, or
- (e) to delay or prevent the running of a locomotive engine, tender, freight or passenger train or car, on a railway that is a common carrier,

Where life endangered

Causing bodily injury.

Endangering property.

Depriving of services.

Preventing running of trains.

is guilty of

- (f) an indictable offence and is liable to imprisonment for five years, or
- (g) an offence punishable on summary conviction.

(2) No person wilfully breaks a contract within the meaning of subsection (1) by reason only that

Saving.

- (a) being the employee of an employer, he stops work as a result of the failure of his employer and himself to agree upon any matter relating to his employment, or,
- (b) being a member of an organization of employees formed for the purpose of regulating relations between

employers and employees, he stops work as a result of the failure of the employer and a bargaining agent acting on behalf of the organization to agree upon any matter relating to the employment of members of the organization,

if, before the stoppage of work occurs, all steps provided by law with respect to the settlement of industrial disputes are taken and any provision for the final settlement of differences, without stoppage of work, contained in or by law deemed to be contained in a collective agreement is complied with and effect given thereto.

Consent  
required

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

Intimidation.

**366.** (1) Every one who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that he has a lawful right to do, or to do anything that he has a lawful right to abstain from doing,

By violence

(a) uses violence or threats of violence to that person or to his wife or children, or injures his property,

By threats.

(b) intimidates or attempts to intimidate that person or a relative of that person by threats that, in Canada or elsewhere, violence or other injury will be done to or punishment inflicted upon him or a relative of his, or that the property of any of them will be damaged,

By following.

(c) persistently follows that person about from place to place,

By hiding property.

(d) hides any tools, clothes or other property owned or used by that person, or deprives him of them or hinders him in the use of them,

By disorderly conduct.

(e) with one or more other persons follows that person, in a disorderly manner, on a highway,

By watching or besetting.

(f) besets or watches the dwelling house or place where that person resides, works, carries on business or happens to be, or

By obstructing highway.

(g) blocks or obstructs a highway,  
is guilty of an offence punishable on summary conviction.

Exception.

(2) A person who attends at or near or approaches a dwelling house or place, for the purpose only of obtaining or communicating information, does not watch or beset within the meaning of this section.

Employer  
refusing to  
employ mem-  
ber of trade  
union.

**367.** Every one who, being an employer or the agent of an employer, wrongfully and without lawful authority

(a) refuses to employ or dismisses from his employment any person for the reason only that the person is a member of a lawful trade union or of a lawful association or combination of workmen or employees formed for

the purpose of advancing, in a lawful manner, their interests and organized for their protection in the regulation of wages and conditions of work,

(b) seeks by intimidation, threat of loss of position or employment, or by causing actual loss of position or employment, or by threatening or imposing any pecuniary penalty, to compel workmen or employees to abstain from belonging to a trade union, association or combination to which they have a lawful right to belong, or

Employer  
intimidating  
workman.

(c) conspires, combines, agrees or arranges with any other employer or his agent to do anything mentioned in paragraph (a) or (b),

Employers  
conspiring.

is guilty of an offence punishable on summary conviction.

#### SECRET COMMISSIONS.

**368.** (1) Every one commits an offence who

(a) corruptly

Bribery of  
agent.

(i) gives, offers or agrees to give or offer to an agent, or

(ii) being an agent, demands, accepts or offers or agrees to accept from any person,

Agent  
accepting  
bribe.

a reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, any act relating to the affairs or business of his principal or for showing or forbearing to show favour or disfavour to any person with relation to the affairs or business of his principal; or

(b) with intent to deceive a principal gives to an agent of that principal, or, being an agent, uses with intent to deceive his principal, a receipt, account, or other writing

(i) in which the principal has an interest,

(ii) that contains any statement that is false or erroneous or defective in any material particular, and

False  
account to  
deceive  
principal.

(iii) that is intended to mislead the principal.

(2) Every one commits an offence who is knowingly privy to the commission of an offence under subsection (1).

Privy to  
offence.

(3) A person who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.

Punish-  
ment.

(4) In this section,

(a) "agent" includes an employee, and

"Agent."

(b) "principal" includes an employer.

"Principal."

## TRADING STAMPS.

Issuing  
trading  
stamps.

**369.** (1) Every one who, by himself or his employee or agent, directly or indirectly issues, gives, sells or otherwise disposes of, or offers to issue, give, sell or otherwise dispose of trading stamps to a merchant or dealer in goods for use in his business is guilty of an offence punishable on summary conviction.

Giving to  
purchaser  
of goods.

(2) Every one who, being a merchant or dealer in goods, by himself or his employee or agent, directly or indirectly gives or in any way disposes of, or offers to give or in any way dispose of, trading stamps to a person who purchases goods from him is guilty of an offence punishable on summary conviction.

## PART IX.

WILFUL AND FORBIDDEN ACTS IN RESPECT  
OF CERTAIN PROPERTY.

## INTERPRETATION.

"Property." **370.** In this Part, "property" means real or personal corporeal property.

"Wilfully." **371.** (1) Every one who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event.

Colour of right. (2) No person shall be convicted of an offence under sections 372 to 387 where he proves that he acted with legal justification or excuse and with colour of right.

(3) Where it is an offence to destroy or to damage anything,

Partial interest. (a) the fact that a person has a partial interest in what is destroyed or damaged does not prevent him from being guilty of the offence if he caused the destruction or damage, and

Total interest. (b) the fact that a person has a total interest in what is destroyed or damaged does not prevent him from being guilty of the offence if he caused the destruction or damage with intent to defraud.

## MISCHIEF.

Destruction  
or damage.  
Rendering  
property  
dangerous,  
etc.

**372.** (1) Every one commits mischief who wilfully  
(a) destroys or damages property,  
(b) renders property dangerous, useless, inoperative or ineffective,

- (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property, or
- (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.
- (2) Every one who commits mischief that causes actual danger to life is guilty of an indictable offence and is liable to imprisonment for life.
- (3) Every one who commits mischief in relation to public property is guilty of an indictable offence and is liable to imprisonment for fourteen years. *Idem*
- (4) Every one who commits mischief in relation to private property is guilty of an indictable offence and is liable to imprisonment for five years. *Idem*
- (5) Every one who wilfully does an act or wilfully omits to do an act that it is his duty to do is, if that act or omission is likely to constitute mischief causing actual danger to life, or to constitute mischief in relation to public property or private property, guilty of an indictable offence and is liable to imprisonment for five years. *Offence.*
- (6) No person commits mischief within the meaning of this section by reason only that *Saving.*
- (a) he stops work as a result of the failure of his employer and himself to agree upon any matter relating to his employment,
- (b) he stops work as a result of the failure of his employer and a bargaining agent acting on his behalf to agree upon any matter relating to his employment, or
- (c) he stops work as a result of his taking part in a combination of workmen or employees for their own reasonable protection as workmen or employees.
- (7) No person commits mischief within the meaning of this section by reason only that he attends at or near or approaches a dwelling house or place for the purpose only of obtaining or communicating information. *Idem*

**373.** (1) Every one who wilfully destroys or damages property is, where actual danger to life is not involved, guilty of an offence punishable on summary conviction if the alleged amount of destruction or damage does not exceed fifty dollars. *Damage not more than fifty dollars.*

(2) Where an accused is convicted of an offence under subsection (1) the summary conviction court may, in addition to any punishment that is imposed, order the accused to pay to a person aggrieved an amount not exceeding fifty dollars that appears to the summary conviction court to be reasonable compensation for the destruction or damage. *Compensation.*

(3) The summary conviction court may order that where an amount that is adjudged to be paid as compensation under subsection (2) is not paid forthwith or within the *Imprisonment in default.*

period that the summary conviction court appoints at the time of the conviction, the accused shall be imprisoned for a term not exceeding two months.

*Idem.* (4) The summary conviction court may order that terms of imprisonment that are imposed under this section shall take effect one after the other.

#### ARSON AND OTHER FIRES.

*Arson.* **374.** (1) Every one who wilfully sets fire to  
 (a) a building or structure, whether completed or not,  
 (b) a stack of vegetable produce or of mineral or vegetable fuel,  
 (c) a mine,  
 (d) a well of combustible substance,  
 (e) a vessel or aircraft, whether completed or not,  
 (f) timber or materials placed in a shipyard for building, repairing or fitting out a ship,  
 (g) military or public stores or munitions of war,  
 (h) a crop, whether standing or cut down, or  
 (i) any wood, forest, or natural growth, or any lumber, timber, log, float, boom, dam or slide,  
 is guilty of an indictable offence and is liable to imprisonment for fourteen years.

*Fraudulently burning personal property.* (2) Every one who wilfully and for a fraudulent purpose sets fire to personal property not mentioned in subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years.

*Setting fire to other substance.* **375.** Every one who  
 (a) wilfully sets fire to anything that is likely to cause anything mentioned in subsection (1) of section 374 to catch fire; or  
 (b) wilfully and for a fraudulent purpose sets fire to anything that is likely to cause personal property not mentioned in subsection (1) of section 374 to catch fire,  
 is guilty of an indictable offence and is liable to imprisonment for five years.

*Presumption against holder of insurance.* **376.** Where a person is charged with an offence under section 374 or 375, evidence that he is the holder of or is named as the beneficiary under a policy of fire insurance relating to the property in respect of which the offence is alleged to have been committed is, where intent to defraud is material, *prima facie* evidence of intent to defraud.

*Setting a fire by negligence.* **377.** (1) Every one who causes a fire  
 (a) wilfully, or  
 (b) by violating a law in force in the place where the fire occurs,

is, if the fire results in loss of life or destruction of or damage to property, guilty of an indictable offence and is liable to imprisonment for five years.

(2) For the purposes of this section, the person who owns, occupies or controls property in which a fire that results in loss of life or destruction of or damage to property originates or occurs shall be deemed wilfully to have caused the fire if he has failed to comply with any law that is intended to prevent fires or that requires the property to be equipped with apparatus for the purpose of extinguishing fires or for the purpose of enabling persons to escape in the event of fire, and if it is established that the fire, or the loss of life, or the whole or any substantial portion of the destruction of or damage to the property would not have occurred if he had complied with the law.

Presumption  
against  
person in  
control of  
premises.

#### OTHER INTERFERENCE WITH PROPERTY.

**378.** Every one who wilfully, without reasonable cause, by outcry, ringing bells, using a fire alarm, telephone or telegraph, or in any other manner, makes or circulates or causes to be made or circulated an alarm of fire is guilty of an offence punishable on summary conviction.

False alarm  
of fire.

**379.** (1) Every one who wilfully prevents or impedes or who wilfully endeavours to prevent or impede,  
(a) the saving of a vessel that is wrecked, stranded, abandoned or in distress, or  
(b) a person who attempts to save a vessel that is wrecked, stranded, abandoned or in distress,  
is guilty of an indictable offence and is liable to imprisonment for five years.

Interfering  
with saving  
of wrecked  
vessel.

(2) Every one who wilfully prevents or impedes or wilfully endeavours to prevent or impede the saving of wreck is guilty of an offence punishable on summary conviction.

Interfering  
with saving  
of wreck.

**380.** (1) Every one who makes fast a vessel or boat to a signal, buoy or other sea mark that is used for purposes of navigation is guilty of an offence punishable on summary conviction.

Interfering  
with marine  
signal, etc.

(2) Every one who wilfully alters, removes or conceals a signal, buoy or other sea mark that is used for purposes of navigation is guilty of an indictable offence and is liable to imprisonment for ten years.

**381.** Every one who wilfully and without the written permission of the Minister of Transport, the burden of proof of which lies on the accused, removes any stone, wood, earth or other material that forms a natural bar necessary to the existence of a public harbour, or that forms a natural protection to such a bar, is guilty of an indictable offence and is liable to imprisonment for two years.

Removing  
natural bar  
without  
permission.

Occupant  
injuring  
building.

**382.** Every one who, wilfully and to the prejudice of a mortgagee or owner, pulls down, demolishes or removes, all or any part of a dwelling house or other building of which he is in possession or occupation, or severs from the freehold any fixture fixed therein or thereto is guilty of an indictable offence and is liable to imprisonment for five years.

Interfering  
with  
boundary  
lines.

**383.** Every one who wilfully pulls down, defaces, alters or removes anything planted or set up as the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction.

Interfering  
with  
international  
boundary  
marks, etc.

