

## PART VIII.

FRAUDULENT TRANSACTIONS RELATING TO  
CONTRACTS AND TRADE.

## INTERPRETATION.

- 322.** In this Part,
- "False name or initials." (a) "false name or initials" means, as applied to goods, the name or initials of a person,
- (i) that are not a trade mark or part of a trade mark, 5
- (ii) that are identical with, or are a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description who has not authorized the use of his name or initials, or 10
- (iii) that are the name or initials of a fictitious person or of a person who does not *bona fide* carry on business in connection with such goods;
- "Goods." (b) "goods" means anything that is the subject of trade or commerce; 15
- "Trade mark." (c) "trade mark" means a trade mark or industrial design registered in accordance with *The Unfair Competition Act, 1932* or Part II of *The Trade Mark and Design Act*, the registration of which is in force by virtue of one of those Acts, and includes any trade mark that, either 20 with or without registration, is protected by law in any place to which section 91 of the *Patents and Designs Act, 1907*, of the United Kingdom is, in accordance with the provisions of that Act, for the time being applicable; 25
- "Trading stamps." (d) "trading stamps" includes any form of cash receipt, receipt, coupon, premium 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 30 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, 35
- (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 40 where the goods are purchased; or

**322.** Section 335.

(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, 5

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; and 10

"Watch." (e) "watch" means that portion of a watch that is not the watch case. 10

#### 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. 15

**Affecting public market.** (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. 20 25

**Using mails to defraud.** **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. 30

**Fraudulent manipulation of stock exchange transactions.** **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, 35

(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 40 45

**323.** Section 444.

**324.** Section 209 (c).

**325.** Section 444A.

(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, 5  
 is guilty of an indictable offence and is liable to imprisonment for five years.

Gaming in stocks or merchandise.

**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 10 the stock of an incorporated or unincorporated company or undertaking, whether in or out of Canada, or of any goods, wares, or merchandise,

Making contract without intention to acquire or sell.

(a) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting 15 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

Contract without delivery or intention to receive.

(b) makes or signs, or authorizes to be made or signed, 20 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 25 or receiving delivery thereof, as the case may be,

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. 30

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* 35 *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 40 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 under- 45 taking, whether in or out of Canada, thereafter sells or causes to be sold shares of the company or undertaking for any account in which

**326.** Sections 231 and 987.

**327.** Section 231A.

(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 5  
 in the ordinary course of business below the amount of  
 such shares that the broker should be carrying for all  
 customers.

**328.** Every one who, being a vendor or mortgagor of  
 property or of a chose in action or being a solicitor for or 10  
 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  
 (a) with intent to defraud and for the purpose of inducing 15  
 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  
 (b) falsifies any pedigree upon which the title depends, 20  
 is guilty of an indictable offence and is liable to imprison-  
 ment for two years.

**329.** Every one who, as principal or agent, in a pro-  
 ceeding to register title to real property, or in a trans-  
 action relating to real property that is or is proposed to be 25  
 registered, knowingly and with intent to deceive,  
 (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 30  
 (c) is privy to anything mentioned in paragraph (a)  
 or (b),  
 is guilty of an indictable offence and is liable to imprison-  
 ment for five years.

**330.** Every one who, knowing of an unregistered prior 35  
 sale or of an existing unregistered grant, mortgage, hypo-  
 thec, 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. 40

**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 45  
 delivered to or received by him, before the property

**328.** Section 419.

**329.** Section 420.

**330.** Section 421.

**331.** Section 425.



referred to in the purported receipt or acknowledgment has been delivered to or received by him, or  
 Using receipt. (b) accepts, transmits or uses a purported receipt or acknowledgment to which paragraph (a) applies, is guilty of an indictable offence and is liable to imprisonment for two years. 5

**332.** (1) Every one who  
 Fraudulent disposal of goods on which money advanced. (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 15  
 Aiding such disposal. (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, is guilty of an indictable offence and is liable to imprisonment for two years. 20

Saving. (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 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. 25

**333.** Every one is guilty of an indictable offence and is liable to imprisonment for two years who  
 Fraudulent receipts under Bank Act. (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 35  
 (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. 45

**332.** Section 426.

**333.** Section 427.

**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. 5

**335.** Every one who,  
 (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  
 (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. 10 15

**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. 20 25

**336.** (2) Every one who gives or offers to a person whose duty 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. 30 35

**337.** (1) Every one is guilty of an indictable offence and is liable to imprisonment for five years who  
 (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 40 45

**334.** Section 428.

**335.** Section 417 (*a*) and (*b*).

**336.** Section 412 (1) and (2).

**337.** Section 424 (1) and (6).

- 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;
- Unlawful sale of substance containing precious metals. (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 possession. (c) has in his possession or knowingly has upon his premises
- (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.
- Seizure and forfeiture. (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.
- 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.

**338.** Section 637.

- 339.** (1) Every one who
- Salting mine. (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 5
- 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, 10
- is guilty of an indictable offence and is liable to imprisonment for five years. 15
- 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 20
- (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, 25
- By destruction, etc. (a) destroys, mutilates, alters, falsifies, or makes a false entry in, or
- (b) omits a material particular from, or alters a material particular in,
- a book, paper, writing, valuable security or document is 30
- guilty of an indictable offence and is liable to imprisonment for five years.
- To defraud creditors. (2) Every one who, with intent to defraud his creditors, is privy to the commission of an offence under subsection (1) is guilty of an indictable offence and is liable to imprisonment for five years. 35
- 341.** Every one who, with intent to deceive,
- False employment record. (a) falsifies an employment record, or
- Time clock. (b) punches a time clock,
- is guilty of an offence punishable on summary conviction. 40
- 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

**339.** Section 424A.

**340.** Sections 413, 415, 418, 484 and 485.

**341.** Section 415A (b) and (c).

**342.** Section 416.



(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. 5

False prospectus, etc.

**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  
 (a) to induce persons, whether ascertained or not, to become shareholders or partners in a company, 10  
 (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 15  
 (d) to enter into any security for the benefit of a company, is guilty of an indictable offence and is liable to imprisonment for five years.

"Company."

(2) In this section, "company" means a syndicate, body corporate or company, whether existing or proposed to be created. 20

Obtaining carriage by false billing.

**344.** (1) Every one who, by means of a false or misleading representation or by any other means, knowingly obtains or attempts to obtain the carriage of anything by any person into a 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. 25

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. 30

Trader failing to keep accounts.

**345.** (1) Every one who, being a trader or in business, 35  
 (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, 40  
 are necessary to exhibit or explain his transactions, is guilty of an indictable offence and is liable to imprisonment for two years.

**343.** Section 414.

**344.** Section 412 (3).

**345.** Section 417 (c).

- 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, 10

- (a) with intent to gain undue advantage for himself or another person,
- (b) with intent to obtain any property or an interest in any property, or 15
- (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. 25

**Acknowledging instrument in false name.** **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. 30

FORGERY OF TRADE MARKS AND TRADE DESCRIPTIONS.

**349.** For the purposes of this Part, every one forges a trade mark who 35

- (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. 40

**Simulating trade mark.**

**Falsifying trade mark.**

• **346.** Sections 408 and 410.

**347.** Section 409.

**348.** Section 411.

**349.** Section 486.

Applying trade mark.	<b>350.</b> (1) For the purposes of this Part, every one applies a trade mark, mark, trade description, or name or initials, as the case may be, to goods when he	
To goods.	(a) applies it to the goods themselves,	5
To covering.	(b) applies it to any covering, label, reel or other thing, in or with which the goods are sold or exposed or kept for the purpose of sale, trade or manufacture,	
By wrapping.	(c) places or wraps the goods in, or annexes the goods to, anything to which the trade mark, mark, trade description or name or initials as the case may be, has been applied, or	10
Intent to mislead.	(d) uses it in a manner calculated to lead to the belief that the goods are designated or described by that trade mark, mark, trade description or name or initials.	
By connecting with other article.	(2) A trade mark, mark, trade description or name or initials is applied, for the purposes of this section, notwithstanding that it is applied by weaving, impressing or otherwise working it into or upon anything.	15
Forged trade marks.	<b>351.</b> (1) Every one commits an offence who, with intent to deceive or defraud,	20
	(a) applies a forged trade mark, a false trade description, or a false name or initials to goods,	
	(b) has in his possession for sale or any purpose of trade, goods to which a forged trade mark, a false trade description or a false name or initials has been applied,	25
	(c) sells goods to which a forged trade mark, a false trade description or a false name or initials has been applied, or	
	(d) has a forged trade mark in his possession for sale or for use in trade or the manufacture of goods.	
Burden of proof.	(2) In proceedings under this section in relation to a forged trade mark the burden of proving that the proprietor of the trade mark consented that it should be made or reproduced is upon the accused.	30
Mark on watch case.	(3) Where a watch case bears words or marks that constitute, or are by common repute considered to constitute, a description of the country in which the watch was made, and the watch bears no such description of that country, those words or marks shall, <i>prima facie</i> , for the purposes of this section, be deemed to be a false trade description.	35
"False trade description."	(4) In this section, (a) "false trade description" means a trade description that is false in a material respect with respect to the goods to which it is applied or upon which it appears; and	40
"Trade description."	(b) "trade description" means any description, statement or indication, direct or indirect, with respect to (i) the number, quantity, measure, gauge or weight of goods,	45

**350.** Section 487.

**351.** (1), (2) and (3). Sections 336, 488 (1) and 489.

(4) Sections 335 (1) (*n*) and (*w*), 341 and 342.

- (ii) the place or country in which goods are made or produced,
- (iii) the mode of manufacturing or producing goods,
- (iv) the materials of which goods are composed, or
- (v) goods being the subject of an existing patent, 5  
privilege or copyright,

and includes figures, words or marks, or any arrangement or combination thereof, whether in conjunction with or as part of a trade mark or not, that are reasonably calculated to lead persons to believe that goods are the manufacture 10 or merchandise of a particular person.

Forging  
trade mark.  
Instruments  
therefor.

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

- (a) forges a trade mark, or
- (b) makes, has in his possession or disposes of a die, 15  
block, machine or other instrument, designed or  
intended to be used in forging a trade mark.

Saving.

(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.

**353.** Every one commits an offence who, with intent to 20  
deceive or defraud,

Defacing  
trade  
mark.

- (a) defaces, conceals or removes a trade mark or the name of another person from anything without the consent of that other person, or

Using  
bottles  
bearing  
trade mark  
of another.

- (b) being a manufacturer, dealer, trader or bottler fills 25  
any bottle or siphon that bears the trade mark or name  
of another person, without the consent of that other  
person, with a beverage, milk, by-product of milk or  
other liquid commodity for the purpose of sale or  
traffic. 30

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 35 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 351, 352, 353 or 354 is guilty of 40

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

**352.** Sections 488 (1) and 494.

**353.** Section 490.

**354.** Section 490A.

**355.** Sections 491, 635 and 1039.



(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 351, 352, 353 or 354 is forfeited upon the conviction of that person for that offence. 5

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. 10

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. 15

## WRECK.

**358.** Every one who  
 Secreting wreck. (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, 20  
 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, 25  
 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,  
 Keeping wreck. (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 30  
 Boarding wrecked vessel. (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, 35  
 is guilty of  
 (f) an indictable offence and is liable to imprisonment for two years, or  
 (g) an offence punishable on summary conviction. 40

**356.** Section 492.

**357.** Section 992.

**358.** Section 430.

## PUBLIC STORES.

Distinguishing mark on 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. 5

Applying or removing marks without authority.