**384.** (1) Every one who wilfully pulls down, defaces, alters or removes

(a) a boundary mark lawfully placed to mark an international, provincial, county or municipal boundary, or

(b) a boundary mark lawfully placed by a land surveyor to mark a limit, boundary or angle of a concession, range, lot or parcel of land,

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

Saving.

(2) A land surveyor does not commit an offence under subsection (1) where, in his operations as a land surveyor, he takes up, when necessary, a boundary mark mentioned in paragraph (b) of subsection (1) and carefully replaces it as it was before he took it up.

#### CATTLE AND OTHER ANIMALS.

Killing or  
injuring  
cattle.  
Placing  
poison.

**385.** Every one who wilfully

(a) kills, maims, wounds, poisons or injures cattle, or

(b) places poison in such a position that it may easily be consumed by cattle,

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

Killing or  
injuring  
other  
animals.

Placing  
poison.

**386.** Every one who wilfully and without lawful excuse

(a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose, or

(b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose,

is guilty of an offence punishable on summary conviction.

#### CRUELTY TO ANIMALS.

Causing  
unnecessary  
suffering.

**387.** (1) Every one commits an offence who

(a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or bird,

- (b) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed, Causing injury by negligence.
- (c) being the owner or the person having the custody or control of a domestic animal or bird or an animal or bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it, Abandoning.
- (d) in any manner encourages, aids or assists at the fighting or baiting of animals or birds, Baiting.
- (e) wilfully, without reasonable excuse, administers a poisonous or injurious drug or substance to a domestic animal or bird or an animal or bird wild by nature that is kept in captivity or being the owner of such an animal or bird, wilfully permits a poisonous or injurious drug or substance to be administered to it, or Poisoning.
- (f) promotes, arranges, conducts, assists in, receives money for, or takes part in a meeting, competition, exhibition, pastime, practice, display, or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated, or Field trials.
- (g) being the owner, occupier, or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (f).
- (2) Every one who commits an offence under subsection (1) is guilty of an offence punishable on summary conviction. Punishment
- 388.** (1) Every one who builds, makes, maintains or keeps a cock-pit on premises that he owns or occupies, or allows a cock-pit to be built, made, maintained or kept on such premises is guilty of an offence punishable on summary conviction. Keeping cock-pit.
- (2) A peace officer who finds cocks in a cock-pit or on premises where a cock-pit is located shall seize them and take them before a justice who shall order them to be destroyed. Confiscation.
- 389.** (1) Except as provided in this section, no railway company or owner or master of a vessel shall confine cattle in a railway car or vessel in which they are conveyed in Canada or between Canada and the United States for more than thirty-six hours without unloading the cattle for rest, water and feeding for a period of at least five consecutive hours. Transportation of cattle by rail or water.
- (2) No offence is committed under subsection (1) where compliance with that subsection is prevented by storm or by necessary delay or detention or by other unavoidable cause. Saving.
- (3) No railway company or owner or master of a vessel shall convey in a railway car or vessel calves that are under the age of three weeks except calves at foot of milch cows or pure-bred calves. Transportation of calves.

- Time how reckoned.** (4) For the purposes of subsection (1) the period of confinement of cattle includes the time during which the cattle have been confined without rest, food or water on a connecting railway or vessel from which the cattle are received, whether in the United States or in Canada.
- Saving.** (5) This section does not apply in respect of cattle that are carried in a car or vessel in which they have proper space and opportunity for rest and in which they are provided with proper food and water.
- Lien for food.** (6) The owner of cattle to which this section applies or the person who has custody of them shall properly feed and water them during the periods of rest required by this section, but if he does not do so, the railway company or the owner or master of the vessel that carries them shall properly feed and water them at the expense of the owner or of the person who has custody of them, and the railway company or owner or master of the vessel, as the case may be, has a lien in respect thereof upon the cattle and is not liable for any detention of the cattle.
- Sanitary precautions.** (7) When cattle are unloaded from cars for rest, food and water as required by this section, the railway company that has, at that time, charge of the cars in which the cattle have been carried, shall, except during a period of frost, clean the floors of the cars and litter them with clean sawdust or sand before they are again loaded with livestock.
- Over-crowding.** (8) No railway company shall permit a railway car or other vehicle that carries cattle or other domestic animals or birds on the railway to be overcrowded so that unnecessary suffering is caused to the cattle or other domestic animals or birds therein.
- Conveying bulls.** (9) No railway company shall permit a bull of mature age to be carried on its railway in the same railway car with other cattle unless the bull is securely tied by the head.
- Punishment.** (10) Every one who knowingly and wilfully violates or wilfully fails to comply with this section is guilty of an offence punishable on summary conviction.
- Search.** **390.** (1) A peace officer who believes on reasonable and probable grounds that a person has failed to comply with section 389 in respect of a vehicle or vessel may at any time enter the vehicle or go on board the vessel.
- Obstruction.** (2) Every one who refuses to admit a peace officer acting under subsection (1) to a vehicle or vessel or to any premises where the vehicle or vessel is located is guilty of an offence punishable on summary conviction.

## PART X.

## OFFENCES RELATING TO CURRENCY.

## INTERPRETATION.

**391.** In this Part,

- (a) "copper coin" means a coin other than a gold or silver coin; "Copper coin."
- (b) "counterfeit money" includes
  - (i) a false coin or false paper money that resembles or is apparently intended to resemble or pass for a current coin or current paper money, "Counterfeit money."
  - (ii) a forged bank note or forged blank bank note, whether complete or incomplete,
  - (iii) a genuine coin or genuine paper money that is prepared or altered to resemble or pass for a current coin or current paper money of a higher denomination,
  - (iv) a current coin from which the milling is removed by filing or cutting the edges and on which new milling is made to restore its appearance,
  - (v) a coin cased with gold or silver, as the case may be, that is intended to resemble or pass for a current gold or silver coin, and
  - (vi) a coin or a piece of metal or mixed metals washed or coloured by any means with a wash or material capable of producing the appearance of gold or silver and that is intended to resemble or pass for a current gold or silver coin;
- (c) "counterfeit token of value" means a counterfeit excise stamp, postage stamp or other evidence of value, by whatever technical, trivial or deceptive designation it may be described, and includes genuine coin or paper money that has no value as money; "Counterfeit token of value."
- (d) "current" means lawfully current in Canada or elsewhere by virtue of a law, proclamation or regulation in force in Canada or elsewhere as the case may be; and "Current."
- (e) "utter" includes sell, pay, tender and put off. "Utter."

## MAKING.

**392.** Every one who makes or begins to make counterfeit money is guilty of an indictable offence and is liable to imprisonment for fourteen years. Making.

## POSSESSION.

**393.** Every one who, without lawful justification or excuse, the proof of which lies upon him,

- (a) buys, receives or offers to buy or receive, Buying.
- (b) has in his custody or possession, or Having.

Importing. (c) introduces into Canada, counterfeit money is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Having clippings, etc. **394.** Every one who, without lawful justification or excuse, the proof of which lies upon him, has in his custody or possession  
 (a) gold or silver filings or clippings,  
 (b) gold or silver bullion, or  
 (c) gold or silver in dust, solution or otherwise,  
 produced or obtained by impairing, diminishing or lightening a current gold or silver coin, knowing that it has been so produced or obtained, is guilty of an indictable offence and is liable to imprisonment for five years.

#### UTTERING.

Uttering counterfeit money. Exporting. **395.** Every one who, without lawful justification or excuse, the proof of which lies upon him,  
 (a) utters or offers to utter counterfeit money or uses counterfeit money as if it were genuine, or  
 (b) exports, sends or takes counterfeit money out of Canada,  
 is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Uttering coin not current. Uttering false coin. **396.** Every one who, with intent to defraud, knowingly utters  
 (a) a coin that is not current, or  
 (b) a piece of metal or mixed metals that resembles in size, figure and colour a current gold or silver coin and is of less value than the current coin for which it is uttered,  
 is guilty of an indictable offence and is liable to imprisonment for two years.

Fraudulent use of slugs, etc. **397.** Everyone who fraudulently inserts or uses in a machine that vends merchandise or services or collects fares or tolls, anything that is intended to pass for the coin or the token of value that the machine is designed to receive in exchange for the merchandise, service, fare or toll, as the case may be, is guilty of an offence punishable on summary conviction.

#### DEFACING OR IMPAIRING.

Clipping coin. **398.** Every one who  
 (a) impairs, diminishes or lightens a current gold or silver coin with intent that it should pass for a current gold or silver coin, or

(b) utters a coin, knowing that it has been impaired, diminished or lightened contrary to paragraph (a), is guilty of an indictable offence and is liable to imprisonment for fourteen years. Uttering clipped coin.

**399.** Every one who  
 (a) defaces a current gold, silver or copper coin, or Defacing current coin.  
 (b) utters a current gold, silver or copper coin that has been defaced, Uttering defaced coin.  
 is guilty of an offence punishable on summary conviction.

**400.** (1) Every one who designs, engraves, prints or in any manner makes, executes, issues, distributes, circulates or uses a business or professional card, notice, placard, circular, handbill or advertisement in the likeness or appearance of Printing circulars, etc., in likeness of notes.

(a) a current bank note or current paper money, or  
 (b) any obligation or security of a government or a bank,  
 is guilty of an offence punishable on summary conviction.

(2) Every one who publishes or prints anything in the likeness or appearance of Printing anything in likeness of bank note, etc.

(a) all or part of a current bank note or current paper money, or

(b) all or part of any obligation or security of a government or a bank, is guilty of an offence punishable on summary conviction.

(3) No person shall be convicted of an offence under subsection (2) where it is established that, in publishing or printing anything to which that subsection applies, When no conviction under subsection (2).

(a) no photography was used at any stage for the purpose of publishing or printing it, except in connection with processes necessarily involved in transferring a finished drawing or sketch to a printed surface,

(b) except for the word 'Canada', nothing having the appearance of a word, letter or numeral was a complete word, letter or numeral.

(c) no representation of a human face or figure was more than a general indication of features, without detail,

(d) no more than one colour was used, and

(e) nothing in the likeness or appearance of the back of a current bank note or current paper money was published or printed in any form.

#### INSTRUMENTS OR MATERIALS.

**401.** Every one who, without lawful justification or excuse, the proof of which lies upon him,  
 (a) makes or repairs, Making, having or dealing in instruments for counterfeiting.  
 (b) begins or proceeds to make or repair,

(c) buys or sells, or  
 (d) has in his custody or possession,  
 a machine, engine, tool, instrument, material or thing that he knows has been used or that he knows is adapted and intended for use in making counterfeit money or counterfeit tokens of value is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Conveying  
 instruments  
 for coining  
 out of mint

**402.** Every one who, without lawful justification or excuse, the proof of which lies upon him, knowingly conveys out of any of Her Majesty's mints in Canada,

(a) a machine, engine, tool, instrument, material or thing used or employed in connection with the manufacture of coins,

(b) a useful part of anything mentioned in paragraph (a), or

(c) coin, bullion, metal or a mixture of metals,  
 is guilty of an indictable offence and is liable to imprisonment for fourteen years.

#### ADVERTISING AND TRAFFICKING IN COUNTERFEIT MONEY OR COUNTERFEIT TOKENS OF VALUE.

Advertising  
 offer to deal  
 in  
 counterfeit  
 money, etc.

**403.** (1) Every one who

(a) by an advertisement or any other writing offers to sell, procure or dispose of counterfeit money or counterfeit tokens of value or to give information with respect to the manner in which or the means by which counterfeit money or counterfeit tokens of value may be sold, procured or disposed of, or

Dealing in  
 counterfeit  
 tokens of  
 value.

(b) purchases, obtains, negotiates or otherwise deals with counterfeit tokens of value, or offers to negotiate with a view to purchasing or obtaining them,

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

Fraudulent  
 use of money  
 genuine but  
 valueless.

(2) No person shall be convicted of an offence under subsection (1) in respect of genuine coin or genuine paper money that has no value as money unless, at the time when the offence is alleged to have been committed, he knew that the coin or paper money had no value as money and he had a fraudulent intent in his dealings with or with respect to the coin or paper money.

#### SPECIAL PROVISIONS AS TO PROOF.

Counterfeit  
 when  
 complete.

**404.** Every offence relating to counterfeit money or counterfeit tokens of value shall be deemed to be complete notwithstanding that the money or tokens of value in respect of which the proceedings are taken are not finished or perfected or do not copy exactly the money or tokens of value that they are apparently intended to resemble or for which they are apparently intended to pass.