**360.** (1) Every one who,  
 (a) without lawful authority, the proof of which lies upon him, applies a distinguishing mark to anything, or  
 (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. 10 15

Unlawful transactions in public stores.

(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. 20

"Distinguishing mark."

(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. 25

Selling defective stores to Her Majesty.

**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. 30

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. 35 40

**359.** Section 432.

**360.** Section 433.

**361.** Section 434.

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, 5

(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, 10

(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 15

(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, 25

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 35

(b) an offence punishable on summary conviction.

Exception.

(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. 40

Evidence of  
enlistment.

**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. 45

**362.** Section 435.

**363.** Section 436.

**364.** Section 991.

Presumption  
when accused  
a dealer in  
stores.

(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. 5

#### BREACH OF CONTRACT, INTIMIDATION AND DISCRIMINATION AGAINST TRADE UNIONISTS.

Criminal  
breach of  
contract.

**365.** 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 10

Where life  
endangered.

Causing  
bodily  
injury.

Endangering  
property.

Depriving of  
services.

Preventing  
running of  
trains.

(a) to endanger human life,  
(b) to cause serious bodily injury,  
(c) to expose valuable property, real or personal, to destruction or serious injury, 15  
(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, 20

is guilty of

(f) an indictable offence and is liable to imprisonment for five years, or 25  
(g) an offence punishable on summary conviction.

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, 30

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, 35

By following.

(c) persistently follows that person about from place to place, 40

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,

**365.** Section 499.

**366.** Sections 501 and 502.



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 5

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 10 within the meaning of this section.

**367.** Every one who, being an employer or the agent of an employer, wrongfully and without lawful authority

Employer refusing to employ member of trade union. (a) refuses to employ or dismisses from his employment any person for the reason only that the person is a 15 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, 20

Employer intimidating workman. (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 25 or combination to which they have a lawful right to belong, or

Employers conspiring. (c) conspires, combines, agrees or arranges with any other employer or his agent to do anything mentioned in paragraph (a) or (b), 30 is guilty of an offence punishable on summary conviction.

SECRET COMMISSIONS.

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

Bribery of agent. (a) corruptly (i) gives, offers or agrees to give or offer to an agent, 35 or (ii) being an agent, demands, accepts or offers or agrees to accept from any person, 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 40 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

Agent accepting bribe.

**367.** Section 502A.

**368.** Section 504.

	(o) 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	
False account to deceive principal.	(i) in which the principal has an interest,	5
	(ii) that contains any statement that is false or erroneous or defective in any material particular, and	
	(iii) that is intended to mislead the principal.	
Privity to offence.	(2) Every one commits an offence who is knowingly privy to the commission of an offence under subsection (1).	10
Punishment.	(3) A person who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for two years.	
	(4) In this section,	15
"Agent."	(a) "agent" includes an employee, and	
"Principal."	(b) "principal" includes an employer.	

#### TRADING STAMPS.

Issuing trading stamps.	<b>369.</b> (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.	20
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.	25

**369.** Section 505.

## 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. 5
- Colour of right. (2) No person shall be convicted of an offence under 10 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 15 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 20 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. Obstructing use of property. Obstructing person in use of property. Punishment. **372.** (1) Every one commits mischief who wilfully (a) destroys or damages property, (b) renders property dangerous, useless, inoperative or 25 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. 30
- (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.
- Idem. (3) Every one who commits mischief in relation to public property is guilty of an indictable offence and is liable to 35 imprisonment for fourteen years.

**370.** New.

**371.** Sections 509 and 541.

**372.** Sections 96, 97, 238(*h*), 510, 516B, 517 to 522,  
525, and 533 to 535.

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.	
Offence.	(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.	5
Damage not more than fifty dollars.	<b>373.</b> (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.	10
Compensation.	(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.	20
Imprisonment in default.	(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 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.	25
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.	30

## ARSON AND OTHER FIRES.

Arson.	<b>374.</b> (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,	35
	(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,	40
	(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.	45

**373.** Section 539.

(4) Section 740 (1) in part.

**374.** Sections 511 and 513.



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 wilfully sets fire to anything that is likely to cause anything mentioned in subsection (1) of section 374 to catch fire is guilty of an indictable offence and is liable to imprisonment for five years. 5

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. 10

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. 15 20

Presumption  
against  
person in  
control of  
premises. (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. 25 30

#### OTHER INTERFERENCE WITH PROPERTY.

False alarm  
of fire. **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. 35

**375.** Sections 512 and 514.

**376.** Section 541.

**377.** Section 515 (1) and (2).

**378.** Section 516A.

Interfering  
with saving  
of wrecked  
vessel.

**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 wreck.

(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 marine  
signal, etc.

**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.

(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.

Removing  
natural bar  
without  
permission.

**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.

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 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

**379.** Section 524.

**380.** Section 526.

**381.** Section 527.

**382.** Section 529.

**383.** Section 530.

**384.** Sections 531 and 532.

(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. 5

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. 10

## 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, or

is guilty of an indictable offence and is liable to imprisonment for five years. 15

**386.** Every one who wilfully

(a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose, or 20

(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.

Killing or  
injuring  
other  
animals.

Placing  
poison.

## CRUELTY TO ANIMALS.

**387.** (1) Every one commits an offence who 25

(a) wilfully causes or wilfully permits to be caused unwarranted pain, suffering, damage 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, 30

(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, 35

Baiting.

(d) in any manner encourages, aids or assists at the fighting or baiting of animals or birds,

Poisoning.

(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 40

**385.** Section 536.

**386.** Sections 393 and 537 (1) (a) and (b).

**387.** Section 542.

- 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
- Field trials. (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 (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). 5
- Punishment. (2) Every one who commits an offence under subsection (1) is guilty of an offence punishable on summary conviction. 10
- Keeping cock-pit. **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. 15
- Confiscation. (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. 20
- Transportation of cattle by rail or water. **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. 25
- Saving. (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. 30
- Transportation of calves. (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. 35
- 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. 40
- 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. 45

**388.** Section 543.

**389.** Section 544.



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. 5 10

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 saw-dust or sand before they are again loaded with livestock. 15

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. 20

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. 25

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. 30

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. 35

**390.** Section 545.

## PART X.

## OFFENCES RELATING TO CURRENCY.

## INTERPRETATION.

- 391.** In this Part,
- "Copper coin." (a) "copper coin" means a coin other than a gold or silver coin;
- "Counterfeit money." (b) "counterfeit money" includes
- (i) a false coin or false paper money that resembles 5 or is apparently intended to resemble or pass for a current coin or current paper 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 10 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 15 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 20 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;
- "Counterfeit token of value." (c) "counterfeit token of value" means a counterfeit 25 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;
- "Current." (d) "current" means lawfully current in Canada or 30 elsewhere by virtue of a law, proclamation or regulation in force in Canada or elsewhere as the case may be; and
- "Utter." (e) "utter" includes sell, pay, tender and put off.

## MAKING.

- 392.** Every one who makes or begins to make counterfeit money is guilty of an indictable offence and is liable 35 to imprisonment for fourteen years.

This Part is derived from Part IX of the present *Criminal Code*. It has been completely revised. It replaces sections 2 (8), 546 to 569, 632, 955, 957 and 981.

## POSSESSION.

**393.** Every one who, without lawful justification or excuse, the proof of which lies upon him,  
 Buying. (a) buys, receives or offers to buy or receive,  
 Having. (b) has in his custody or possession, or  
 Importing. (c) introduces into Canada, 5  
 counterfeit money is guilty of an indictable offence and is liable to imprisonment for fourteen years.

**394.** Every one who, without lawful justification or excuse, the proof of which lies upon him, has in his custody or possession 10  
 (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 15  
 produced or obtained, is guilty of an indictable offence and is liable to imprisonment for five years.

## UTTERING.

**395.** Every one who, without lawful justification or excuse, the proof of which lies upon him,  
 Uttering counterfeit money. (a) utters or offers to utter counterfeit money or uses 20  
 money. counterfeit money as if it were genuine, or  
 Exporting. (b) exports, sends or takes counterfeit money out of Canada,  
 is guilty of an indictable offence and is liable to imprisonment for fourteen years. 25

**396.** Every one who, with intent to defraud, knowingly utters  
 Uttering coin not current. (a) a coin that is not current, or  
 Uttering false coin. (b) a piece of metal or mixed metals that resembles in size, figure and colour a current gold or silver coin and 30  
 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.

**397.** Everyone who fraudulently inserts or uses in a 35  
 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 40  
 conviction.

## DEFACING OR IMPAIRING.

**398.** Every one who

Clipping coin. (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

Uttering clipped coin. (b) utters a coin, knowing that it has been impaired, diminished or lightened contrary to paragraph (a), 5  
is guilty of an indictable offence and is liable to imprisonment for fourteen years.

**399.** Every one who

Defacing current coin. (a) defaces a current gold, silver or copper coin, or 10  
(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.** Every one who designs, engraves, prints or in any manner makes, executes, issues, distributes, circulates 15 or uses a business or professional card, notice, placard, circular, handbill or advertisement in the likeness or appearance of

(a) a current bank note or current paper money, or

(b) any obligation or security of a government or a 20 bank,

Printing circulars, etc., in likeness of notes. is guilty of an offence punishable on summary conviction.

## INSTRUMENTS OR MATERIALS.

**401.** Every one who, without lawful justification or excuse, the proof of which lies upon him, 25

(a) makes or repairs,

(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 30 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.

**402.** Every one who, without lawful justification or excuse, the proof of which lies upon him, knowingly conveys 35 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,

Conveying instruments for coining out of mint.

(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. 5

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 10

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, 15 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. 20

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. 25 30

FORFEITURE.

Ownership.

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. 35

Seizure.

(2) A peace officer may seize and detain

(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 5  
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 any-  
thing that is required as evidence in any proceedings shall 10  
not be sent to the Minister until it is no longer required  
in those proceedings.



## PART XI.

## ATTEMPTS—CONSPIRACIES—ACCESSORIES.

- Attempts, 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,
- Where offence punishable with death or life imprisonment.** (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; 5 10
- Where offence punishable with fourteen years or less.** (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 15
- Where offence punishable on summary conviction.** (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. 20
- Counselling, etc., offence which is not committed.** **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, 25
- (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 30
- (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.
- Conspiracy to murder.** **408.** Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy, namely, 35
- (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; 40

**406.** Sections 570, 571, 572 (in part), 574 and 575.

**407.** Sections 69 and 572 (in part).

**408.** (a) Section 266 (a).

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;

Common law conspiracy.

- (d) every one who conspires with any one
  - (i) to effect an unlawful purpose, or
  - (ii) to effect a lawful purpose by unlawful means,
 is guilty of an indictable offence and is liable to imprisonment for two years; and

Conspiracy to commit other indictable offence.

- (e) every one who conspires with any one to commit an indictable offence not provided for in paragraph (a), (b), (c) or (d) 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.

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.

Trade union, exception.

(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).

Saving.

**410.** (1) Except where otherwise expressly provided by law, no person shall be convicted of conspiracy in restraint of trade by reason only that he

- (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 purposes of a trade combination.

"Trade combination."

(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.

(b) Section 178.

(c) Section 218.

(d) New.

(e) Section 573.

**409.** Sections 496 and 497.

**410.** (1) Section 590.

(2) Section 2 (41).

Conspiracy.	<b>411.</b> (1) Every one who conspires, combines, agrees or arranges with another person	
To limit commercial facilities.	(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article,	5
To restrain commerce.	(b) to restrain or injure trade or commerce in relation to any article,	
To lessen production.	(c) to prevent, limit or lessen, unduly, the manufacture or production of an article, or to enhance unreasonably the price thereof, or	10
To lessen competition.	(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,	
	is guilty of an indictable offence and is liable to imprisonment for two years.	15
"Article."	(2) For the purposes of this section, "article" means an article or commodity that is a subject of trade or commerce.	
Saving.	(3) This section does not apply to combinations of workmen or employees for their own reasonable protection as workmen or employees.	20
	<b>412.</b> (1) Every one engaged in trade, commerce or industry who	
Discrimination in trade.	(a) is a party to or is privy to, or assists in, any transaction of sale that discriminates, to his knowledge, against competitors of the purchaser in that a discount, rebate or allowance is granted to the purchaser over and above any discount, rebate or allowance available at the time of the transaction to those competitors in respect of a sale of goods of like quality and quantity,	25
Lower prices in particular area.	(b) engages in a policy of selling goods in any area of Canada at prices lower than those charged by the seller elsewhere in Canada, for the purpose of destroying competition or eliminating a competitor in that part of Canada, or	30
Lessening prices to destroy competition.	(c) engages in a policy of selling goods at prices unreasonably low for the purpose of destroying competition or eliminating a competitor,	35
	is guilty of an indictable offence and is liable	
Punishment.	(d) in the case of a corporation, to a fine of not more than five thousand dollars, and	40
	(e) in the case of a person other than a corporation, to imprisonment for two years.	
Co-operative society not affected.	(2) No offence is committed under paragraph (a) of subsection (1) by reason only that a co-operative society returns to producers or consumers, or a co-operative wholesale society returns 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 made to the society.	45
		50

**411.** Section 498.

**412.** Section 498A.

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, 5 namely,	
Treason.	(i) section 47,	
Intimidating Parliament or legislature.	(ii) section 51,	
Alarming or harming Her Majesty.	(iii) section 52,	
Inciting to mutiny.	(iv) section 53,	10
Piracy.	(v) section 75,	
Piratical acts.	(vi) section 76,	
Murder.	(vii) section 206,	
Manslaughter.	(viii) section 207,	
Attempted murder.	(ix) section 210,	15
Threat to murder.	(x) paragraph (a) of subsection (1) of section 316,	
Conspiracy to murder.	(xi) paragraph (a) of section 408,	
Combination restraining trade.	(xii) section 411, or	
Discrimination in trade.	(xiii) section 412; or	
Accessories.	(b) accessory after the fact to treason or murder.	20
Jurisdiction over person.	<b>414.</b> 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	
	(a) if the accused is found, is arrested or is in custody 25 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 30 by lawful authority been transferred to that court.	
Trial by jury compulsory.	<b>415.</b> 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 35 jury.	

**413.** (1) Section 580 (1).

(2) Sections 582 and 583.

**414.** Section 577.

**415.** New.



Option for trial without jury in trade conspiracy cases.

**416.** (1) Where an indictment is found against an accused, other than a corporation, for an offence under the *Combines Investigation Act* or under section 411 or 412, 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. 5

Part XVI applies.

(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. 10

Trial without jury in Alberta.

**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. 15

Adjournment when no jury summoned.

**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 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. 20

#### SPECIAL JURISDICTION.

On water between jurisdictions.

**419.** For the purposes of this Act,  
(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; 25

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; 30

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; 40 45

**416.** Section 581.

**417.** Section 581A.

**418.** Section 580 (2).

**419.** Sections 545A and 584.

- 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 twelve 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.

Consent. (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.

Offence committed entirely in one province not triable in another. Exception. **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.

(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.

Exception. (3) Where an accused is in custody and signifies in writing 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 sends, 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

**420.** (1) New.

(2) Section 591.

**421.** (1) and (2). Section 888.

(3) New.

by law, but where he does not plead guilty, he shall be returned to custody and shall be dealt with according to law.

"Newspaper". (4) In this section, "newspaper" has the same meaning that it has in section 247. 5

Offence in unorganized territory.

**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. 10 15

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. 20

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. 25

#### 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. 30 35

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; 40

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; 45

(4) Section 2 (23).

**422.** Section 585.

**423.** Sections 586 and 587.

**424.** Sections 576, 1017 (1), 1020 (5) and 1021 (1), (2), (3), (11) and (13) to (18).

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.

Rules to  
continue.

(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.

Publication.

(4) Rules of court that are made under the authority of this section shall be published in the *Canada Gazette*.

Regulations  
to secure  
uniformity.

(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.

## PART XIII.

## SPECIAL PROCEDURE AND POWERS.

## GENERAL POWERS OF CERTAIN OFFICIALS.

- Officials with powers of two justices.** **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. 5
- Preserving order in court.** **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. 10
- Trial of juveniles to be without publicity.** **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.
- Exclusion of public in certain cases.** **428.** The trial of an accused that is a corporation or 15 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 20 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, 25  
 (a) anything upon or in respect of which any offence against this Act or any other Act of the Parliament of Canada has been or is suspected to have been committed,  
 (b) anything that there is reasonable ground to believe 30 will afford evidence with respect to the commission of an offence against this Act or any other Act of the Parliament of Canada, or  
 (c) anything that there is reasonable ground to believe is intended to be used for the purpose of committing 35 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



**425.** Section 604.

**426.** Section 606.

**427.** Section 644.

**428.** Sections 645 and 714.

**429.** Sections 629 and 662.

- 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. 5
- 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 10 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 15 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 20 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.
- Seizure of things not specified.** **431.** Every person who executes a warrant issued 25 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 30 same territorial division, to be dealt with in accordance with section 432.
- Detention of things seized.** **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 35 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.
- When accused committed for trial.** (2) When an accused has been committed for trial the 40 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.
- Disposal of things seized in other cases.** (3) Where a justice is satisfied that anything that has 45 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

**430.** Section 630.

**431.** New.

**432.** (1) and (2). Section 631.

(3) New.

(a) if possession of it by the person from whom it was seized is unlawful, order it to be forfeited unless he is authorized or required by law to dispose of it in some other way, or

(b) order that it be returned to the person from whom it was seized. 5

Detention  
pending  
appeal, etc.

(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. 10

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). 15

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. 20

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. 25

(4) New.

**433.** Section 633.

## PART XIV.

COMPELLING APPEARANCE OF ACCUSED  
BEFORE A JUSTICE.

## ARREST WITHOUT WARRANT.

- 434.** Any one may arrest without warrant a person whom he finds committing an indictable offence.
- 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.
- 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 of property, or  
 (b) a person authorized by the owner 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 deliver that person to a peace officer.  
 (2) A peace officer may detain a person who has been arrested without warrant and shall, as soon as possible, bring that person before a justice to be dealt with according to law.  
 (3) Any one who arrests a person upon a warrant shall, as soon as possible, bring that person before the justice who issued the warrant or before some other justice for the same territorial division.

By any person.

By peace officer.

By any person on fresh pursuit.

By owner of property.

Delivery to peace officer of person arrested without warrant.

Detention by peace officer.

Taking before justice.

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**434.** Section 646.

**435.** Sections 647, 648 and 652 (in part).

**436.** Section 649.

**437.** Section 650.

**438.** Section 652 (in part) and new in part.

## INFORMATION, SUMMONS AND WARRANT.

In what cases justice may receive information.	<p><b>439.</b> (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</p> <p>(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</p> <p style="padding-left: 2em;">(i) is or is believed to be, or</p> <p style="padding-left: 2em;">(ii) resides or is believed to reside,</p> <p style="padding-left: 2em;">within the territorial jurisdiction of the justice;</p> <p>(b) the person, wherever he may be, has committed an indictable offence within the territorial jurisdiction of the justice;</p> <p>(c) the person has anywhere unlawfully received property that was unlawfully obtained within the territorial jurisdiction of the justice; or</p> <p>(d) the person has in his possession stolen property within the territorial jurisdiction of the justice.</p>	5
Form.	<p>(2) An information that is laid under this section may be</p>	20
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 style="padding-left: 2em;">(i) the allegations of the informant, and</p> <p style="padding-left: 2em;">(ii) the evidence of witnesses, where he considers it</p> <p style="padding-left: 4em;">desirable or necessary to do so; and</p>	25
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</p> <p>by reason only that the alleged offence is one for which a person may be arrested without warrant.</p>	30
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>	35
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>	40
		45



**439.** Sections 653 and 654.

**440.** Section 655 (1), (2) and (4).

(4) Sections 658 (3) and 659 (2).

**441.** (1) to (3). Section 658.

- Form. (2) A summons may be in Form 6.
- Service on individual. (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. 5
- Service on corporation. (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. 10
- Service on municipality. (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.
- Proof of service. (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. 15
- Contents of warrant to arrest. **442.** (1) A warrant shall  
 (a) name or describe the accused,  
 (b) set out briefly the offence in respect of which the accused is charged, and  
 (c) order that the accused be arrested and brought before the justice who issued the warrant or before some other justice having jurisdiction in the same territorial division, to answer to the charge and to be further dealt with according to law. 20
- No return day. (2) A warrant remains in force until it is executed, and need not be made returnable at any particular time.
- Form. (3) A warrant may be in Form 7.
- Formalities of warrant. **443.** A warrant that is authorized by this Part shall be signed by a justice and may be directed, 30  
 (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. 35
- Summons not to prevent warrant. **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. 40
- Warrant in default of appearance. (2) Where  
 (a) service of a summons is proved and the accused does not appear, or

(4) and (5). Section 782 (1).

**442.** Sections 659 (1), 660 (2) and (3) and 664.

**443.** Section 660 (1).

**444.** (1) Section 660 (4).

(2) Section 660 (5).

(b) it appears that a summons cannot be served because the accused is evading service, a justice may issue a warrant in Form 8.

Execution of warrant.	<b>445.</b> (1) A warrant may be executed by arresting the accused	5
Where.	(a) wherever he is found within the territorial jurisdiction of the justice by whom the warrant was issued, or (b) wherever he is found in Canada, in the case of fresh pursuit.	
By whom.	(2) A warrant may be executed by a person who is (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.	10 15

PROCEDURE TO PROCURE ATTENDANCE OF A PRISONER.

	<b>446.</b> (1) Where a person who is confined in a prison is required	
For preliminary inquiry.	(a) to attend at a preliminary inquiry into a charge against him,	
For trial.	(b) to stand his trial upon a charge that may be tried by indictment or on summary conviction, or	20
As a witness.	(c) to attend to give evidence in a proceeding to which this Act applies,	
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.	25 30
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.	35
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	40

**445.** Section 661.

**446.** Sections 662 (4) to (6), 883, 941 and 977.

	(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.	5
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	10
	(a) to be kept in custody, if he is committed for trial; or	15
	(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.	20

ENDORSEMENT OF WARRANT.

Endorsing warrant.	<b>447.</b> (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, authorize the execution of the warrant within his jurisdiction by making an endorsement, which may be in Form 25, upon the warrant.	25
Effect of endorsement.	(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.	30

CORONER'S WARRANT.