## FORFEITURE.

**405.** (1) Counterfeit money, counterfeit tokens of value and anything that is used or is intended to be used to make counterfeit money or counterfeit tokens of value belong to Her Majesty. Ownership.

(2) A peace officer may seize and detain Seizure.

(a) counterfeit money;

(b) counterfeit tokens of value, and

(c) machines, engines, tools, instruments, materials or things that have been used or that have been adapted and are intended for use in making counterfeit money or counterfeit tokens of value,

and anything seized shall be sent to the Minister of Finance to be disposed of or dealt with as he may direct, but anything that is required as evidence in any proceedings shall not be sent to the Minister until it is no longer required in those proceedings.

## PART XI.

## ATTEMPTS—CONSPIRACIES—ACCESSORIES.

**406.** Except where otherwise expressly provided by law, the following provisions apply in respect of persons who attempt to commit or are accessories after the fact to the commission of offences, namely, Attempts, accessories

(a) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to be sentenced to death or to imprisonment for life, is guilty of an indictable offence and is liable to imprisonment for fourteen years; Where offence punishable with death or life imprisonment.

(b) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, upon conviction, an accused is liable to imprisonment for fourteen years or less, is guilty of an indictable offence and is liable to imprisonment for a term that is one-half of the longest term to which a person who is guilty of that offence is liable; and Where offence punishable with fourteen years or less.

(c) every one who attempts to commit or is an accessory after the fact to the commission of an offence punishable on summary conviction is guilty of an offence punishable on summary conviction. Where offence punishable on summary conviction.

**407.** Except where otherwise expressly provided by law, the following provisions apply in respect of persons who counsel, procure or incite other persons to commit offences namely, Counselling, etc., offence which is not committed.

- (a) every one who counsels, procures or incites another person to commit an indictable offence is, if the offence is not committed, guilty of an indictable offence and is liable to the same punishment to which a person who attempts to commit that offence is liable; and
- (b) every one who counsels, procures or incites another person to commit an offence punishable on summary conviction is, if the offence is not committed, guilty of an offence punishable on summary conviction.

**408.** (1) Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy, namely,

Conspiracy  
to murder.

- (a) every one who conspires with any one to commit murder or to cause another person to be murdered, whether in Canada or not, is guilty of an indictable offence and is liable to imprisonment for fourteen years;

Conspiracy  
to bring  
false  
accusation

- (b) every one who conspires with any one to prosecute a person for an alleged offence, knowing that he did not commit that offence, is guilty of an indictable offence and is liable

- (i) to imprisonment for ten years, if the alleged offence is one for which, upon conviction, that person would be liable to be sentenced to death or to imprisonment for life or for fourteen years, or

- (ii) to imprisonment for five years, if the alleged offence is one for which, upon conviction, that person would be liable to imprisonment for less than fourteen years;

Conspiracy  
to defile.

- (c) every one who conspires with any one to induce, by false pretences, false representations or other fraudulent means, a woman to commit adultery or fornication, is guilty of an indictable offence and is liable to imprisonment for two years; and

Conspiracy  
to commit  
other  
offences.

- (d) every one who conspires with any one to commit an indictable offence not provided for in paragraph (a), (b) or (c) is guilty of an indictable offence and is liable to the same punishment as that to which an accused who is guilty of that offence would, upon conviction, be liable.

Common law  
conspiracy.

- (2) Every one who conspires with any one
  - (a) to effect an unlawful purpose, or
  - (b) to effect a lawful purpose by unlawful means,
 is guilty of an indictable offence and is liable to imprisonment for two years.

Conspiracy  
in restraint  
of trade.

- 409.** (1) A conspiracy in restraint of trade is an agreement between two or more persons to do or to procure to be done any unlawful act in restraint of trade.

(2) The purposes of a trade union are not, by reason only that they are in restraint of trade, unlawful within the meaning of subsection (1). Trade union, exception.

**410.** (1) No person shall be convicted of the offence of conspiracy by reason only that he Saving.

(a) refuses to work with a workman or for an employer, or

(b) does any act or causes any act to be done for the purpose of a trade combination, unless such act is an offence expressly punishable by law.

(2) In this section, "trade combination" means any combination between masters or workmen or other persons for the purpose of regulating or altering the relations between masters or workmen, or the conduct of a master or workman in or in respect of his business, employment or contract of employment or service. "Trade combination."

**411.** (1) Every one who conspires, combines, agrees or arranges with another person Conspiracy.

(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article, To limit commercial facilities.

(b) to restrain or injure trade or commerce in relation to any article, To restrain commerce.

(c) to prevent, limit or lessen, unduly, the manufacture or production of an article, or to enhance unreasonably the price thereof, or To lessen production.

(d) to prevent or lessen, unduly, competition in the production, manufacture, purchase, barter, sale, transportation or supply of an article, or in the price of insurance upon persons or property, To lessen competition.

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

(2) For the purposes of this section, "article" means an article or commodity that may be a subject of trade or commerce. "Article."

(3) This section does not apply to combinations of workmen or employees for their own reasonable protection as workmen or employees. Saving.

**412.** (1) Every one engaged in trade, commerce or industry who

(a) is a party or privy to, or assists in, any sale that discriminates to his knowledge, directly or indirectly, against competitors of the purchaser, in that any discount, rebate, allowance, price concession or other advantage, is granted to the purchaser over and above any discount, rebate, allowance, price concession or other advantage, available at the time of such sale to such competitors in respect of a sale of goods of like quality and quantity; Discrimination in trade.

|                                    |  |
|------------------------------------|--|
| Lower prices in particular area.   | (b) engages in a policy of selling goods in any area of Canada at prices lower than those exacted by such seller elsewhere in Canada, having or designed to have the effect of substantially lessening competition or eliminating a competitor in such part of Canada; or  |
| Lessening prices                   | (c) engages in a policy of selling goods at prices unreasonably low, having or designed to have the effect of substantially lessening competition or eliminating a competitor,   |
|                                    | is guilty of an indictable offence and is liable to imprisonment for two years.  |
| Defence.                           | (2) It is not an offence under paragraph (a) of subsection (1) to be a party or privy to, or assist in any sale mentioned therein unless the discount, rebate, allowance, price concession or other advantage was granted as part of a practice of discriminating as described in that paragraph.  |
| Co-operative society not affected. | (3) The provisions of paragraph (a) of subsection (1) shall not prevent a co-operative society returning to producers or consumers, or a co-operative wholesale society returning to its constituent retail members, the whole or any part of the net surplus made in its trading operations in proportion to purchases made from or sales to the society. |

## PART XII.

## JURISDICTION.

## GENERAL.

|  |   |
|--|---|
| Superior court of criminal jurisdiction. | <b>413.</b> (1) Every superior court of criminal jurisdiction has jurisdiction to try any indictable offence. |
| Court of criminal jurisdiction           | (2) Every court of criminal jurisdiction has jurisdiction to try an indictable offence other than             |
|  | (a) an offence under any of the following sections, namely,   |
| Treason.                                 | (i) section 47,   |
| Alarming or harming Her Majesty.         | (ii) section 49,  |
| Intimidating Parliament or legislature.  | (iii) section 51,   |
| Inciting to mutiny.                      | (iv) section 53,  |
| Sedition.                                | (v) section 62,   |
| Piracy.                                  | (vi) section 75,  |
| Piratical acts.                          | (vii) section 76,   |
| Bribery of officers.                     | (viii) section 101,   |
| Rape.                                    | (ix) section 136,   |
| Causing death by criminal negligence.    | (x) section 192,  |
| Murder.                                  | (xi) section 206,   |
| Manslaughter.                            | (xii) section 207,  |

- (xiii) paragraph (a) of subsection (1) of section 316, or
- (xiv) section 411,
- (b) the offence of being an accessory after the fact to treason or murder,
- (c) an offence under section 100 by the holder of a judicial office,
- (d) the offence of attempting to commit any offence mentioned in paragraph (a), or
- (e) the offence of conspiring to commit any offence mentioned in paragraph (a).

Threat to murder.  
Combination restraining trade.  
Accessories.  
Corrupting justice.  
Attempts.  
Conspiracy.

**414.** Subject to this Act, every superior court of criminal jurisdiction and every court of criminal jurisdiction that has power to try an indictable offence is competent to try an accused for that offence

Jurisdiction over person.

- (a) if the accused is found, is arrested or is in custody within the territorial jurisdiction of the court; or
- (b) if the accused has been committed for trial to, or has been ordered to be tried by
  - (i) that court, or
  - (ii) any other court, the jurisdiction of which has by lawful authority been transferred to that court.

**415.** Except where otherwise expressly provided by law, every accused who is charged with an indictable offence shall be tried by a court composed of a judge and jury.

Trial by jury compulsory.

**416.** (1) Where an indictment is found against an accused, other than a corporation, for an offence under section 411, the accused may elect to be tried without a jury and where he so elects he shall be tried by the judge presiding at the court at which the indictment is found, or the judge presiding at any subsequent sittings of that court, or at any court where the indictment comes on for trial.

Option for trial without jury in trade conspiracy cases.

(2) Where an accused makes an election under subsection (1), the proceedings subsequent to the election shall be in accordance with Part XVI in so far as that Part is capable of being applied.

Part XVI applies.

**417.** Notwithstanding anything in this Act, an accused who is charged with an indictable offence in the Province of Alberta may, with his consent, be tried by a judge of the superior court of criminal jurisdiction of Alberta without a jury.

Trial without jury in Alberta

**418.** Where the competent authority has determined that a panel of jurors is not to be summoned for a term or sittings of the court for the trial of criminal cases

Adjournment when no jury summoned.

in any territorial division, the clerk of the court may, on the day of the opening of the term or sittings, if a judge is not present to preside over the court, adjourn the court and the business of the court to a subsequent day.

#### SPECIAL JURISDICTION.

**419.** For the purposes of this Act,

On water  
between  
jurisdictions.

(a) where an offence is committed in or upon any water or upon a bridge, between two or more territorial divisions, the offence shall be deemed to have been committed in any of the territorial divisions;

Near  
boundary  
between  
jurisdictions

(b) where an offence is committed on the boundary of two or more territorial divisions or within five hundred yards of any such boundary, or the offence was commenced within one territorial division and completed within another, the offence shall be deemed to have been committed in any of the territorial divisions;

During course  
of journey  
in ship or  
vehicle.

(c) where an offence is committed in or upon a vehicle employed in a journey, or on board a vessel employed on a navigable river, canal or inland water, the offence shall be deemed to have been committed in any territorial division through which the vehicle or vessel passed in the course of the journey or voyage on which the offence was committed, and where the center or other part of the road, or navigable river, canal or inland water on which the vehicle or vessel passed in the course of the journey or voyage is the boundary of two or more territorial divisions, the offence shall be deemed to have been committed in any of the territorial divisions;

Aircraft.

(d) where an offence is committed in an aircraft in the course of a flight of that aircraft, it shall be deemed to have been committed

(i) in the territorial division in which the flight commenced,

(ii) in any territorial division over which the aircraft passed in the course of the flight, or

(iii) in the territorial division in which the flight ended; and

Door-to-door  
mail delivery

(e) where an offence is committed in respect of a mail in the course of the door-to-door delivery of the mail, the offence shall be deemed to have been committed in any territorial division through which the mail was carried on that delivery.

Offences in  
territorial  
waters.

**420.** (1) Where an offence is committed by a person, whether or not he is a Canadian citizen, on a part of the sea adjacent to the coast of Canada and within three nautical miles of ordinary low water mark, whether or not it was committed on board or by means of a Canadian ship,

the offence is within the competence of and shall be tried by the court having jurisdiction in respect of similar offences in the territorial division nearest to the place where the offence was committed, and shall be tried in the same manner as if the offence had been committed within that territorial division.

(2) No proceedings for an offence to which subsection (1) applies shall, where the accused is not a Canadian citizen, be instituted without the consent of the Attorney General of Canada. Consent.

**421.** (1) Subject to subsections (2) and (3), nothing in this Act authorizes a court in a province to try an offence committed entirely in another province. Offence committed entirely in one province not triable in another. Exception.

(2) Every proprietor, publisher, editor or other person charged with the publication of a defamatory libel in a newspaper or with conspiracy to publish a defamatory libel in a newspaper shall be dealt with, indicted, tried and punished in the province where he resides or in which the newspaper is printed.

(3) Where an accused is in custody and signifies in writing before a magistrate his intention to plead guilty to an offence with which he is charged that is alleged to have been committed in Canada outside the province in which he is in custody, he may, if the offence is not an offence mentioned in subsection (2) of section 413, and the Attorney General of the province where the offence is alleged to have been committed consents, be brought before a court or person that would have had jurisdiction to try that offence if it had been committed in the province where the accused is in custody, and where he pleads guilty to that offence, the court or person shall convict the accused and impose the punishment warranted by law, but where he does not plead guilty, he shall be returned to custody and shall be dealt with according to law. Exception.

(4) No writing that is executed by an accused pursuant to subsection (3) is admissible in evidence against him in any criminal proceedings. Writing not admissible.

(5) In this section, "newspaper" has the same meaning that it has in section 247. "Newspaper".

**422.** (1) Where an offence is committed in an unorganized tract of country in any province or on a lake, river or other water therein, not included in a territorial division or in a provisional judicial district, proceedings in respect thereof may be commenced and an accused may be charged, tried and punished in respect thereof within any territorial division or provisional judicial district of the province in the same manner as if the offence had been committed within that territorial division or provisional judicial district. Offence in unorganized territory.

New  
territorial  
division.

(2) Where a provisional judicial district or a new territorial division is constituted in an unorganized tract referred to in subsection (1), the jurisdiction conferred by that subsection continues until appropriate provision is made by law for the administration of criminal justice within the provisional judicial district or new territorial division.

Offence not  
in a province.

**423.** Where an offence is committed in a part of Canada not in a province, proceedings in respect thereof may be commenced and the accused may be charged, tried and punished within any territorial division in any province in the same manner as if that offence had been committed in that territorial division.

#### RULES OF COURT.

Power to  
make rules.

**424.** (1) Every superior court of criminal jurisdiction and every court of appeal, respectively, may, at any time with the concurrence of a majority of the judges thereof present at a meeting held for the purpose, make rules of court not inconsistent with this Act or any other Act of the Parliament of Canada, and any rules so made shall apply to any prosecution, proceeding, action or appeal, as the case may be, within the jurisdiction of that court, instituted in relation to any matter of a criminal nature or arising from or incidental to any such prosecution, proceeding, action or appeal.

Regulating  
duties of  
officers.

(2) Rules under subsection (1) may be made

(a) generally to regulate the duties of the officers of the court and any other matter considered expedient to attain the ends of justice and carry into effect the provisions of the law;

Regulating  
sittings.

(b) to regulate the sittings of the court or any division thereof, or of any judge of the court sitting in chambers, except in so far as they are regulated by law;

Regulating  
practice.

(c) to regulate in criminal matters the pleading, practice and procedure in the court including proceedings with respect to *mandamus*, *certiorari*, *habeas corpus*, prohibition, bail and costs, and the proceedings on an application to a summary conviction court to state a case for the opinion of the court with respect to a conviction, order, determination or other proceeding; and

Relating to  
appeals.

(d) to carry out the provisions of this Act relating to appeals from conviction, acquittal or sentence on indictment, and without restricting the generality of this paragraph,

(i) for furnishing necessary forms and instructions in relation to notices of appeal or applications for leave to appeal to officials or other persons requiring or demanding them,

- (ii) for ensuring the accuracy of notes taken at a trial and the verification of any copy or transcript,
- (iii) for keeping writings, exhibits or other things connected with the proceedings on the trial,
- (iv) for securing the safe custody of property during the period in which the operation of an order with respect to that property is suspended under subsection (1) of section 595, and
- (v) for providing that the Attorney General and counsel who acted for the Attorney General at the trial be supplied with certified copies of writings, exhibits and things connected with the proceedings that are required for the purposes of their duties.

(3) Where in any province rules of court relating to criminal matters are in force when this Act comes into force, they shall continue in force except in so far as they may be amended or repealed from time to time by the court authorized by this section to make rules. Rules to continue.

(4) Rules of court that are made under the authority of this section shall be published in the *Canada Gazette*. Publication.

(5) Notwithstanding anything in this section, the Governor in Council may make such provision as he considers proper to secure uniformity in the rules of court in criminal matters, and all uniform rules made under the authority of this subsection shall prevail and have effect as if enacted by this Act. Regulations to secure uniformity.

## PART XIII.

### SPECIAL PROCEDURE AND POWERS.

#### GENERAL POWERS OF CERTAIN OFFICIALS.

**425.** Every judge or magistrate authorized by the law of the province in which he is appointed to do anything that is required to be done by two or more justices may do alone anything that this Act or any other Act of the Parliament of Canada authorizes two or more justices to do. Officials with powers of two justices.

**426.** Every judge or magistrate has the same power and authority to preserve order in a court over which he presides as may be exercised by the superior court of criminal jurisdiction of the province during the sittings thereof. Preserving order in court.

**427.** Where an accused is or appears to be under the age of sixteen years, his trial shall take place without publicity, whether he is charged alone or jointly with another person. Trial of juveniles to be without publicity.

Exclusion of  
public in  
certain cases.

**428.** The trial of an accused that is a corporation or who is or appears to be sixteen years of age or more shall be held in open court, but where the court, judge, justice or magistrate, as the case may be, is of opinion that it is in the interest of public morals, the maintenance of order or the proper administration of justice to exclude all or any members of the public from the court room, he may so order.

Information  
for search  
warrant.

**429.** (1) A justice who is satisfied by information upon oath in Form 1, that there is reasonable ground to believe that there is in a building, receptacle or place,

(a) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed,

(b) anything that there is reasonable ground to believe will afford evidence with respect to the commission of an offence against this Act, or

(c) anything that there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which a person may be arrested without warrant,

may at any time issue a warrant under his hand authorizing a person named therein or a peace officer to search the building, receptacle or place for any such thing, and to seize and carry it before the justice who issued the warrant or some other justice for the same territorial division to be dealt with by him according to law.

Endorsement  
of search  
warrant.

(2) Where the building, receptacle, or place in which anything mentioned in subsection (1) is believed to be is in some other territorial division, the justice may issue his warrant in like form modified according to the circumstances, and the warrant may be executed in the other territorial division after it has been endorsed, in Form 25, by a justice having jurisdiction in that territorial division.

Form.

(3) A search warrant issued under this section may be in Form 5.

Effect of  
endorsement.

(4) An endorsement that is made upon a warrant pursuant to subsection (2) is sufficient authority to the peace officers to whom it was originally directed and to all peace officers within the jurisdiction of the justice by whom it is endorsed to execute the warrant and to take the things to which it relates before the justice who issued the warrant or some other justice for the same territorial division.

Execution  
of search  
warrant.

**430.** A warrant issued under section 429 shall be executed by day, unless the justice, by the warrant, authorizes execution of it by night.

**431.** Every person who executes a warrant issued under section 429 may seize, in addition to the things mentioned in the warrant, anything that on reasonable grounds he believes has been obtained by or has been used in the commission of an offence, and carry it before the justice who issued the warrant or some other justice for the same territorial division, to be dealt with in accordance with section 432.

Seizure of things not specified.

**432.** (1) Where anything that has been seized under section 431 or under a warrant issued pursuant to section 429 is brought before a justice, he shall, unless the prosecutor otherwise agrees, detain it or order that it be detained, taking reasonable care to ensure that it is preserved until the conclusion of any investigation or until it is required to be produced for the purposes of a preliminary inquiry or trial, but nothing shall be detained under the authority of this section for a period of more than three months after the time of seizure unless, before the expiration of that period, proceedings are instituted in which the subject-matter of detention may be required.

Detention of things seized.

(2) When an accused has been committed for trial the justice shall forward anything to which subsection (1) applies to the clerk of the court to which the accused has been committed for trial to be detained by him and disposed of as the court directs.

When accused committed for trial.

(3) Where a justice is satisfied that anything that has been seized under section 431 or under a warrant issued pursuant to section 429 will not be required for any purpose mentioned in subsection (1) or (2), he may

Disposal of things seized in other cases.

- (a) if possession of it by the person from whom it was seized is lawful, order it to be returned to that person, or
- (b) if possession of it by the person from whom it was seized is unlawful,

- (i) order it to be returned to the lawful owner or to the person who is entitled to possession of it, or
- (ii) order it to be forfeited or otherwise dealt with in accordance with law, where the lawful owner or the person who is entitled to possession of it is not known.

(4) Nothing shall be disposed of under subsection (3) pending any proceeding in which the right of seizure is questioned, or within thirty days after an order is made under that subsection.

Detention pending appeal, etc

(5) Where anything is detained under subsection (1), a judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction may, on summary application on behalf of a person who has an interest in what is detained,

Access to anything seized.

- after three clear days' notice to the Attorney General, order that the person by or on whose behalf the application is made be permitted to examine anything so detained.
- Conditions.** (6) An order that is made under subsection (5) shall be made on such terms as appear to the judge to be necessary or desirable to ensure that anything in respect of which the order is made is safeguarded and preserved for any purpose for which it may subsequently be required.
- Appeal.** (7) A person who considers himself aggrieved by an order made under subsection (3) may appeal from the order to the appeal court, as defined in section 719, and for the purposes of the appeal the provisions of sections 721 to 732 apply, *mutatis mutandis*.
- Seizure of explosives.** **433.** (1) Every person who executes a warrant issued under section 429 may seize any explosive substance that he suspects is intended to be used for an unlawful purpose, and shall, as soon as possible, remove to a place of safety anything that he seizes by virtue of this section and detain it until he is ordered by a judge of a superior court to deliver it to some other person or an order is made pursuant to subsection (2).
- Forfeiture.** (2) Where an accused is convicted of an offence in respect of anything seized by virtue of subsection (1), it is forfeited and shall be dealt with as the court that makes the conviction may direct.
- Application of proceeds.** (3) Where anything to which this section applies is sold, the proceeds of the sale shall be paid to the Attorney General.

## PART XIV.

COMPELLING APPEARANCE OF ACCUSED  
BEFORE A JUSTICE.

## ARREST WITHOUT WARRANT.

- By any person.** **434.** Any one may arrest without warrant a person whom he finds committing an indictable offence.
- By peace officer.** **435.** A peace officer may arrest without warrant  
(a) a person who has committed or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence, or  
(b) a person whom he finds committing a criminal offence.
- By any person on fresh pursuit.** **436.** Any one may arrest without warrant a person who, on reasonable and probable grounds, he believes  
(a) has committed a criminal offence, and  
(b) is  
(i) escaping from, and  
(ii) freshly pursued by,  
persons who have lawful authority to arrest that person.

**437.** Any one who is

(a) the owner or a person in lawful possession of property,

By owner of  
property.

or

(b) a person authorized by the owner or by a person in lawful possession of property,

may arrest without warrant a person whom he finds committing a criminal offence on or in relation to that property.

**438.** (1) Any one who arrests a person without warrant shall forthwith deliver that person to a peace officer, and the peace officer may detain the person until he is dealt with in accordance with this section.

Delivery  
to peace  
officer.

(2) A peace officer who receives delivery of and detains a person who has been arrested without warrant or who arrests a person with or without warrant shall, in accordance with the following provisions, take or cause that person to be taken before a justice to be dealt with according to law, namely,

Taking  
before  
justice.

(a) where a justice is available within a period of twenty-four hours after the person has been delivered to or has been arrested by the peace officer, the person shall be taken before a justice before the expiration of that period; and

(b) where a justice is not available within a period of twenty-four hours after the person has been delivered to or has been arrested by the peace officer, the person shall be taken before a justice as soon as possible.

#### INFORMATION, SUMMONS AND WARRANT.

**439.** (1) Any one who, upon reasonable and probable grounds, believes that a person has committed an indictable offence may lay an information in writing and under oath before a justice, and the justice shall receive the information where it is alleged that

In what cases  
justice may  
receive  
information.

(a) the person has committed, anywhere, an indictable offence that may be tried in the province in which the justice resides, and that the person

(i) is or is believed to be, or

(ii) resides or is believed to reside,

within the territorial jurisdiction of the justice;

(b) the person, wherever he may be, has committed an indictable offence within the territorial jurisdiction of the justice;

(c) the person has anywhere unlawfully received property that was unlawfully obtained within the territorial jurisdiction of the justice; or

(d) the person has in his possession stolen property within the territorial jurisdiction of the justice.

(2) An information that is laid under this section may be in Form 2.