Coroner's warrant.	<b>448.</b> (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	35
	(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	40
Recognizance.	(b) direct the person to enter into a recognizance before him with or without sureties, to appear before a justice.	
Transmitting depositions.	(2) Where a coroner makes a direction under subsection (1) he shall transmit to the justice the evidence taken before him in the matter.	45

**447.** Section 662 (1) to (3).

**448.** Section 667.

## PART XV.

## PROCEDURE ON PRELIMINARY INQUIRY.

## JURISDICTION.

Inquiry  
by justice.

**449.** Where an accused who is charged with an indictable offence is before a justice

(a) after being arrested without a warrant,

(b) pursuant to section 448,

(c) voluntarily or upon summons, or

(d) while in custody for that or any other offence,

the justice shall, in accordance with this Part, inquire into the charge against that person.

5

Remand by  
justice to  
magistrate in  
certain cases.

**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.

15

Election  
before justice  
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

(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 stood mute, 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) stood mute.

40



**449.** Section 668.

**450.** Section 796 and new.

## 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, 5
- (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 10
- (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; 15
- 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 informant consent to the proposed adjournment, or
- (ii) is remanded for observation under subparagraph (i) of paragraph (c); 25
- Remand by order.** (c) remand an accused,
- (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; 40
- Remand by warrant.** (d) remand an accused to custody in a prison, by warrant in Form 14;
- Idem.** (e) resume an inquiry before the expiration of a period for which it has been adjourned;
- Resuming inquiry.** (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; 45

**451.** Sections 679, 680 and 681.

Issue of warrant.	(g) issue a warrant in Form 8 or 9, as the case may be, for the arrest of an accused (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;	5
Permission to sum up.	(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;	10
Evidence in reply.	(i) receive evidence on the part of the prosecutor after hearing any evidence that is given on behalf of the accused;	10
Inquiry may be private.	(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 answered by so doing; and	15
Regulating course of inquiry.	(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.	20
Corporation.	<b>452.</b> Where an accused is a corporation, subsections (1) and (2) of section 470 apply, <i>mutatis mutandis</i> .	

#### TAKING EVIDENCE OF WITNESSES.

Evidence for prosecution to be taken on oath.	<b>453.</b> (1) When the accused is before a justice holding a preliminary inquiry, the justice shall (a) take in the presence of the accused the evidence, given under oath, of the witnesses called on the part of the prosecution and allow the accused or his counsel to cross-examine them;	25
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.	30
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.	35
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.	40

**452.** New

**453.** Sections 682, 683 and 684 (1).

- Steno-  
grapher 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.
- Authentic-  
ation of  
transcript. (5) Where the evidence is taken down by a stenographer 5 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 10 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.
- Accused to  
be addressed. **454.** (1) When the evidence of the witnesses called on the part of the prosecution has been taken down and, where 15 required by this Part, has been read, the justice shall address the accused as follows or to the like effect:  
Having heard the evidence, do you wish to say any-  
thing in answer to the charge? You are not bound to  
say anything, but whatever you do say will be taken 20  
down in writing and may be given in evidence against  
you at your trial.
- Form of  
address. (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 25 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. 30
- 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 35 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.**

- Order that  
accused be  
taken before  
justice where  
offence com-  
mitted. **456.** (1) Where an accused is charged with an offence alleged to have been committed out of the limits of the 40 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

**454.** Sections 684 and 686 (1).

**455.** Section 685.

**456.** Sections 665 (2) and (3) and 666.

- offence is alleged to have been committed, who shall continue and complete the inquiry.
- Procedure.** (2) Where a justice makes an order pursuant to subsection (1) he shall deliver to a peace officer
- (a) a warrant in Form 10, and 5
- (b) the information, evidence and recognizances, if any.
- Duty of peace officer.** (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). 10
- Receipt.** (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 15 a receipt in respect thereof.
- Effect of recognizance.** (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 been taken by the justice to whom it is delivered, and 20 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 25 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 30 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, 35 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 40 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, 45 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.



**457. Section 678.**

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 5  
 (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 10  
 (c) any variance between the charge set out in the summons, warrant or information and the evidence adduced by the prosecution at the inquiry.

Adjournment if accused misled. **459.** Where it appears to the justice that the accused has been deceived or misled by any irregularity, defect 15 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.

ADJUDICATION AND RECOGNIZANCES.

Committal. **460.** When all the evidence has been taken by the justice he shall, 20  
 (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, 25 to stand trial in the court having criminal jurisdiction; or  
 Dismissal. (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. 30

Recognizance of witness. **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. 35

Form. (2) The recognizance may be in Form 28, and may be set out at the end of a deposition or be separate therefrom.

Sureties or deposit for appearance of witness. (3) A justice may, for any reason satisfactory to him, require any witness entering into a recognizance pursuant to this section 40  
 (a) to produce one or more sureties in such amount as he may direct, or

**458.** Section 669.

**459.** Section 670.

**460.** Sections 687 and 690.

**461.** Sections 692 and 694.

(b) to deposit with him a sum of money sufficient in his opinion to ensure that the witness will appear and give evidence.

Witness refusing to be bound.

(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. 5

Discharge.

(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. 10 15

TRANSMISSION OF RECORD.

To clerk of court.

462. Where a justice commits an accused for 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. 20

BAIL.

463. (1) The following provisions with respect to bail apply where an accused has been committed for trial, namely, 25

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 is confined; and 30

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. 35

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. 40

With sureties.

(a) on entering into a recognizance before a justice with sufficient sureties in such amount as the judge or magistrate directs,

**462.** Section 695 (1).

**463.** Sections 697, 698, 700 and 702.

Deposit with-  
out surties. (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, 5

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. 10

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. 15

Bail in certain cases. **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 who 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. 20

Judge of superior court may vary. **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, 25

(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. 30

No applica-  
tion by way  
of *habeas*  
*corpus*. (2) No application shall be made by way of *habeas corpus* for the purpose of fixing, reviewing or varying bail.

**464.** Section 699.

**465.** Section 701.

## PART XVI.

## INDICTABLE OFFENCES—TRIAL WITHOUT JURY.

## INTERPRETATION.

- 466.** In this Part,
- "Judge." (a) "judge" means,
- (i) in the province of Ontario, a judge or a junior 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, 5
  - (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, 10 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, 15
  - (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; and 20
- "Magistrate." (b) "magistrate" means 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. 25

## 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., under fifty dollars." (a) with 30
- (i) theft or attempted theft,
  - (ii) obtaining or attempting to obtain money or property by false pretences, or



This Part is derived from Parts XVI and XVIII of the present *Criminal Code*. It is a consolidation and revision of those Parts.

(iii) unlawfully retaining in his possession or receiving anything, knowing that it was obtained by the commission in Canada of an offence punishable by indictment, where the alleged value of what is alleged to be stolen, obtained, received, retained or attempted to be stolen or obtained, does not exceed fifty dollars; or  
 (b) with an offence under

Obstructing public or peace officer.	(i) paragraph (a) of section 110,	
Common gaming, or betting house.	(ii) section 176,	10
Book making, pool-selling, etc.	(iii) section 177,	
Lotteries, etc.	(iv) section 179,	
Cheating at play.	(v) section 181,	
Keeping common bawdy-house.	(vi) section 182,	
Assaults.	(vii) section 231,	15
Assaulting public or peace officer.	(viii) paragraph (a) of subsection (2) of section 232, or	
Fraud in relation to fares.	(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.

**Election.** (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:

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?

**Procedure where accused does not consent.** (3) Where an accused does not elect to be tried by a magistrate or stands mute, 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

- (a) endorse on the information a statement showing the nature of the election or that the accused stood mute, 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) stood mute.
- Procedure where accused consents. (4) Where an accused elects to be tried by a magistrate, the magistrate shall 5
- (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. 10
- Magistrate may decide to hold preliminary inquiry. **469.** 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. 15
- 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 25
  - (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. 30
- 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, but it is not necessary for witnesses to sign their depositions. 35

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. 40

**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 to be called the Non-Jury Criminal Court for the district or county in which it is held. 5

(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, 10

(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

(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, 15

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. 20

(3) Where, pursuant to subsection (1), a time and place is fixed for the trial of an accused who is in custody, the accused 25

(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. 30

**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. 35

(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. 40

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: 5

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. 10

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. 15

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. 20 25

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 30

(a) he stood mute when he was put to his election under section 450 or 468, or 35

(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. 5

What offences may be included.

(2) An indictment that is preferred under subsection (1) may contain any number of counts, and there may be joined in the same indictment 10

(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 15

(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.

Consent of Attorney General or accused in certain cases.

(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. 20 25

## GENERAL.

Discretion of judge or magistrate where more than one accused.

**479.** Where two or more persons are charged with the same offence the following provisions apply, namely, 30

(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; 35

(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 40

(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.

Attorney  
General may  
require trial  
by 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. 5  
10

Continuance  
of proceedings  
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 trial may be continued, without further election by the accused, before another judge or magistrate, as the case may be, who has jurisdiction to try the accused under this Part. 15  
20

Duty of  
judge or  
magistrate.

(2) A judge or magistrate who acts pursuant to subsection (1)

(a) shall, if an adjudication was made by the judge or magistrate before whom the trial was commenced, impose the punishment or make the order that, in the circumstances, is authorized by law, or 25

(b) shall, if an adjudication was not made by the judge or magistrate before whom the trial was commenced, commence the trial again as a trial *de novo*. 30

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. 35

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. 40  
45

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.

5

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 10 of that person or the dismissal of a charge against him, as the case may be, for the offence mentioned therein.

Warrant of  
committal.

(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 15 18, and section 447 applies in respect of a warrant of committal issued under this subsection.

Adjournment.

**483.** A judge or magistrate acting under this Part may from time to time adjourn a trial until it is finally terminated.

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Application of  
Parts XV,  
XVII and  
XX.

**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 25 this Part.





## PART XVII.

## PROCEDURE BY INDICTMENT.

## PREFERRING INDICTMENT.

- 485.** For the purposes of this Part, finding an indictment includes
- (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
- (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,
  - (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
  - (c) by order of a court constituted with a grand jury, before the grand jury of that court.
- (2) No reference is necessary in an indictment to a consent that is given or an order that is made under this section.
- (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.
- 488.** (1) Except as provided in this Part no bill of indictment shall be preferred in Canada.
- (2) No criminal information shall be laid or granted.
  - (3) No person shall be tried upon a coroner's inquisition.
- 489.** (1) In the provinces of Quebec, Manitoba, Saskatchewan, Alberta and British Columbia it is not necessary to prefer a bill of indictment before a grand

**485.** Section 5 (1) (a).

**486.** Section 872.

**487.** Section 873 (1) to (3).

**488.** Sections 873 (4), 940 and new in part.

**489.** Section 873 (5), (6) and (7).

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. 5

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. 15

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. 20

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, 25

In words of enactment.

(b) in the words of the enactment that describes the offence or declares the matters charged to be an indictable offence, or

Or otherwise.

(c) in words that are sufficient to give to the accused notice of the offence with which he is charged. 30

Details of circumstances

(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. 35

Indictment for treason.

(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. 40

**490.** Section 962.

**491.** Sections 843, 844 and 845 (1) and (2).

**492.** Sections 847 (1) in part, 852, 853 and 855 (2).

Reference  
to section.

(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.

5

General  
provisions  
not restricted.

(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.

Certain  
omissions  
not grounds  
for objection.

**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

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(a) it does not name the person injured or intended or attempted to be injured, 15

(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, 20

(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, 25

(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 30

(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.

#### SPECIAL PROVISIONS AS TO COUNTS.

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Sufficiency  
of count  
charging  
libel.