Form.

|   |  |
|---|--|
| Justice to hear informant or witnesses. | <p><b>440.</b> (1) A justice who receives an information shall</p> <p>(a) hear and consider, <i>ex parte</i>,</p> <p>(i) the allegations of the informant, and</p> <p>(ii) the evidence of witnesses, where he considers it desirable or necessary to do so; and</p>   |
| Summons or warrant.                     | <p>(b) issue, where he considers that a case for so doing is made out, a summons or warrant, as the case may be, to compel the accused to attend before him.</p>   |
| Process compulsory.                     | <p>(2) No justice shall refuse to issue a summons or warrant by reason only that the alleged offence is one for which a person may be arrested without warrant.</p>  |
| Procedure when witnesses attend.        | <p>(3) A justice who hears the evidence of a witness pursuant to subsection (1) shall</p> <p>(a) take the evidence upon oath, and</p> <p>(b) cause the evidence to be taken in accordance with section 453 in so far as that section is capable of being applied.</p>  |
| No process in blank.                    | <p>(4) No justice shall sign a summons or warrant in blank.</p>  |
| Summons.                                | <p><b>441.</b> (1) A summons shall</p> <p>(a) be directed to the accused,</p> <p>(b) set out briefly the offence in respect of which the accused is charged, and</p> <p>(c) require the accused to appear at a time and place to be stated therein.</p>  |
| Form.<br>Service on individual.         | <p>(2) A summons may be in Form 6.</p> <p>(3) A summons shall be served by a peace officer who shall deliver it personally to the person to whom it is directed, or, if that person cannot conveniently be found, shall leave it for him at his last or usual place of abode with some inmate thereof who appears to be at least sixteen years of age.</p> |
| Service on corporation.                 | <p>(4) Subject to subsection (5), where an accused is a corporation the summons shall be served by delivering it to the manager, secretary or other executive officer of the corporation, or of a branch thereof.</p>  |
| Service on municipality.                | <p>(5) Where an accused is a municipal corporation, the summons may be served by delivering it to the mayor, secretary-treasurer or clerk of the corporation.</p>  |
| Proof of service.                       | <p>(6) Service of a summons may be proved by the oral evidence, given under oath, of the peace officer who served it or by his affidavit made before a justice.</p>  |
| Contents of warrant to arrest.          | <p><b>442.</b> (1) A warrant shall</p> <p>(a) name or describe the accused,</p> <p>(b) set out briefly the offence in respect of which the accused is charged, and</p> <p>(c) order that the accused be arrested and brought before the justice who issued the warrant or before</p>   |

some other justice having jurisdiction in the same territorial division, to answer to the charge and to be further dealt with according to law.

(2) A warrant remains in force until it is executed, and need not be made returnable at any particular time. No return day.

(3) A warrant may be in Form 7. Form.

**443.** A warrant that is authorized by this Part shall be signed by a justice and may be directed, Formalities of warrant.

(a) to a peace officer by name,

(b) to a peace officer by name and all other peace officers within the territorial jurisdiction of the justice, or

(c) generally to all peace officers within the territorial jurisdiction of the justice.

**444.** (1) A justice may issue a warrant in Form 7 for the arrest of an accused notwithstanding that a summons has already been issued to require the appearance of the accused. Summons not to prevent warrant.

(2) Where

(a) service of a summons is proved and the accused does not appear, or Warrant in default of appearance.

(b) it appears that a summons cannot be served because the accused is evading service,

a justice may issue a warrant in Form 8.

**445.** (1) A warrant may be executed by arresting the accused Execution of warrant.

(a) wherever he is found within the territorial jurisdiction of the justice by whom the warrant was issued, or Where.

(b) wherever he is found in Canada, in the case of fresh pursuit.

(2) A warrant may be executed by a person who is By whom.

(a) the peace officer named in the warrant, or

(b) one of the peace officers to whom it is directed, whether or not the place in which the warrant is to be executed is within the territory for which the person is a peace officer.

#### PROCEDURE TO PROCURE ATTENDANCE OF A PRISONER.

**446.** (1) Where a person who is confined in a prison is required

(a) to attend at a preliminary inquiry into a charge against him, For preliminary inquiry.

(b) to stand his trial upon a charge that may be tried by indictment or on summary conviction, or For trial.

(c) to attend to give evidence in a proceeding to which this Act applies, As a witness.

Judge's  
order.

a judge of a superior court of criminal jurisdiction or of a county or district court may order in writing that the prisoner be brought before the court, judge, justice, or magistrate before whom his attendance is required, from day to day as may be necessary, if

(d) the applicant for the order sets out the facts of the case in an affidavit and produces the warrant, if any, and

(e) the judge is satisfied that the ends of justice require that an order be made.

Magistrate's  
order.

(2) A magistrate has the same powers for the purposes of subsection (1) as a judge has under that subsection, where the person whose attendance is required is confined in a prison within the province in which the magistrate has jurisdiction.

Conveyance  
of prisoner.

(3) An order that is made under subsection (1) or (2) shall be addressed to the person who has custody of the prisoner, and on receipt thereof that person shall

(a) deliver the prisoner to any person who is named in the order to receive him, or

(b) bring the prisoner before the court, judge, justice or magistrate, as the case may be, upon payment of his reasonable charges in respect thereof.

Detention of  
prisoner  
required as  
witness.

(4) Where the prisoner is required as a witness, the judge or magistrate shall direct, in the order, the manner in which the prisoner shall be kept in custody and returned to the prison from which he is brought.

Detention of  
prisoner in  
other cases.

(5) Where the appearance of the prisoner is required for the purposes of paragraph (a) or (b) of subsection (1), the judge or magistrate shall give appropriate directions in the order with respect to the manner in which the prisoner is

(a) to be kept in custody, if he is committed for trial; or

(b) to be returned, if he is discharged upon a preliminary inquiry or if he is acquitted of the charge against him.

Application  
of sections  
respecting  
sentence.

(6) Sections 621 and 634 apply where a prisoner to whom this section applies is convicted and sentenced to imprisonment by the court, judge, justice or magistrate.

#### ENDORSEMENT OF WARRANT.

Endorsing  
warrant.

**447.** (1) Where a warrant for the arrest of an accused cannot be executed in accordance with section 445, a justice within whose jurisdiction the accused is or is believed to be shall, upon application, and upon proof on oath or by affidavit of the signature of the justice who executed the warrant, authorize the execution of the warrant within his jurisdiction by making an endorsement, which may be in Form 25, upon the warrant.

(2) An endorsement that is made upon a warrant pursuant to subsection (1) is sufficient authority to the peace officers to whom it was originally directed, and to all peace officers within the territorial jurisdiction of the justice by whom it is endorsed, to execute the warrant and to take the accused before the justice who issued the warrant or before some other justice for the same territorial division.

Effect of endorsement.

#### CORONER'S WARRANT.

**448.** (1) Where a person is alleged, by a verdict upon a coroner's inquisition, to have committed murder or manslaughter but he has not been charged with the offence, the coroner shall

Coroner's warrant.

(a) direct, by warrant under his hand, that the person be taken into custody and be conveyed, as soon as possible, before a justice, or

(b) direct the person to enter into a recognizance before him with or without sureties, to appear before a justice.

Recognizance.

(2) Where a coroner makes a direction under subsection (1) he shall transmit to the justice the evidence taken before him in the matter.

Transmitting depositions.

#### PART XV.

#### PROCEDURE ON PRELIMINARY INQUIRY.

##### JURISDICTION.

**449.** Where an accused who is charged with an indictable offence is before a justice, the justice shall, in accordance with this Part, inquire into that charge and any other charge against that person.

Inquiry by justice.

**450.** (1) Where an accused is before a justice other than a magistrate as defined in Part XVI charged with an offence over which a magistrate, under that Part, has absolute jurisdiction, the justice shall remand the accused to appear before a magistrate having absolute jurisdiction over that offence in the territorial division in which the offence is alleged to have been committed.

Remand by justice to magistrate in certain cases.

(2) Subject to subsection (1), where an accused is before a justice charged with an offence other than an offence that is mentioned in subsection (2) of section 413 the justice shall, if

Election before justice in certain cases.

(a) he is a justice other than a magistrate as defined in Part XVI, and

(b) he orders the accused to appear for trial or commits the accused for trial,

inform the accused of the offence in respect of which the order or committal is made and put the accused to his election in the following words:

You have the option to elect to be tried by a judge without a jury or by a court composed of a judge and jury. How do you elect to be tried?

Procedure  
when accused  
elects trial  
without jury.

(3) Where an accused is put to his election under subsection (2) the justice shall

(a) endorse on the information a statement showing the nature of the election or that the accused did not elect, and

(b) state in the warrant of committal, if any, that the accused

(i) elected to be tried by a judge without a jury,

(ii) elected to be tried by a court composed of a judge and jury, or

(iii) did not elect.

#### POWERS OF JUSTICE.

Bail.

**451.** A justice acting under this Part may

(a) order that an accused, at any time before he has been committed for trial, be admitted to bail

(i) upon the accused entering into a recognizance in Form 28 before him or any other justice, with sufficient sureties in such amount as he or that justice directs,

(ii) upon the accused entering into a recognizance in Form 28 before him or any other justice and depositing an amount that he or that justice directs, or

(iii) upon the accused entering into his own recognizance in Form 28 before him or any other justice in such amount as he or that justice directs without any deposit;

Adjournment.

(b) adjourn the inquiry from time to time and change the place of hearing, where it appears to be desirable to do so by reason of the absence of a witness, the inability of a witness who is ill to attend at the place where the justice usually sits, or for any other sufficient reason, but no such adjournment shall be for more than eight clear days unless the accused

(i) is at large on bail and he and his sureties and the prosecutor consent to the proposed adjournment, or

(ii) is remanded for observation under subparagraph

(i) of paragraph (c);

- (c) remand an accused, Remand by order.
- (i) by order in writing, to such custody as the justice directs for observation for a period not exceeding thirty days where, in his opinion, supported by the evidence of at least one duly qualified medical practitioner, there is reason to believe that
- (A) the accused is mentally ill, or
- (B) the balance of the mind of the accused is disturbed, where the accused is a female person charged with an offence arising out of the death of her newly-born child, or
- (ii) orally, to the custody of a peace officer or other person, where the remand is for a period not exceeding three clear days;
- (d) remand an accused to custody in a prison, by warrant in Form 14; Remand by warrant.
- (e) resume an inquiry before the expiration of a period for which it has been adjourned with the consent of the prosecutor and the accused or his counsel; Idem
- (f) order in writing, in Form 26, that the accused be brought before him, or any other justice for the same territorial division, at any time before the expiration of the time for which the accused has been remanded; Resuming inquiry.
- (g) issue a warrant in Form 8 or 9, as the case may be, for the arrest of an accused Issue of warrant.
- (i) who does not appear pursuant to service of a summons upon him, if service is proved, or
- (ii) who does not appear at the time and place to which an inquiry has been adjourned;
- (h) grant or refuse permission to the prosecutor or his counsel to address him in support of the charge, by way of opening or summing up or by way of reply upon any evidence that is given on behalf of the accused; Permission to sum up.
- (i) receive evidence on the part of the prosecutor or the accused, as the case may be, after hearing any evidence that has been given on behalf of either of them; Further evidence.
- (j) order that no person other than the prosecutor, the accused and their counsel shall have access to or remain in the room in which the inquiry is held, where it appears to him that the ends of justice will be best served by so doing; and Inquiry may be private.
- (k) regulate the course of the inquiry in any way that appears to him to be desirable and that is not inconsistent with this Act. Regulating course of inquiry.

**452.** Where an accused is a corporation, subsections (1) and (2) of section 470 apply, *mutatis mutandis*. Corporation.

## TAKING EVIDENCE OF WITNESSES.

- 453.** (1) When the accused is before a justice holding a preliminary inquiry, the justice shall
- Evidence for prosecution to be taken on oath. (a) take the evidence under oath, in the presence of the accused, of the witnesses called on the part of the prosecution and allow the accused or his counsel to cross-examine them; and
  - Depositions in writing or by stenographer. (b) cause a record of the evidence of each witness to be taken by a stenographer appointed by him, or in legible writing, in the form of a deposition, in Form 27.
  - Reading and signing depositions. (2) Where a deposition is taken down in writing, the justice shall, in the presence of the accused, before asking the accused if he wishes to call witnesses,
    - (a) cause the deposition to be read to the witness,
    - (b) cause the deposition to be signed by the witness, and
    - (c) sign the deposition himself.
  - Authentication by justice. (3) Where depositions are taken down in writing the justice may sign
    - (a) at the end of each deposition, or
    - (b) at the end of several or of all the depositions in a manner that will indicate that his signature is intended to authenticate each deposition.
  - Stenographer to be sworn. (4) Where the stenographer appointed to take down the evidence is not a duly sworn court stenographer he shall make oath that he will truly and faithfully report the evidence.
  - Authentication of transcript. (5) Where the evidence is taken down by a stenographer appointed by the justice, it need not be read to or signed by the witnesses, but the evidence shall be transcribed by the stenographer and the transcript shall be signed by the justice and shall be accompanied by
    - (a) an affidavit of the stenographer that it is a true report of the evidence, or
    - (b) a certificate that it is a true report of the evidence if the stenographer is a duly sworn court stenographer.
- 454.** (1) When the evidence of the witnesses called on the part of the prosecution has been taken down and, where required by this Part, has been read, the justice shall address the accused as follows or to the like effect:

Form of address.

Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise of favour and nothing to fear from any threat that may have been held out to you to induce you to make any ad-

mission or confession of guilt, but whatever you now say may be given in evidence against you at your trial notwithstanding the promise or threat.

(2) Where the accused says anything in answer to the address made by the justice pursuant to subsection (1), his answer shall be taken down in writing and shall be signed by the justice and kept with the evidence of the witnesses and dealt with in accordance with this Part. Statement of accused.

(3) When subsections (1) and (2) have been complied with the justice shall ask the accused if he wishes to call any witnesses. Witnesses for accused.

(4) The justice shall hear each witness called by the accused who testifies to any matter relevant to the inquiry, and for the purposes of this subsection, section 453 applies, *mutatis mutandis*. Depositions of such witnesses.

**455.** Nothing in this Act prevents a prosecutor giving in evidence at a preliminary inquiry any admission, confession or statement made at any time by the accused that by law is admissible against him. Confession or admission of accused.

#### REMAND WHERE OFFENCE COMMITTED IN ANOTHER JURISDICTION.

**456.** (1) Where an accused is charged with an offence alleged to have been committed out of the limits of the jurisdiction in which he has been charged, the justice before whom he is brought may, at any stage of the inquiry after hearing both parties, order that the accused be taken before a justice having jurisdiction in the place where the offence is alleged to have been committed, who shall continue and complete the inquiry. Order that accused be taken before justice, where offence committed.

(2) Where a justice makes an order pursuant to subsection (1) he shall deliver to a peace officer Procedure

(a) a warrant in Form 10, and

(b) the information, evidence and recognizances, if any.

(3) The peace officer shall produce the accused to a justice having jurisdiction in the place where the offence is alleged to have been committed and shall deliver to that justice all the writings received by the peace officer pursuant to subsection (2). Duty of peace officer.

(4) A peace officer who complies with subsection (3) and who proves, under oath, the handwriting of the justice who subscribed the writings referred to therein is entitled to receive from the justice to whom he delivers the writings a receipt in respect thereof. Receipt.

(5) A recognizance that is delivered by a peace officer to a justice having jurisdiction in the place where the offence is alleged to have been committed shall be deemed to have Effect of recognizance.

been taken by the justice to whom it is delivered, and continues in force, unless that justice requires a new recognizance, until the accused is committed for trial or discharged, as the case may be.

**Deposition.** (6) The evidence that, pursuant to subsection (3), is delivered by a peace officer to a justice shall be deemed to have been taken by that justice.

#### PROCEDURE WHERE WITNESS REFUSES TO TESTIFY.

**Witness refusing to be examined.** **457.** (1) Where a person, being present at a preliminary inquiry and being required by the justice to give evidence,  
 (a) refuses to be sworn,  
 (b) having been sworn, refuses to answer the questions that are put to him,  
 (c) fails to produce any writings that he is required to produce, or  
 (d) refuses to sign his deposition,

without offering a reasonable excuse for his failure or refusal, the justice may adjourn the inquiry and may, by warrant in Form 16, commit the person to prison for a period not exceeding eight clear days or for the period during which the inquiry is adjourned, whichever is the lesser period.

**Further commitment.** (2) Where a person to whom subsection (1) applies is brought before the justice upon the resumption of the adjourned inquiry and again refuses to do what is required of him, the justice may again adjourn the inquiry for a period not exceeding eight clear days and commit him to prison for the period of adjournment or any part thereof, and may adjourn the inquiry and commit the person to prison from time to time until the person consents to do what is required of him.

**Saving.** (3) Nothing in this section shall be deemed to prevent the justice from sending the case for trial upon any other sufficient evidence taken by him.

#### REMEDIAL PROVISIONS.

**Irregularity or variance not to affect validity.** **458.** The validity of any proceeding at or subsequent to a preliminary inquiry is not affected by  
 (a) any irregularity or defect in the substance or form of the summons or warrant,  
 (b) any variance between the charge set out in the summons or warrant and the charge set out in the information, or  
 (c) any variance between the charge set out in the summons, warrant or information and the evidence adduced by the prosecution at the inquiry.

**459.** Where it appears to the justice that the accused has been deceived or misled by any irregularity, defect or variance mentioned in section 458, he may adjourn the inquiry and may remand the accused or admit him to bail in accordance with this Part.

Adjournment  
if accused  
misled.

#### ADJUDICATION AND RECOGNIZANCES.

**460.** When all the evidence has been taken by the justice he shall,

- (a) if in his opinion the evidence is sufficient to put the accused on trial,
  - (i) commit the accused for trial by warrant in Form 17, or
  - (ii) order the accused, where it is a corporation, to stand trial in the court having criminal jurisdiction; or
- (b) discharge the accused, if in his opinion upon the whole of the evidence no sufficient case is made out to put the accused on trial.

Committal.

Dismissal.

**461.** (1) Where an accused is committed for trial or is ordered to stand trial the justice who held the preliminary inquiry may require any witness whose evidence is, in his opinion, material, to enter into a recognizance to give evidence on the trial of the accused.

Recognizance  
of witness.

(2) The recognizance may be in Form 28, and may be set out at the end of a deposition or be separate therefrom.

Form.

(3) A justice may, for any reason satisfactory to him, require any witness entering into a recognizance pursuant to this section

Sureties or  
deposit for  
appearance  
of witness.

- (a) to produce one or more sureties in such amount as he may direct, or
- (b) to deposit with him a sum of money sufficient in his opinion to ensure that the witness will appear and give evidence.

(4) Where a witness does not comply with subsection (1) or (3) when required to do so by a justice, he may be committed by the justice, by warrant in Form 21, to a prison in the territorial division where the trial is to be held, there to be kept until he does what is required of him or until the trial is concluded.

Witness  
refusing to  
be bound.

(5) Where a witness has been committed to prison pursuant to subsection (4), the court before which the witness appears or a justice having jurisdiction in the territorial division where the prison is situated may, by order in Form 35, discharge the witness from custody when the trial is concluded.

Discharge.

## TRANSMISSION OF RECORD.

To clerk of  
court.

**462.** Where a justice commits an accused for trial or orders an accused to stand trial, he shall forthwith send to the clerk or other proper officer of the court by which the accused is to be tried the information, the evidence, the exhibits, the statement, if any, of the accused, the recognizances entered into, and any evidence taken before a coroner, that are in the possession of the justice.

## BAIL.

- 463.** (1) The following provisions with respect to bail apply where an accused has been committed for trial, namely,
- By judge or magistrate. (a) where an accused is charged with an offence other than an offence punishable with death, or an offence under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and
  - By superior court judge. (b) where an accused is charged with any offence, or where bail has been refused by a judge of a county or district court or by a magistrate, he may apply to a judge of, or a judge presiding in, a superior court of criminal jurisdiction for the province.
  - Notice of application. (2) Where an accused makes an application under subsection (1) he shall give notice thereof to the prosecutor.  
(3) The judge or magistrate may, upon production of any material that he considers necessary upon the application, order that the accused be admitted to bail
  - With sureties. (a) on entering into a recognizance before a justice with sufficient sureties in such amount as the judge or magistrate directs,
  - Deposit without sureties. (b) on entering into his own recognizance before a justice and depositing with the justice such sum of money as the judge or magistrate directs, or
  - Recognizance of accused. (c) on entering into his own recognizance before a justice in such amount as the judge or magistrate directs without any deposit,
  - Order for discharge and where the order is complied with the justice shall issue an order for discharge in Form 35, and shall attach to it the order of the judge or magistrate.
  - Form. (4) The recognizance mentioned in subsection (3) shall be in Form 28.
  - Procedure. (5) A justice who issues an order for discharge under this section shall send it to the keeper of the prison in which the accused is confined and the keeper shall thereupon discharge the accused if he is not in custody for any other reason.

## TRANSMISSION OF RECORD.

To clerk of  
court.

**462.** Where a justice commits an accused for trial or orders an accused to stand trial, he shall forthwith send to the clerk or other proper officer of the court by which the accused is to be tried the information, the evidence, the exhibits, the statement, if any, of the accused, the recognizances entered into, and any evidence taken before a coroner, that are in the possession of the justice.

## BAIL.

- 463.** (1) The following provisions with respect to bail apply where an accused has been committed for trial, namely,
- By judge or magistrate. (a) where an accused is charged with an offence other than an offence punishable with death, or an offence under sections 50 to 53, he may apply to a judge of a county or district court, or a magistrate as defined in section 466, who has jurisdiction in the territorial division in which the accused was committed for trial or is confined; and
  - By superior court judge. (b) where an accused is charged with any offence, or where bail has been refused by a judge of a county or district court or by a magistrate, he may apply to a judge of, or a judge presiding in, a superior court of criminal jurisdiction for the province.
  - Notice of application. (2) Where an accused makes an application under subsection (1) he shall give notice thereof to the prosecutor.  
(3) The judge or magistrate may, upon production of any material that he considers necessary upon the application, order that the accused be admitted to bail
  - With sureties. (a) on entering into a recognizance before a justice with sufficient sureties in such amount as the judge or magistrate directs,
  - Deposit without sureties. (b) on entering into his own recognizance before a justice and depositing with the justice such sum of money as the judge or magistrate directs, or
  - Recognizance of accused. (c) on entering into his own recognizance before a justice in such amount as the judge or magistrate directs without any deposit,
  - Order for discharge and where the order is complied with the justice shall issue an order for discharge in Form 35, and shall attach to it the order of the judge or magistrate.
  - Form. (4) The recognizance mentioned in subsection (3) shall be in Form 28.
  - Procedure. (5) A justice who issues an order for discharge under this section shall send it to the keeper of the prison in which the accused is confined and the keeper shall thereupon discharge the accused if he is not in custody for any other reason.

**464.** Notwithstanding anything in this Act, no court, judge, justice or magistrate, other than a judge of or a judge presiding in a superior court of criminal jurisdiction for the province in which an accused is charged with an offence punishable with death or an offence under sections 50 to 53 may admit that accused to bail before or after committal for trial.

**465.** (1) A judge of, or a judge presiding in a superior court of criminal jurisdiction may, upon application,  
 (a) before an accused is committed for trial,  
     (i) admit the accused to bail if a justice has no power to grant bail or if bail has been refused by a justice, or  
     (ii) vary the amount of bail fixed by a justice, or  
 (b) where an accused is committed for trial, vary an order for bail fixed under subsection (3) of section 463 by a judge of a county or district court or a magistrate.  
 (2) No application shall be made by way of *habeas corpus* for the purpose of fixing, reviewing or varying bail.

Bail in certain cases.

Judge of superior court may vary.

No application by way of *habeas corpus*.

## PART XVI.

### INDICTABLE OFFENCES—TRIAL WITHOUT JURY.

#### INTERPRETATION.

**466.** In this Part,

- (a) "judge" means,  
 (i) in the province of Ontario, a judge or a junior "Judge," judge of a county or district court,  
 (ii) in the province of Quebec, a judge of the sessions of the peace or a district magistrate,  
 (iii) in the provinces of Nova Scotia, New Brunswick and Prince Edward Island, a judge of a county court,  
 (iv) in the province of Manitoba, the Chief Justice, or a puisne judge of the Court of Queen's Bench, or a judge of a county court,  
 (v) in the province of British Columbia, the Chief Justice or a puisne judge of the Supreme Court, or a judge of a county court,  
 (vi) in the provinces of Saskatchewan and Alberta, a judge of the superior court of criminal jurisdiction of the province, or of a district court, and  
 (vii) in the province of Newfoundland, a judge of the Supreme Court or of a district court,  
 (viii) in the Yukon Territory, a judge of the Territorial Court, and  
 (ix) in the Northwest Territories, a judge of the Territorial Court; and

"Magistrate."