**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. 40

**493.** Section 855 (1).

**494.** Section 861.

- 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. 5
- 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, 10  
 (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 15  
 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. 20
- 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 25  
 is necessary for a fair trial, 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 state-  
 ment, fabricating evidence or counselling or procuring 30  
 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, news- 35  
 paper 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; 40  
 (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.



**495.** Section 862.

**496.** Section 863.

**497.** Sections 859 and 860.

Regard to evidence. (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.

(3) Where a particular is delivered pursuant to this section, 5

Copy to accused. (a) a copy shall be given without charge to the accused or his counsel,

Recording. (b) the particular shall be entered in the record, and

Effect of. (c) the trial shall proceed in all respects as if the indictment had been amended to conform with the 10 particular.

OWNERSHIP OF PROPERTY.

Ownership. **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 15 of the property, be deemed to be the property of the person who has the management, control or custody of it.

JOINDER OR SEVERANCE OF COUNTS.

Count for murder to stand alone. **499.** No count that charges an offence other than murder shall be joined in an indictment to a count that charges murder. 20

Offences may be charged in the alternative. **500.** (1) A count is not objectionable by reason only that 25

(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.

Application to amend or divide counts. (2) An accused may at any stage of his trial apply to the court to amend or to divide a count that 30

(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

(b) is double or multifarious, 35

on the ground that, as framed, it embarrasses him in his defence.

**498.** Section 865.

**499.** Section 856 in part.

**500.** Sections 854 and 891.

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.	5
Joinder of counts.	<b>501.</b> (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.	10
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.	15
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.	20

#### JOINDER OF ACCUSED IN CERTAIN CASES.

Accessories after the fact.	<b>502.</b> 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 joint receivers.	<b>503.</b> (1) Any number of persons may be charged in the same indictment with an offence under section 296, 297 or paragraph (b) or (c) of subsection (1) of section 298, notwithstanding that (a) the property was received or retained 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.	30 35
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.	40

**501.** Sections 856 (in part), 857 and 858.

**502.** Section 849 (1) in part.

**503.** Sections 849 (1) in part, 849 (2) and 954.

## PROCEEDINGS BEFORE GRAND JURY.

Evidence  
under oath.

**504.** Every person who appears before a grand jury to give evidence in support of a bill of indictment shall be examined touching the matters in question upon oath to be administered by the foreman of the grand jury or by any member who acts on his behalf.

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Endorsing bill  
of indictment.

**505.** The name of every witness who is examined, or whom it is intended to examine, shall be endorsed on the bill of indictment, and the foreman of the grand jury, or any member of the grand jury who acts on his behalf, shall write his initials against the name of each witness who is sworn and examined with respect to the bill of indictment.

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Names of  
witnesses to  
be submitted  
to grand  
jury.

**506.** The name of every witness whom it is intended to examine on a bill of indictment shall be submitted to the grand jury by the prosecutor, and no other witnesses shall be examined by or before the grand jury unless the presiding judge otherwise orders in writing.

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## PROCEEDINGS WHEN PERSON INDICTED IS AT LARGE.

Bench  
warrant.

**507.** (1) Where an indictment has been found against a person who is at large, and that person does not appear or remain in attendance for his trial, the court before which the accused should have appeared or remained in attendance may, whether or not he is bound by recognizance to appear, issue a warrant for his arrest.

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Execution.

(2) A warrant issued under subsection (1) may be in Form 15 and may be executed anywhere in Canada.

## CHANGE OF VENUE.

Application,  
how made.

**508.** (1) A court before which an accused is or may be indicted, at any term or sittings thereof, or a judge who may hold or sit in that court, may at any time before or after an indictment is found, upon the application of the prosecutor or the accused, order the trial to be held in a territorial division in the same province other than that in which the offence would otherwise be tried if

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(a) it appears expedient to the ends of justice, or

(b) a competent authority has directed that a jury is not to be summoned at the time appointed in a territorial division where the trial would otherwise by law be held.

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**504.** Sections 874 and 875.

**505.** Section 876.

**506.** Section 877.

**507.** Section 879.

**68.** Sections 695 (2), 884, 885 and 887.

Conditions  
as to expense.

(2) The court or judge may, in an order made upon an application by the prosecutor under subsection (1), prescribe conditions that he thinks proper with respect to the payment of additional expenses caused to the accused as a result of the change of venue.

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Transmission  
of record.

(3) Where an order is made under subsection (1), the officer who has custody of the indictment, if any, and the writings and exhibits relating to the prosecution, shall transmit them forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court.

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Idem.

(4) Where the writings and exhibits referred to in subsection (3) have not been returned to the court in which the trial was to be held at the time an order is made to change the place of trial, the person who obtains the order shall serve a true copy thereof upon the person in whose custody they are and that person shall thereupon transmit them to the clerk of the court before which the trial is to be held.

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Order is auth-  
ority to remove  
prisoner.

**509.** An order that is made under section 508 is sufficient warrant, justification and authority to all sheriffs, keepers of prisons and peace officers for the removal, disposal and reception of an accused in accordance with the terms of the order, and the sheriff may appoint and authorize any peace officer to convey the accused to a prison in the territorial division in which the trial is ordered to be held.

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AMENDMENT.

Amending  
defective  
indictment  
or count.

**510.** (1) An objection to an indictment or to a count in an indictment for a defect apparent on the face thereof shall be taken by motion to quash the indictment or count before the accused has pleaded, and thereafter only by leave of the court or judge before whom the trial takes place, and a court or judge before whom an objection is taken under this section may, if it is considered necessary, order the indictment or count to be amended to cure the defect.

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Amendment  
where  
variance.

(2) A court may, upon the trial of an indictment, amend the indictment or a count thereof or a particular that is furnished under section 497, to make the indictment, count or particular conform to the evidence, where there appears to be a variance between the evidence and

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**509.** Section 886 (1).

**510.** Sections 845 (3), 847 (2), 889, 890, 893 and 898.

- (a) the charge in a count in the indictment as found;  
or  
(b) the charge in a count in the indictment  
(i) as amended, or  
(ii) as it would have been if it had been amended 5  
in conformity with any particular that has been  
furnished pursuant to section 497.
- (3) A court shall, upon the arraignment of an accused,  
or at any stage of the trial, amend the indictment or a  
count thereof as may be necessary where it appears 10
- Indictment  
under wrong  
Act.** (a) that the indictment has been preferred  
(i) under another Act of the Parliament of Canada  
instead of this Act, or  
(ii) under this Act instead of another Act of the  
Parliament of Canada; 15
- Amending  
defective  
statement.** (b) that the indictment or a count thereof  
(i) fails to state or states defectively anything that  
is requisite to constitute the offence,  
(ii) does not negative an exception that should be  
negated, 20  
(iii) is in any way defective in substance,  
and the matters to be alleged in the proposed amend-  
ment are disclosed by the evidence taken on the pre-  
liminary inquiry or on the trial; or
- Defect in  
substance.** (c) that the indictment or a count thereof is in any 25  
way defective in form.
- Defect  
in form.** (4) The court shall, in considering whether or not an  
amendment should be made, consider
- What to  
be considered.** (a) the matters disclosed by the evidence taken on the  
preliminary inquiry, 30  
(b) the evidence taken on the trial, if any,  
(c) the circumstances of the case,  
(d) whether the accused has been misled or prejudiced  
in his defence by a variance, error or omission mentioned  
in subsection (2) or (3), and 35  
(e) whether, having regard to the merits of the case,  
the proposed amendment can be made without injustice  
being done.
- Adjournment  
if accused  
prejudiced.** (5) Where, in the opinion of the court, the accused has  
been misled or prejudiced in his defence by a variance, 40  
error or omission in an indictment or a count thereof, the  
court may, if it is of opinion that the misleading or prejudice  
may be removed by an adjournment, adjourn the trial and  
may make such an order with respect to the payment of  
costs resulting from the necessity for amendment as it 45  
considers desirable.
- Question of  
law.** (6) The question whether an order to amend an indict-  
ment or a count thereof should be granted or refused is a  
question of law.

- Endorsing indictment. (7) An order to amend an indictment or a count thereof shall be endorsed on the indictment as part of the record and the trial shall proceed as if the indictment or count had been originally found as amended.
- Mistakes not material. (8) A mistake in the heading of an indictment shall be corrected as soon as it is discovered but, whether corrected or not, is not material. 5
- Limitation. (9) The authority of a court to amend indictments does not authorize the court to add to the overt acts stated in an indictment for treason or for an offence against any provision in sections 50 to 53. 10
- Amended indictment need not be presented to grand jury. **511.** Where a grand jury returns a true bill in respect of an indictment and the indictment is subsequently amended in accordance with section 510, it is not necessary to present the amended indictment to the grand jury, but the indictment, as amended, shall be deemed to be as valid in all respects for all purposes of the proceedings as if it had been returned by the grand jury in its amended form. 15

## INSPECTION AND COPIES OF DOCUMENTS.

- Right of accused. **512.** An accused is entitled, after he has been committed for trial or at his trial, 20
- To inspect. (a) to inspect without charge the indictment, his own statement, the evidence and the exhibits, if any; and
- To receive copies. (b) to receive, on payment of a reasonable fee not to exceed ten cents per folio of one hundred words, a copy 25
- (i) of the evidence,
- (ii) of his own statement, if any, and
- (iii) of the indictment,
- but the trial shall not be postponed to enable the accused to secure copies unless the court is satisfied 30 that the failure of the accused to secure them before the trial is not attributable to lack of diligence on the part of the accused.
- Delivery of documents in case of treason, etc. **513.** (1) An accused who is indicted for treason or for being an accessory after the fact to treason is entitled 35 to receive, after the indictment has been found and at least ten days before his arraignment,
- (a) a copy of the indictment,
- (b) a list of the witnesses to be produced on the trial to prove the indictment, and 40
- (c) a copy of the panel of jurors who are to try him, returned by the sheriff.

**511.** New.

**512.** Sections 691, 894, 895 and 896.

**513.** Section 897.

- Details.** (2) The list of the witnesses and the copy of the panel of the jurors referred to in subsection (1) shall mention the names, occupations and places of abode of the witnesses and jurors respectively.
- Witnesses to delivery.** (3) The writings referred to in subsection (1) shall be given to the accused at the same time and in the presence of at least two witnesses. 5
- Exception.** (4) This section does not apply to the offence of treason by killing Her Majesty, or to the offence of treason where the overt act alleged is an attempt to injure the person of Her Majesty in any manner or to the offence of being an accessory after the fact in such a case of treason. 10

**Release of exhibits for examination or test.** **514.** (1) A judge of a superior court of criminal jurisdiction or of a court of criminal jurisdiction or in the Northwest Territories or the Yukon Territory a stipendiary magistrate, may, on summary application on behalf of the accused or the prosecutor, after three days' notice to the accused or prosecutor, as the case may be, order the release of any exhibit for the purpose of a scientific or other test or examination, subject to such terms as appear to be necessary or desirable to ensure the safeguarding of the exhibit and its preservation for use at the trial. 15 20

**Disobeying order.** (2) Every one who fails to comply with the terms of an order that is made under subsection (1) is guilty of contempt of court and may be dealt with summarily by the judge or magistrate who made the order or before whom the trial of the accused takes place. 25

#### PLEAS.

- Pleas permitted.** **515.** (1) An accused who is called upon to plead may plead guilty or not guilty, or the special pleas authorized by this Part and no others. 30
- Refusal to plead.** (2) Where the accused refuses to plead or does not answer directly the court shall order the clerk of the court to enter a plea of not guilty.
- Allowing time to plead.** (3) An accused is not entitled as of right to have his trial postponed but the court may, if it considers that the accused should be allowed further time to plead, move to quash, or prepare for his defence or for any other reason, adjourn the trial to a later time in the session or sittings of the court, or to the next or any subsequent session or sittings of the court, upon such terms as the court considers proper. 35 40

**514.** Section 695 (3) and (4).

**515.** Sections 900 and 901 (1) and (2).

- Special pleas.** **516.** (1) An accused may plead the special pleas of  
 (a) *autrefois acquit*,  
 (b) *autrefois convict*, and  
 (c) pardon.
- In case of libel.** (2) An accused who is charged with defamatory libel 5  
 may plead in accordance with sections 520 and 521.
- Disposal.** (3) The pleas of *autrefois acquit*, *autrefois convict* and  
 pardon shall be disposed of by the judge without a jury  
 before the accused is called upon to plead further.
- Pleading over.** (4) When the pleas referred to in subsection (3) are 10  
 disposed of against the accused he may plead guilty or  
 not guilty.
- Statement sufficient.** (5) Where an accused pleads *autrefois acquit* or *autre-*  
*fois convict* it is sufficient if he  
 (a) states that he has been lawfully acquitted or con- 15  
 victed, as the case may be, of the offence charged in  
 the count to which the plea relates, and  
 (b) indicates the time and place of the acquittal or  
 conviction.
- Evidence of identity of charges.** **517.** Where an issue on a plea of *autrefois acquit* or 20  
*autrefois convict* is tried, the evidence and adjudication and  
 the notes of the judge and official stenographer on the  
 former trial and the record transmitted to the court pur-  
 suant to section 462 on the charge that is pending before  
 that court, are admissible in evidence to prove or to dis- 25  
 prove the identity of the charges.
- What determines identity.** **518.** (1) Where an issue on a plea of *autrefois acquit*  
 or *autrefois convict* to a count is tried and it appears  
 (a) that the matter on which the accused was given in  
 charge on the former trial is the same in whole or in 30  
 part as that on which it is proposed to give him in  
 charge, and  
 (b) that on the former trial, if all proper amendments  
 had been made that might then have been made, he  
 might have been convicted of all the offences of which 35  
 he may be convicted on the count to which the plea  
 of *autrefois acquit* or *autrefois convict* is pleaded,  
 the judge shall give judgment discharging the accused  
 in respect of that count.
- Allowance of special plea in part.** (2) The following provisions apply where an issue on a 40  
 plea of *autrefois acquit* or *autrefois convict* is tried, namely,  
 (a) where it appears that the accused might on the former  
 trial have been convicted of an offence of which he may  
 be convicted on the count in issue, the judge shall  
 direct that the accused shall not be found guilty of any 45  
 offence of which he might have been convicted on the  
 former trial, and

**516.** Sections 905 (1) and 906.

**517.** Section 908.

**518.** Section 907.



(b) where it appears that the accused may be convicted on the count in issue of an offence of which he could not have been convicted on the former trial, the accused shall plead guilty or not guilty with respect to that offence. 5

Circumstances of aggravation.

**519.** (1) Where an indictment charges substantially the same offence as that charged in an indictment on which an accused was previously convicted or acquitted, but adds a statement of intention or circumstances of aggravation tending, if proved, to increase the punishment, the previous conviction or acquittal bars the subsequent indictment. 10

Effect of previous charge of murder or manslaughter.

(2) A conviction or acquittal on an indictment for murder bars a subsequent indictment for the same homicide charging it as manslaughter or infanticide, and a conviction or acquittal on an indictment for manslaughter or infanticide bars a subsequent indictment for the same homicide charging it as murder. 15

Effect of previous charge of infanticide or manslaughter.

(3) A conviction or acquittal on an indictment for infanticide bars a subsequent indictment for the same homicide charging it as manslaughter, and a conviction or acquittal on an indictment for manslaughter bars a subsequent indictment for the same homicide charging it as infanticide. 20

Libel, plea of justification.

**520.** (1) An accused who is charged with publishing a defamatory libel may plead that the defamatory matter published by him was true, and that it was for the public benefit that the matter should have been published in the manner in which and at the time when it was published. 25

Where more than one sense alleged.

(2) A plea that is made under subsection (1) may justify the defamatory matter in any sense in which it is specified in the count, or in the sense that the defamatory matter bears without being specified, or separate pleas justifying the defamatory matter in each sense may be pleaded separately to each count as if two libels had been charged in separate counts. 30 35

Plea in writing.

(3) A plea that is made under subsection (1) shall be in writing, and shall set out the particular facts by reason of which it is alleged to have been for the public good that the matter should have been published.

Reply

(4) The prosecutor may in his reply deny generally the truth of a plea that is made under this section. 40

Plea of justification necessary to try truth.

**521.** (1) The truth of the matters charged in an alleged libel shall not be inquired into in the absence of a plea of justification under section 520 unless the accused is charged with publishing the libel knowing it to be false, in which case evidence of the truth may be given to negative the allegation that the accused knew that the libel was false. 45

**519.** Section 909.

**520.** Section 910.

**521.** Section 911.

- Not guilty, in addition. (2) The accused may, in addition to a plea that is made under section 520, plead not guilty and the pleas shall be inquired into together.
- Effect of plea on punishment. (3) Where a plea of justification is pleaded and the accused is convicted, the court may, in pronouncing sentence, consider whether the guilt of the accused is aggravated or mitigated by the plea. 5
- Plea of not guilty. **522.** Any ground of defence for which a special plea is not provided by this Act may be relied upon under the plea of not guilty. 10

## DEFENCE OF INSANITY.

- Insanity of accused when offence committed. **523.** (1) Where, upon the trial of an accused who is charged with an indictable offence, evidence is given that the accused was insane at the time the offence was committed and the accused is acquitted,
- (a) the jury, or 15
- (b) the judge or magistrate, where there is no jury, shall find whether the accused was insane at the time the offence was committed and shall declare whether he is acquitted on account of insanity.
- Special finding.
- Custody after finding. (2) Where the accused is found to have been insane at the time the offence was committed, the court, judge or magistrate before whom the trial is held shall order that he be kept in strict custody in the place and in the manner that the court, judge or magistrate directs, until the pleasure of the Lieutenant-Governor of the province is known. 20 25
- Insanity at time of trial. **524.** (1) A court, judge or magistrate may, at any time before verdict, where it appears that there is sufficient reason to doubt that the accused is, on account of insanity, capable of conducting his defence, direct that an issue be tried whether the accused is then, on account of insanity, unfit to stand his trial. 30
- Trial of issue. (2) For the purposes of subsection (1), the following provisions apply, namely,
- (a) where the accused is to be tried by a court composed of a judge and jury, 35
- (i) if the issue is directed before the accused is given in charge to a jury for trial on the indictment, it shall be tried by twelve jurors, or in the Province of Alberta, by six jurors, and
- (ii) if the issue is directed after the accused has been given in charge to a jury for trial on the indictment, the jury shall be sworn to try that issue in addition to the issue on which they are already sworn; and 40
- (b) where the accused is to be tried by a judge or magistrate, he shall try the issue and render a verdict. 45
- If sane, trial proceeds. (3) Where the verdict is that the accused is not unfit on account of insanity to stand his trial, the arraignment or the trial shall proceed as if no such issue had been directed.

**522.** Section 905 (2).

**523.** Section 966.

**524.** Section 967.

- If insane, order for custody. (4) Where the verdict is that the accused is unfit on account of insanity to stand his trial, the court, judge or magistrate shall order that the accused be kept in custody until the pleasure of the Lieutenant-Governor of the province is known, and any plea that has been pleaded shall be set aside and the jury shall be discharged. 5
- Subsequent trial. (5) No proceeding pursuant to this section shall prevent the accused from being tried subsequently on the indictment.
- Insanity of accused to be discharged for want of prosecution. **525.** Where an accused who is charged with an indictable offence is brought before a court, judge or magistrate to be discharged for want of prosecution and the accused appears to be insane, the court, judge or magistrate shall proceed in accordance with section 524 in so far as that section may be applied. 10
- Custody of insane persons. **526.** Where an accused is, pursuant to this Part, found to be insane, the Lieutenant-Governor of the province may make an order for the safe custody of the accused in the place and in the manner that he may direct. 15
- Prisoner mentally ill. **527.** (1) The Lieutenant-Governor of a province may, upon evidence satisfactory to him that a person who is insane, mentally ill, mentally deficient or feeble-minded is in custody in a prison in that province, order that the person be removed to a place of safe-keeping to be named in the order. 20
- Custody in safe-keeping. (2) A person who is removed to a place of safe-keeping under an order made pursuant to subsection (1) shall, subject to subsections (3) and (4), be kept in that place or in any other place of safe-keeping in which, from time to time, he may be ordered by the Lieutenant-Governor to be kept. 25
- Order for imprisonment or discharge. (3) Where the Lieutenant-Governor is satisfied that a person to whom subsection (2) applies has recovered, he may order that the person 30
- (a) be returned to the prison from which he was removed pursuant to subsection (1), if he is liable to further custody in prison, or 35
- (b) be discharged, if he is not liable to further custody in prison.
- Order for transfer to custody of Minister of Health. (4) Where the Lieutenant-Governor is satisfied that a person to whom subsection (2) applies has partially recovered, he may, where the person is not liable to further custody in prison, order that the person shall be subject to the direction of the Minister of Health for the province, or such other person as the Lieutenant-Governor may designate, and the Minister of Health or other person designated may make any order or direction in respect of the custody and care of the person that he considers proper. 40 45
- "Prison". (5) In this section, "prison" means a prison other than a penitentiary, and includes a reformatory school or industrial school.

**525.** Section 968.

**526.** Section 969.

**527.** Section 970.

## CORPORATIONS.

- 528.** Every corporation against which an indictment is found shall appear and plead by counsel or agent.
- 529.** (1) The clerk of the court shall, where an indictment is found against a corporation, cause a notice of the indictment to be served upon the corporation. 5
- (2) A notice of an indictment referred to in subsection (1) shall set out the nature and purport of the indictment and advise that, unless the corporation appears and pleads within seven days after service of the notice, a plea of not guilty will be entered for the accused by the court, and that the trial of the indictment will be proceeded with as though the corporation had appeared and pleaded. 10
- (3) Where a corporation to which this section applies
- (a) is a municipal corporation, the notice shall be served by delivering it to the mayor, treasurer or clerk of the corporation, or 15
- (b) is a corporation other than a municipal corporation, the notice shall be served by delivering it to the manager, secretary or other executive officer of the corporation or of a branch thereof. 20
- 530.** Where a corporation does not appear in the court in which an indictment is found and plead within the time specified in the notice referred to in section 529, the presiding judge may, on proof by affidavit of service of the notice, order the clerk of the court to enter a plea of not guilty on behalf of the corporation, and the plea has the same force and effect as if the corporation had appeared by its counsel or agent and pleaded that plea. 25
- 531.** Where the corporation appears and pleads to the indictment or a plea of not guilty is entered by order of the court pursuant to section 530, the court shall proceed with the trial of the indictment and, where the corporation is convicted, section 623 applies. 30

## RECORD OF PROCEEDINGS.

- 532.** (1) It is sufficient, in making up the record of a conviction or acquittal on an indictment, to copy the indictment and the plea that was pleaded, without a formal caption or heading. 35

**528.** Section 916.

**529.** Section 918.

**530.** Section 919.

**531.** Section 920.

**532.** Section 914.



Record of  
proceedings.