(b) "magistrate" means

- (i) a person appointed under the law of a province, by whatever title he may be designated, who is specially authorized by the terms of his appointment to exercise the jurisdiction conferred upon a magistrate by this Part, but does not include two or more justices of the peace sitting together,
- (ii) with respect to the Yukon Territory, a police magistrate appointed under the *Yukon Act*, and
- (iii) with respect to the Northwest Territories, a police magistrate appointed under the *Northwest Territories Act*.

## JURISDICTION OF MAGISTRATES.

### ABSOLUTE JURISDICTION.

**467.** The jurisdiction of a magistrate to try an accused is absolute and does not depend upon the consent of the accused where the accused is charged in an information

Theft, etc.,  
not over  
fifty dollars.

(a) with

- (i) theft,
- (ii) obtaining or attempting to obtain money or property by false pretences, or
- (iii) unlawfully having in his possession anything, knowing that it was obtained by the commission in Canada of an offence punishable by indictment, where the property is not a testamentary instrument and where the alleged value of what is alleged to be stolen, obtained, had in possession or attempted to be obtained, does not exceed fifty dollars;

(b) with attempted theft; or

(c) with an offence under

Obstructing  
public or  
peace officer.  
Common  
gaming or  
betting house  
Book making,  
pool-selling,  
etc.  
Lotteries,  
etc.  
Cheating at  
play.  
Keeping  
common  
bawdy-house  
Assaults.  
Assaulting  
public or  
peace officer  
Fraud in  
relation to  
fares.

- (i) paragraph (a) of section 110,
- (ii) section 176,
- (iii) section 177,
- (iv) section 179,
- (v) section 181,
- (vi) section 182,
- (vii) section 231,
- (viii) paragraph (a) of subsection (2) of section 232,  
or
- (ix) section 336.

## MAGISTRATE'S JURISDICTION WITH CONSENT.

**468.** (1) Where an accused is charged in an information with an indictable offence other than an offence that is mentioned in subsection (2) of section 413, and the offence is not one over which a magistrate has absolute jurisdiction under section 467, a magistrate may try the accused if the accused elects to be tried by a magistrate. Trial by magistrate with consent.

(2) An accused to whom this section applies shall, after the information has been read to him, be put to his election in the following words: Election.

You have the option to elect to be tried by a magistrate without a jury; or you may elect to be tried by a judge without a jury; or you may elect to be tried by a court composed of a judge and jury. How do you elect to be tried?

(3) Where an accused does not elect to be tried by a magistrate, the magistrate shall hold a preliminary inquiry in accordance with Part XV, and if the accused is committed for trial or, in the case of a corporation is ordered to stand trial, the magistrate shall Procedure where accused does not consent.

(a) endorse on the information a statement showing the nature of the election or that the accused did not elect, and

(b) state in the warrant of committal, if any, that the accused

(i) elected to be tried by a judge without a jury,

(ii) elected to be tried by a court composed of a judge and jury, or

(iii) did not elect.

(4) Where an accused elects to be tried by a magistrate, the magistrate shall Procedure where accused consents.

(a) endorse on the information a record of the election, and

(b) call upon the accused to plead to the charge, and if the accused does not plead guilty the magistrate shall proceed with the trial or fix a time for the trial.

**469.** (1) Where an accused elects to be tried by a magistrate, but it appears to the magistrate that for any reason the charge should be prosecuted by indictment, he may, at any time before the accused has entered upon his defence, decide not to adjudicate and shall thereupon inform the accused of his decision and continue the proceedings as a preliminary inquiry. Magistrate may decide to hold preliminary inquiry.

(2) Where an accused is before a magistrate charged with an offence mentioned in paragraph (a) of section 467, and, at any time before the magistrate makes an adjudication, the evidence establishes that the value of what was stolen, obtained, had in possession or attempted to be obtained, as Where value more than fifty dollars.

the case may be, exceeds fifty dollars, the magistrate shall put the accused to his election in accordance with subsection (2) of section 468.

Continuing  
proceedings.

(3) Where an accused is put to his election pursuant to subsection (2), the following provisions apply, namely,

(a) if the accused does not elect to be tried by a magistrate, the magistrate shall continue the proceedings as a preliminary inquiry under Part XV, and, if he commits the accused for trial, he shall comply with paragraphs (a) and (b) of subsection (3) of section 468; and

(b) if the accused elects to be tried by a magistrate, the magistrate shall endorse on the information a record of the election and continue with the trial.

Corporation.

**470.** (1) An accused that is a corporation shall appear by its counsel or agent.

Non-appearance of.

(2) Where an accused corporation does not appear pursuant to a summons and service of the summons upon the corporation in accordance with subsection (4) of section 441 is proved, the magistrate

(a) may, if the charge is one over which he has absolute jurisdiction, proceed with the trial of the charge in the absence of the accused corporation, and

(b) shall, if the charge is not one over which he has absolute jurisdiction, hold a preliminary inquiry in accordance with Part XV.

Corporation  
not electing.

(3) Where an accused corporation appears but does not make any election under subsection (2) of section 468, the magistrate shall hold a preliminary inquiry in accordance with Part XV.

Taking  
evidence.

**471.** Where an accused is tried by a magistrate in accordance with this Part, the evidence of witnesses for the prosecutor and the accused shall be taken in accordance with the provisions of Part XV relating to preliminary inquiries.

#### JURISDICTION OF JUDGES.

Trial by  
judge with  
consent.

**472.** An accused who is charged with an indictable offence other than an offence that is mentioned in subsection (2) of section 413 shall, where he elects under section 450, 468 or 475 to be tried by a judge without a jury, be tried, subject to this Part, by a judge without a jury.

Court of  
record.

**473.** (1) A judge who holds a trial under this Part shall, for all purposes thereof and proceedings connected therewith or relating thereto, be a court of record.

Custody of  
records.

(2) The record of a trial that a judge holds under this Part shall be kept in the court over which the judge presides.

## ELECTION.

**474.** (1) Where an accused elects, under section 450 or 468, to be tried by a judge without a jury, a judge having jurisdiction shall,

*Duty of judge.*

(a) upon receiving a written notice from the sheriff stating that the accused is in custody and setting out the nature of the charge against him, or

*Notice by sheriff.*

(b) upon being notified by the clerk of the court that the accused is not in custody and of the nature of the charge against him,

*Notice by clerk of court.*

fix a time and place for the trial of the accused.

(2) The sheriff shall give the notice mentioned in paragraph (a) of subsection (1) within twenty-four hours after the accused is committed for trial, if he is in custody pursuant to that committal or if, at the time of committal, he is in custody for any other reason.

*Notice by sheriff, when given.*

(3) Where, pursuant to subsection (1), a time and place is fixed for the trial of an accused who is in custody, the accused

*Duty of sheriff when date set for trial.*

(a) shall be notified forthwith by the sheriff of the time and place so fixed, and

(b) shall be produced at the time and place so fixed.

(4) Where an accused is not in custody the duty of ascertaining from the clerk of the court the time and place fixed for the trial, pursuant to subsection (1), is on the accused, and he shall attend for his trial at the time and place so fixed.

*Duty of accused when not in custody.*

(5) Where an accused has elected under section 450 or 468 to be tried by a judge without a jury he may, at any time before a time has been fixed for his trial or thereafter with the consent in writing of the Attorney General or counsel acting on his behalf, re-elect to be tried by a judge and jury by filing with the clerk of the court an election in writing and the consent, if consent is required, and where an election is filed in accordance with this subsection the accused shall be tried before a court of competent jurisdiction with a jury and not otherwise.

*Further election.*

**475.** (1) Where an accused elects under section 450 or 468 to be tried by a court composed of a judge and jury, the accused may notify the sheriff in the territorial division in which he is to be tried that he desires to re-elect under this section.

*Notice of intention to re-elect.*

(2) A sheriff who receives notice pursuant to subsection (1) shall forthwith inform a judge having jurisdiction and the judge shall fix a time and place for the accused to re-elect and shall cause notice thereof to be given to the accused.

*Duty of sheriff.*

## Election.

(3) The accused shall attend or, if he is in custody, shall be produced at the time and place fixed under subsection (2) and shall, after the charge upon which he has been committed for trial or ordered to stand trial has been read to him, be put to his election in the following words:

## Procedure.

You have elected to be tried by a court composed of a judge and jury. Do you now elect to be tried by a judge without a jury?

(4) Where an accused elects under this section to be tried by a judge without a jury, the judge shall proceed with the trial or fix a time and place for the trial.

## Limit of time for re-election.

(5) Where an accused does not notify the sheriff in accordance with subsection (1) more than fourteen days before the day fixed for the opening of the sittings or session of the court sitting with a jury by which he is to be tried, no election may be made under this section unless the Attorney General or counsel acting on his behalf consents in writing.

## Consent by Crown to re-election in certain cases.

**476.** Where an accused, being charged with an offence that, under this Part, may be tried by a judge without a jury, is committed for trial or, in the case of a corporation, is ordered to stand trial, within fourteen days of the opening of the sittings or session of the court composed of a judge and jury by which the accused is to be tried, the accused is not entitled to elect, under section 475, to be tried under this Part by a judge without a jury unless the Attorney General or counsel acting on his behalf consents in writing.

## Election deemed to have been made in certain cases.

**477.** Where an accused is committed for trial or ordered to stand trial for an offence that, under this Part, may be tried by a judge without a jury, he shall, for the purposes of the provisions of this Part relating to election and re-election, be deemed to have elected to be tried by a court composed of a judge and jury if

(a) he did not elect when he was put to his election under section 450 or 468, or

(b) he elected under section 468 to be tried by a magistrate and the magistrate, pursuant to section 469, continued the proceedings as a preliminary inquiry.

## TRIAL.

## Preferring charge.

**478.** (1) Where an accused elects, under section 450, 468 or 475, to be tried by a judge without a jury, an indictment in Form 4 shall be preferred by the Attorney General or his agent, or by the Deputy Attorney General, or by any person who has the written consent of the Attorney General, and in the province of British Columbia may be preferred by the clerk of the peace.

(2) An indictment that is preferred under subsection (1) may contain any number of counts, and there may be joined in the same indictment What offences may be included.

(a) counts relating to offences in respect of which the accused elected to be tried by a judge without a jury and for which the accused was committed for trial, whether or not the offences were included in one information, and

(b) counts relating to offences disclosed by the evidence taken on the preliminary inquiry, in addition to or in substitution for any offence for which the accused was committed for trial.

(3) An indictment that is preferred under subsection (1) may include an offence that is not referred to in paragraph (a) or (b) of subsection (2) if the accused consents, and that offence may be dealt with, tried and determined and punished in all respects as if the offence were one in respect of which the accused had been committed for trial, but if that offence was committed wholly in a province other than that in which the accused is before the court, subsection (3) of section 421 applies. Consent of Attorney General or accused in certain cases.

#### GENERAL.

**479.** Where two or more persons are charged with the same offence the following provisions apply, namely, Discretion of judge or magistrate where more than one accused.

(a) if one or more of them, but not all, elect under section 450 to be tried by a judge without a jury, a judge may, in his discretion, decline to fix a time for the trial pursuant to section 474 and may require all the persons to be tried by a court composed of a judge and jury;

(b) if one or more of them, but not all, elect under section 468 to be tried by a magistrate or by a judge without a jury, as the case may be, the magistrate may, in his discretion, decline to record the election and if he does so, shall hold a preliminary inquiry; and

(c) if one or more of them, but not all, elect under section 475 to be tried by a judge without a jury the judge may, in his discretion, require all the persons to be tried by a court composed of a judge and jury.

**480.** The Attorney General may, notwithstanding that an accused elects under section 450, 468 or 475 to be tried by a judge or magistrate, as the case may be, require the accused to be tried by a court composed of a judge and jury, unless the alleged offence is one that is punishable with imprisonment for five years or less, and where the Attorney General so requires, a judge has no jurisdiction to try the accused under this Part and a magistrate shall hold a preliminary inquiry. Attorney General may require trial by jury.

Continuance  
of pro-  
ceedings  
when judge or  
magistrate  
unable to act.