(2) The court shall keep a record of every arraignment and of proceedings subsequent to arraignment.

Form of  
record in  
case of  
amendment.

**533.** Where it is necessary to draw up a formal record in proceedings in which the indictment has been amended, the record shall be drawn up in the form in which the indictment remained after the amendment, without reference to the fact that the indictment was amended. • 5

#### JURIES.

Qualification  
of juror.

**534.** (1) A person who is qualified and summoned as a grand or petit juror according to the laws in force for the time being in a province is qualified to serve as a grand or petit juror, as the case may be, in criminal proceedings in that province. 10

Seven may  
find bill.

(2) Where the panel of grand jurors is not more than thirteen, seven grand jurors may find a true bill.

#### MIXED JURIES.

Mixed juries  
in Quebec.

**535.** (1) In those districts in the province of Quebec in which the sheriff is required by law to return a panel of petit jurors composed one-half of persons who speak the English language and one-half of persons who speak the French language, he shall in his return specify in separate lists those jurors whom he returns as speaking the English language and those whom he returns as speaking the French language, and the names of the jurors summoned shall be called alternately from those lists. 15 20

Motion  
by accused.

(2) In any district referred to in subsection (1) the accused may, upon arraignment, move that he be tried by a jury composed entirely of jurors who speak the language of the accused if that language is English or French. 25

Order for  
panel.

(3) Where a motion is made under subsection (2), the judge may order the sheriff to summon a sufficient panel of jurors who speak the language of the accused unless, in his discretion, it appears that the ends of justice are better served by empanelling a mixed jury. 30

**533.** Section 915.

**534.** Section 921.

**535.** Section 923.

Mixed juries  
in Manitoba.

**536.** (1) Where an accused who is arraigned before the Court of Queen's Bench for Manitoba demands a jury composed at least half of persons who speak the language of the accused, if that language is either English or French, he shall be tried by a jury composed at least one-half of the persons whose names stand first in succession upon the general panel and who, not being lawfully challenged, are found, in the judgment of the court, to speak the language of the accused. 5

When panel  
exhausted.

(2) Where, as a result of challenges or any other cause there is, in proceedings to which this section applies, a deficiency of persons who speak the language of the accused, the court shall fix another time for the trial, and the sheriff shall remedy the deficiency by summoning, for the time so fixed, the additional number of jurors who speak the language of the accused that the court orders and whose names appear next in succession on the list of petit jurors. 10 15

#### CHALLENGING THE ARRAY.

Objection to  
constitution  
of grand  
jury.

**537.** Where an objection is taken to the constitution of a grand jury it shall be taken by motion to the court, but an indictment shall be quashed pursuant thereto only if the judge is of opinion that 20

- (a) the objection is well founded, and  
(b) the accused has suffered or may suffer prejudice in the circumstances of which he complains.

Challenging  
the array.

**538.** (1) The accused or the prosecutor may challenge the array of petit jurors only on the ground of partiality, fraud or wilful misconduct on the part of the sheriff or his deputies by whom the panel was returned. 25

In writing.

(2) A challenge under subsection (1) shall be in writing and shall state that the person who returned the panel was partial or fraudulent or that he wilfully misconducted himself, as the case may be. 30

Form.

(3) A challenge under this section may be in Form 36.

Trying  
ground of  
challenge.

**539.** Where a challenge is made under section 538, the judge shall determine whether the alleged ground of challenge is true or not, and where he is satisfied that the alleged ground of challenge is true he shall direct a new panel to be returned. 35

**536.** Section 924.

**537.** Section 899 (2).

**538.** Section 925.

**539.** Section 926.

## EMPANELLING JURY.

- 540.** (1) The name of each juror on a panel of petit jurors that has been returned, his number on the panel and the place of his abode, shall be written on a separate card, and all the cards shall, as far as possible, be of equal size.
- (2) The sheriff or other officer who returns the panel shall deliver the cards referred to in subsection (1) to the clerk of the court who shall cause them to be placed together in a box to be provided for the purpose and to be shaken together.
- (3) Where
- (a) the array is not challenged, or
- (b) the array is challenged but the judge does not direct a new panel to be returned,
- the clerk of the court shall, in open court, draw out the cards referred to in subsection (2) one after another, and shall call out the name and number upon each card as it is drawn, until the number of persons who have answered to their names is, in the opinion of the judge, sufficient to provide a full jury after allowing for challenges and directions to stand by.
- (4) The clerk of the court shall swear each member of the jury in the order in which the names of the jurors were drawn.
- (5) Where the number of persons who answer to their names is not sufficient to provide a full jury, the clerk of the court shall proceed in accordance with subsections (3) and (4) until twelve jurors are sworn.
- 541.** Notwithstanding anything in this Act, six jurors shall be sworn in the Province of Alberta, and in that province the accused is entitled to half the number of challenges provided for in section 542, and the prosecutor may not direct more than twenty-four jurors to stand by unless the presiding judge, for special cause to be shown, so orders.
- 542.** (1) An accused who is charged with an offence punishable with death is entitled to challenge twenty jurors peremptorily.
- (2) An accused who is charged with an offence other than an offence punishable with death, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily.
- (3) An accused who is charged with an offence that is not referred to in subsection (1) or (2) is entitled to challenge four jurors peremptorily.

Names of jurors on cards.

To be placed in box.

To be drawn by clerk of court.

Juror to be sworn.

Drawing additional names if necessary.

Challenges by accused in Alberta.

Peremptory challenges by accused. Twenty in certain cases. Twelve in certain cases.

Four in other cases.

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**540.** Section 927.

**541.** Sections 933A and 927 (6).

**542.** Section 932.

- Challenge by prosecutor.** **543.** (1) The prosecutor is entitled to challenge four jurors peremptorily, and may direct any number of jurors who are not challenged peremptorily by the accused to stand by until all the jurors have been called who are available for the purpose of trying the indictment. 5
- Direction to stand by.**
- Limitation.** (2) Notwithstanding subsection (1), the prosecutor may not direct more than forty-eight jurors to stand by unless the presiding judge, for special cause to be shown, so orders.
- Accused to challenge first if required.** (3) The accused may be called upon to declare whether he challenges a juror peremptorily or for cause before the prosecutor is called upon to declare whether he requires the juror to stand by, or challenges him peremptorily or for cause. 10
- Peremptory challenges in case of mixed jury.** **544.** Where an accused who is charged with an offence for which he is entitled to twenty or twelve peremptory challenges in accordance with this Part is to be tried pursuant to section 535 or 536 by a jury composed one-half of persons who speak the language of the accused, he is entitled to exercise one-half of those challenges in respect of the jurors who speak English and one-half in respect of the jurors who speak French. 20
- Challenges where tried jointly.** **545.** Where two or more accused persons are jointly charged in an indictment and it is proposed to try them together each may make his challenges in the same manner as if he were to be tried alone. 25
- Standing by in libel cases.** **546.** A prosecutor other than the Attorney General or counsel acting on his behalf is not entitled, on the trial of an indictment for the publication of a defamatory libel, to direct a juror to stand by.
- Challenge for cause.** **547.** (1) A prosecutor or an accused is entitled to any number of challenges on the ground that 30
- (a) the name of a juror does not appear on the panel, but no misnomer or misdescription is a ground of challenge where it appears to the court that the description given on the panel sufficiently designates the person referred to, 35
  - (b) a juror is not indifferent between the Queen and the accused,
  - (c) a juror has been convicted of an offence for which he was sentenced to death or to a term of imprisonment exceeding twelve months, 40

**543.** Section 933.

**544.** Section 937.

**545.** Section 938.

**546.** Section 934.

**547.** Section 935.



	(d) a juror is an alien, or (e) a juror is physically unable to perform properly the duties of a juror.	
No other ground.	(2) No challenge for cause shall be allowed on a ground not mentioned in subsection (1).	5
Challenge in writing.	<b>548.</b> (1) Where a challenge is made on a ground mentioned in section 547, the court may, in its discretion, require the party that challenges to put the challenge in writing.	
Form.	(2) A challenge may be in Form 37.	
Denial.	(3) A challenge may be denied by the other party to the proceedings on the ground that it is not true.	10
Objection that name not on panel.	<b>549.</b> (1) Where the ground of a challenge is that the name of a juror does not appear on the panel, the issue shall be tried by the judge on the <i>voir dire</i> by the inspection of the panel, and such other evidence that the judge thinks fit to receive.	15
Other grounds.	(2) Where the ground of a challenge is one not mentioned in subsection (1), the two jurors who were last sworn, or if no jurors have then been sworn, two persons present whom the court may appoint for the purpose, shall be sworn to determine whether the ground of challenge is true.	20
If challenge not sustained. If challenge sustained.	(3) Where the finding, pursuant to subsection (1) or (2) is that the ground of challenge is not true, the juror shall be sworn, but if the finding is that the ground of challenge is true, the juror shall not be sworn.	25
Disagreement of triers.	(4) Where, after what the court considers to be a reasonable time, the two persons who are sworn pursuant to subsection (2) are unable to agree, the court may discharge them from giving a verdict and may direct two other persons to be sworn to determine whether the ground of challenge is true.	30
Calling jurors who have stood by.	<b>550.</b> (1) Where, as a result of challenges and directions to stand by, a full jury has not been sworn and no names remain to be called, the names of those who have been directed to stand by shall be called again in the order in which their names were drawn and they shall be sworn, unless challenged by the accused, or unless the prosecutor challenges them or shows cause why they should not be sworn.	35
Other jurors becoming available.	(2) Where, before a juror is sworn pursuant to subsection (1), other jurors in the panel become available, the prosecutor may require the names of those jurors to be put into and drawn from the box in accordance with section 540, and those jurors shall be challenged, ordered to stand by or sworn, as the case may be, before the names of the jurors who were originally ordered to stand by are called again.	45

**548.** Section 936.

**549.** Sections 930 and 931.

**550.** Section 928.

Panel exhausted, summoning other jurors.

**551.** (1) Where a full jury cannot be provided notwithstanding that the relevant provisions of this Part have been complied with, the court may, at the request of the prosecutor, order the sheriff or other proper officer forthwith to summon as many persons, whether qualified jurors or not, as the court directs for the purpose of providing a full jury. 5

Orally.

(2) Jurors may be summoned under subsection (1) by word of mouth, if necessary.

Adding names to panel.

(3) The names of the persons who are summoned under this section shall be added to the general panel for the purposes of the trial, and the same proceedings shall be taken with respect to calling and challenging those persons and directing them to stand by as are provided in this Part with respect to the persons named in the original panel. 10

Who shall be jury.

**552.** (1) The twelve jurors, or in the province of Alberta the six jurors, whose names are drawn and who are sworn in accordance with this Part, shall be the jury to try the issues of the indictment, and the names of the jurors so drawn and sworn shall be kept apart until the jury gives its verdict or until it is discharged, whereupon the names shall be returned to the box as often as occasion arises, as long as an issue remains to be tried before a jury. 15 20

Returning names to box.

Same jury may try another issue by consent.