**481.** (1) Where an accused elects, under section 450, 468 or 475 to be tried by a judge or magistrate, as the case may be, and the judge or magistrate before whom the trial was commenced dies or is for any reason unable to continue, the proceedings may, subject to the provisions of this section, be continued before another judge or magistrate, as the case may be, who has jurisdiction to try the accused under this Part.

Where  
adjudication  
made.

(2) Where an adjudication was made by a judge or magistrate before whom the trial was commenced, the judge or magistrate, as the case may be, before whom the proceedings are continued shall, without further election by the accused, impose the punishment or make the order that, in the circumstances, is authorized by law.

Where no  
adjudication  
by judge.

(3) Where the trial was commenced before a judge but he did not make an adjudication, the judge before whom the proceedings are continued shall, without further election by the accused, commence the trial again as a trial *de novo*.

Where no  
adjudication  
by  
magistrate.

(4) Where the trial was commenced before a magistrate but he did not make an adjudication, the magistrate before whom the proceedings are continued shall put the accused to his election in accordance with section 468, and the proceedings shall, in all respects, be continued in accordance with this Part as if the accused were appearing before a magistrate for the first time upon the charge laid against him.

Record of  
plea or verdict  
of guilty.

**482.** (1) Where an accused who is tried under this Part pleads guilty to or is found guilty of an offence with which he is charged, the judge or magistrate, as the case may be, shall cause a conviction in Form 31 to be drawn up and shall sentence the accused or otherwise deal with him in the manner authorized by law, and upon request shall make out and deliver to the prosecutor or to the accused a certified copy of the conviction.

Discharge  
and record of  
acquittal.

(2) Where an accused who is tried under this Part is found not guilty of an offence with which he is charged, the judge or magistrate, as the case may be, shall immediately discharge him in respect of that offence and shall cause an order in Form 33 to be drawn up, and upon request shall make out and deliver to the accused a certified copy of the order.

Transmission  
of record by  
magistrate.

(3) Where an accused elects to be tried by a magistrate under this Part, the magistrate shall transmit the written charge, the memorandum of adjudication and the conviction, if any, into such custody as the Attorney General may direct.

Proof of  
conviction or  
dismissal.

(4) A copy of a conviction or of an order, certified by the judge or by the proper officer of the court, or by the magistrate, as the case may be, or proved to be a true copy, is, upon proof of the identity of the person, sufficient

evidence in any legal proceedings to prove the conviction of that person or the dismissal of a charge against him, as the case may be, for the offence mentioned therein.

(5) Where an accused other than a corporation is convicted, the judge or magistrate, as the case may be, shall issue or cause to be issued a warrant of committal in Form 18, and section 447 applies in respect of a warrant of committal issued under this subsection. Warrant of committal.

**483.** A judge or magistrate acting under this Part may from time to time adjourn a trial until it is finally terminated. Adjournment.

**484.** The provisions of Part XV relating to bail and transmission of the record by the magistrate where he holds a preliminary inquiry and the provisions of Parts XVII and XX, in so far as they are not inconsistent with this Part apply, *mutatis mutandis*, to proceedings under this Part. Application of Parts XV, XVII and XX.

## PART XVII

### PROCEDURE BY INDICTMENT.

#### PREFERRING INDICTMENT.

**485.** For the purposes of this Part, finding an indictment includes Finding indictment.

- (a) preferring an indictment, and
- (b) presentment of an indictment by a grand jury.

**486.** The prosecutor may prefer, before a court constituted with a grand jury, a bill of indictment against any person who has been committed for trial at that court in respect of Prosecutor may prefer indictment

- (a) the charge on which that person was committed for trial, or
- (b) any charge founded on the facts disclosed by the evidence taken on the preliminary inquiry.

**487.** (1) A bill of indictment may be preferred

- (a) by the Attorney General or anyone by his direction, before the grand jury of any court constituted with a grand jury, Attorney General may prefer indictment
- (b) by anyone who has the written consent of the Attorney General, or the written consent of a judge of a court constituted with a grand jury, before the grand jury of the court specified in the consent, or Other person with consent.
- (c) by order of a court constituted with a grand jury, before the grand jury of that court. Or by order.

- Consent need not be averred. (2) No reference is necessary in an indictment to a consent that is given or an order that is made under this section.
- Saving. (3) No objection shall be taken to an indictment for want of a consent or order required by this section unless it is taken by motion to quash the indictment before the accused is given in charge to the jury.
- No indictment except as provided. Criminal information abolished. No trial on coroner's inquisition. **488.** (1) Except as provided in this Part no bill of indictment shall be preferred.  
(2) No criminal information shall be laid or granted.  
(3) No person shall be tried upon a coroner's inquisition.
- Preferring indictment in certain provinces. **489.** (1) In the provinces of Quebec, Manitoba, Saskatchewan, Alberta and British Columbia and in the Yukon Territory and Northwest Territories it is not necessary to prefer a bill of indictment before a grand jury, but it is sufficient if the trial of an accused is commenced by an indictment in writing setting forth the offence with which he is charged.
- Who may prefer. (2) An indictment under subsection (1) may be preferred by the Attorney General or his agent, by the Deputy Attorney General, or by any person with the written consent of a judge of the court or of the Attorney General or, in any province to which this section applies, by order of the court.
- Attorney General may direct stay. **490.** The Attorney General or counsel instructed by him for the purpose may, at any time after an indictment has been found and before judgment, direct the clerk of the court to make an entry on the record that the proceedings are stayed by his direction, and when the entry is made all proceedings on the indictment shall be stayed accordingly and any recognizance relating to the proceedings is vacated.
- Form of indictment. **491.** An indictment is sufficient if it is on paper and is in Form 3 or 4, as the case may be.

#### GENERAL PROVISIONS AS TO COUNTS.

- Substance of offence. **492.** (1) Each count in an indictment shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the accused committed an indictable offence therein specified.
- In popular language. (2) The statement referred to in subsection (1) may be  
(a) in popular language without technical averments or allegations of matters that are not essential to be proved,

(b) in the words of the enactment that describes the offence or declares the matters charged to be an indictable offence, or In words of enactment.

(c) in words that are sufficient to give to the accused notice of the offence with which he is charged. Or otherwise.

(3) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the accused reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to, but otherwise the absence or insufficiency of details does not vitiate the count. Details of circumstances

(4) Where an accused is charged with an offence under section 47 or sections 49 to 53, every overt act that is to be relied upon shall be stated in the indictment. Indictment for treason.

(5) A count may refer to any section, subsection, paragraph or subparagraph of the enactment that creates the offence charged, and for the purpose of determining whether a count is sufficient, consideration shall be given to any such reference. Reference to section.

(6) Nothing in this Part relating to matters that do not render a count insufficient shall be deemed to restrict or limit the application of this section. General provisions not restricted.

**493.** No count in an indictment is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of section 492 and, without restricting the generality of the foregoing, no count in an indictment is insufficient by reason only that Certain omissions not grounds for objection.

(a) it does not name the person injured or intended or attempted to be injured,

(b) it does not name the person who owns or has a special property or interest in property mentioned in the count,

(c) it charges an intent to defraud without naming or describing the person whom it was intended to defraud,

(d) it does not set out any writing that is the subject of the charge,

(e) it does not set out the words used where words that are alleged to have been used are the subject of the charge,

(f) it does not specify the means by which the alleged offence was committed,

(g) it does not name or describe with precision any person, place or thing, or

(h) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

Sufficiency  
of count  
charging  
libel.

#### SPECIAL PROVISIONS AS TO COUNTS.

**494.** (1) No count for publishing a blasphemous, seditious or defamatory libel, or for selling or exhibiting an obscene book, pamphlet, newspaper or other written matter, is insufficient by reason only that it does not set out the words that are alleged to be libellous or the writing that is alleged to be obscene.

Specifying  
sense.

(2) A count for publishing a libel may charge that the published matter was written in a sense that by innuendo made the publication thereof criminal, and may specify that sense without any introductory assertion to show how the matter was written in that sense.

Proof.

(3) It is sufficient, on the trial of a count for publishing a libel, to prove that the matter published was libellous, with or without innuendo.

Sufficiency  
of count  
charging  
Perjury, etc.

**495.** No count that charges

(a) perjury,

(b) the making of a false oath or a false statement,

(c) fabricating evidence, or

(d) procuring the commission of an offence mentioned in paragraph (a), (b) or (c),

is insufficient by reason only that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used or the evidence fabricated, or that it does not expressly negative the truth of the words used.

Sufficiency of  
count relating  
to fraud.

**496.** No count that alleges false pretences, fraud or an attempt or conspiracy by fraudulent means, is insufficient by reason only that it does not set out in detail the nature of the false pretence, fraud or fraudulent means.

#### PARTICULARS.

What may  
be ordered.

**497.** (1) The court may, where it is satisfied that it is necessary for a fair trial, order the prosecutor to furnish particulars and, without restricting the generality of the foregoing, may order the prosecutor to furnish particulars

(a) of what is relied upon in support of a charge of perjury, the making of a false oath or of a false statement, fabricating evidence or counselling or procuring the commission of any of those offences:

(b) of any false pretence or fraud that is alleged;

(c) of any alleged attempt or conspiracy by fraudulent means;

- (d) setting out the passages in a book, pamphlet, newspaper or other printing or writing that are relied upon in support of a charge of selling or exhibiting an obscene book, pamphlet, newspaper, printing or writing;
  - (e) further describing any writing or words that are the subject of a charge;
  - (f) further describing the means by which an offence is alleged to have been committed; or
  - (g) further describing a person, place or thing referred to in an indictment.
- (2) For the purpose of determining whether or not a particular is required, the court may give consideration to any evidence that has been taken. Regard to evidence.
- (3) Where a particular is delivered pursuant to this section,
- (a) a copy shall be given without charge to the accused or his counsel, Copy to accused.
  - (b) the particular shall be entered in the record, and Recording.
  - (c) the trial shall proceed in all respects as if the indictment had been amended to conform with the particular. Effect of.

#### OWNERSHIP OF PROPERTY.

**498.** The real and personal property of which a person has, by law, the management, control or custody shall, for the purposes of an indictment or proceeding against any other person for an offence committed on or in respect of the property, be deemed to be the property of the person who has the management, control or custody of it. Ownership.

#### JOINDER OR SEVERANCE OF COUNTS.

**499.** No count that charges an offence other than murder shall be joined in an indictment to a count that charges murder. Count for murder to stand alone.

- 500.** (1) A count is not objectionable by reason only that
- (a) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an indictable offence the matters, acts or omissions charged in the count, or
  - (b) it is double or multifarious. Offences may be charged in the alternative.
- (2) An accused may at any stage of his trial apply to the court to amend or to divide a count that
- (a) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that describes the offence or declares that the matters, acts or omissions charged are an indictable offence, or Application to amend or divide counts.

(b) is double or multifarious, on the ground that, as framed, it embarrasses him in his defence.

Order. (3) The court may, where it is satisfied that the ends of justice require it, order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

Joinder of counts. **501.** (1) Subject to section 499, any number of counts for any number of indictable offences may be joined in the same indictment, but the counts shall be distinguished in the manner shown in Forms 3 and 4.

Each count separate. (2) Where there is more than one count in an indictment, each count may be treated as a separate indictment.

Separate trial. (3) The court may, where it is satisfied that the ends of justice require it, direct that the accused be tried separately upon one or more of the counts.

Order for severance. (4) An order for the separate trial of one or more counts in an indictment may be made before or during the trial, but if the order is made during the trial the jury shall be discharged from giving a verdict on the counts on which the trial does not proceed.

Subsequent procedure. (5) The counts in respect of which a jury is discharged pursuant to subsection (4) may subsequently be proceeded upon in all respects as if they were contained in a separate indictment.

#### JOINDER OF ACCUSED IN CERTAIN CASES.

Accessories after the fact. **502.** Any one who is charged with being an accessory after the fact to any offence may be indicted, whether or not the principal or any other party to the offence has been indicted or convicted or is or is not amenable to justice.

Trial of persons jointly for having in possession. **503.** (1) Any number of persons may be charged in the same indictment with an offence under section 296 or paragraph (b) of subsection (1) of section 298, notwithstanding that

(a) the property was had in possession at different times;

or

(b) the person by whom the property was obtained

(i) is not indicted with them, or

(ii) is not in custody or is not amenable to justice.

Conviction of one or more. (2) Where, pursuant to subsection (1), two or more persons are charged in the same indictment with an offence referred to in that subsection, any one or more of those persons who separately committed the offence in respect of the property or any part of it may be convicted.