(2) The court may try an issue with the same jury in whole or in part that previously tried or was drawn to try another issue, without the jurors being sworn again, but if the prosecutor or the accused objects to any of the jurors or the court excuses any of the jurors, the court shall order those persons to withdraw and shall direct that the required number of names to make up a full jury be drawn and, subject to the provisions of this Part relating to challenges and directions to stand by, the persons whose names are drawn shall be sworn. 25 30

Sections directory.

(3) No omission to follow the directions of this section or section 540 or 550 affects the validity of a proceeding.

Juror unable to continue.

**553.** (1) Where in the course of a trial a member of the jury is, in the opinion of the judge, by reason of illness or some other cause, unable to continue to act, the judge may discharge him. 35

Trial may continue.

(2) Where in the course of a trial a member of the jury dies or is discharged pursuant to subsection (1), the jury shall, if the prosecutor and the accused consent in writing and if the number of jurors is not reduced below ten, or in the province of Alberta below five, be deemed to remain properly constituted for all purposes of the trial and the trial shall proceed and a verdict may be given accordingly. 40 45

**551.** Section 939.

**552.** Section 929.

**553.** Section 929A.

## TRIAL.

- 554.** (1) The trial of an accused shall proceed continuously subject to adjournment by the court.
- 554.** (2) The judge may adjourn the trial from time to time in the same sittings.
- 554.** (3) No formal adjournment of trial or entry thereof is required.
- 554.** (4) The judge may reserve his final decision on any question raised at the trial, and his decision, when given, shall be deemed to have been given at the trial.
- 555.** On the trial of an accused for an indictable offence the evidence of the witnesses for the prosecutor and the accused shall be taken by a stenographer in accordance with the provisions of Part XV relating to the taking of evidence by stenographers at preliminary inquiries.
- 556.** (1) The judge may, at any time before the jury retires to consider its verdict, permit the members of the jury to separate, but this subsection does not apply where an accused is liable, upon conviction, to be sentenced to death.
- (2) Where permission to separate cannot be given or is not given the jury shall be kept under the charge of an officer of the court as the judge directs, and that officer shall prevent the jurors from communicating with anyone without leave of the judge.
- (3) Failure to comply with subsection (2) does not affect the validity of the proceedings.
- (4) Where the fact that there has been a failure to comply with this section is discovered before the verdict of the jury is returned the judge may, if he considers that the failure to comply might lead to a miscarriage of justice, discharge the jury and
- (a) direct that the accused be tried with a new jury during the same session or sittings of the court, or
- (b) postpone the trial on such terms as justice may require.
- (5) The judge shall direct the sheriff to provide the jurors who are sworn with suitable and sufficient refreshment, food and lodging while they are together until they have given their verdict.
- 557.** (1) Subject to subsection (2), an accused other than a corporation shall be present in court during the whole of his trial.
- (2) The court may
- (a) cause the accused to be removed and to be kept out of court, where he misconducts himself by interrupting

Continuous trial.

Adjournment.

Formal adjournment unnecessary.

Questions reserved for decision.

Taking evidence.

Separation of jurors except in capital cases.

Keeping in charge.

Saving.

Empanelling new jury in certain cases.

Refreshment and accommodation.

Accused to be present.

Exceptions.

**554.** Sections 945 (1), (2) and (6) and 579.

**555.** New.

**556.** Sections 945 (3), (4) and (5), 946 and 959.

**557.** Sections 942 and 943.

- the proceedings so that to continue the proceedings in his presence would not be feasible, or
- (b) permit the accused to be out of court during the whole or any part of his trial on such conditions as the court considers proper. 5
- To make defence. (3) An accused is entitled, after the close of the case for the prosecution, to make full answer and defence personally or by counsel.
- Summing up by prosecutor. **558.** (1) Where an accused, or any one of several accused being tried together, is defended by counsel, the counsel shall, at the end of the case for the prosecution, declare whether or not he intends to adduce evidence on behalf of the accused for whom he appears and if he does not announce his intention to adduce evidence, the prosecutor may address the jury by way of summing up. 10 15
- Summing up by accused. (2) Counsel for the accused or the accused, where he is not defended by counsel, is entitled, if he thinks fit, to open the case for the defence, and after the conclusion of that opening to examine such witnesses as he thinks fit, and when all the evidence is concluded to sum up the evidence. 20
- Accused's right of reply. (3) Where no witnesses are examined for an accused, he or his counsel is entitled to address the jury last, but otherwise counsel for the prosecution is entitled to address the jury last.
- Prosecutor's right to reply. (4) Notwithstanding subsection (3) the prosecutor is entitled to reply. 25
- Prosecutor's right of reply where more than one accused. (5) Where two or more accused are tried jointly and witnesses are examined for any of them, all the accused or their respective counsel are required to address the jury before it is addressed by the prosecutor. 30
- View. **559.** (1) The judge may, where it appears to be in the interests of justice, at any time after the jury has been sworn and before they give their verdict, direct the jury to have a view of any place, thing or person, and shall give directions as to the manner in which, and the persons by whom, the place, thing or person shall be shown to the jury, and may for that purpose adjourn the trial. 35
- Directions to prevent communication. (2) Where a view is ordered under subsection (1), the judge shall give any directions that he considers necessary for the purpose of preventing undue communication by any person with members of the jury, but failure to comply with any directions given under this subsection does not affect the validity of the proceedings. 40
- Who shall attend. (3) Where a view is ordered under subsection (1) the accused and the judge shall attend. 45

**558.** Section 944.

(5) New.

**559.** Section 958.



**560.** (1) Where the judge is satisfied that the jury is unable to agree upon its verdict and that further detention of the jury would be useless, he may in his discretion discharge that jury and direct a new jury to be empanelled during the sittings of the court, or may adjourn the trial on such terms as justice may require. 5

(2) A discretion that is exercised under subsection (1) by a judge is not reviewable.

**561.** The taking of the verdict of a jury is not invalid by reason only that it is done on Sunday or on a holiday. 10

#### EVIDENCE ON TRIAL.

**562.** Where an accused is on trial for an indictable offence he or his counsel may admit any fact alleged against him for the purpose of dispensing with proof thereof.

**563.** In any proceeding in respect of theft of ores or minerals, the possession, contrary to any law in that behalf, of smelted gold or silver, gold-bearing quartz, or unsmelted or unmanufactured gold or silver, by an operator, workman or labourer actively engaged in or on a mine, is *prima facie* evidence that the gold, silver or quartz was stolen by him. 15 20

**564.** A statement made by an accused under subsection (2) of section 454 and purporting to be signed by the justice before whom it was made may be given in evidence against the accused at his trial without proof of the signature of the justice, unless it is proved that the justice by whom the statement purports to be signed did not sign it. 25

#### CHILDREN AND YOUNG PERSONS.

**565.** (1) In any proceedings to which this Act applies an entry or record of an incorporated society or its officers who have had the control or care of a child or young person at or about the time the child or young person was brought to Canada is *prima facie* evidence of the age of the child or young person if the entry or record was made before the time when the offence is alleged to have been committed. 30

(2) In the absence of other evidence, or by way of corroboration of other evidence, a jury, judge, justice or magistrate, as the case may be, may infer the age of a child or young person from his appearance. 35

**560.** Section 960.

**561.** Section 961.

**562.** Section 978.

**563.** Section 988.

**564.** Section 1001.

**565.** Section 984.

## CORROBORATION.

Unsworn  
evidence  
of child.

**566.** No person shall be convicted of an offence upon the unsworn evidence of a child unless the evidence of the child is corroborated in a material particular by evidence that implicates the accused.

## VERDICTS.

Full offence  
charged,  
attempt  
proved.

**567.** Where the complete commission of an offence charged is not proved but the evidence establishes an attempt to commit the offence, the accused may be convicted of the attempt. 5

Attempt  
charged, full  
offence  
proved.

**568.** (1) Where an attempt to commit an offence is charged but the evidence establishes the commission of the complete offence, the accused is not entitled to be acquitted, but the jury may convict him of the attempt unless the judge presiding at the trial, in his discretion, discharges the jury from giving a verdict and directs that the accused be indicted for the complete offence. 10 15

Conviction a  
bar.

(2) An accused who is convicted under this section is not liable to be tried again for the offence that he was charged with attempting to commit.

Offence  
charged, part  
only proved.

**569.** (1) A count in an indictment is divisible and where the commission of the offence charged, as described in the enactment creating it or as charged in the count, includes the commission of another offence, whether punishable by indictment or on summary conviction, the accused may be convicted 20

(a) of an offence so included that is proved, notwithstanding that the whole offence that is charged is not proved, or

(b) of an attempt to commit an offence so included.

Conviction  
for infanticide  
or man-  
slaughter on  
charge of  
murder.

(2) Subject to subsection (3), where a count charges murder and the evidence proves manslaughter or infanticide but does not prove murder, the jury may find the accused not guilty of murder but guilty of manslaughter or infanticide, but shall not on that count find the accused guilty of any other offence. 30

Conviction  
for con-  
cealing body  
of child  
where  
murder or  
infanticide  
charged.

(3) Where a count charges the murder of a child or infanticide and the evidence proves the commission of an offence under section 215 but does not prove murder or infanticide, the jury may find the accused not guilty of murder or infanticide, as the case may be, but guilty of an offence under section 215. 35 40

**566.** Section 1003 (2).

**567.** Section 949.

**568.** Section 950.

**569.** Sections 951 (1) and (2) and 952.

No acquittal unless act or omission not wilful.

(4) Where a female person is charged with infanticide and the evidence establishes that she caused the death of her child but does not establish that, at the time of the act or omission by which she caused the death of the child,  
 (a) she was not fully recovered from the effects of giving birth to the child or from the effect of lactation consequent on the birth of the child, and  
 (b) the balance of her mind was, at that time, disturbed by reason of the effect of giving birth to the child or of the effect of lactation consequent on the birth of the child,  
 she may be convicted unless the evidence establishes that the act or omission was not wilful.

Theft charged, false pretences proved.

**570.** (1) Where an accused is charged with theft of anything, and it is established that he obtained it by false pretences, he may be convicted of obtaining by false pretences.

False pretences charged, theft proved.

(2) Where an accused is charged with obtaining anything by false pretences, and it is established that he stole it, he may be convicted of theft.

PREVIOUS CONVICTIONS.

No reference to previous conviction.

**571.** No indictment in respect of an offence for which, by reason of previous convictions, a greater punishment may be imposed shall contain any reference to previous convictions.

Previous conviction.

**572.** (1) Where an accused is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, no greater punishment shall be imposed upon him by reason thereof unless the prosecutor satisfies the court that the accused, before making his plea, was notified that a greater punishment would be sought by reason thereof.

Procedure where previous conviction alleged.

(2) Where an accused is convicted of an offence for which a greater punishment may be imposed by reason of previous convictions, the court shall, upon application by the prosecutor and upon being satisfied that the accused was notified in accordance with subsection (1), ask the accused whether he was previously convicted and, if he does not admit that he was previously convicted, evidence of previous convictions may be adduced.

Where hearing *ex parte*.

(3) Where, pursuant to section 531, the court proceeds with the trial of an accused corporation that has not appeared and pleaded to an indictment, the court may, if the accused

**570.** New.

**571.** New.

**572.** Sections 851 and 963 and new in part.

is convicted, make inquiries with respect to previous convictions whether or not the accused was notified that a greater punishment would be sought by reason thereof.

Evidence of character.

**573.** Where, at a trial, the accused adduces evidence of his good character the prosecutor may, in answer thereto, before a verdict is returned, adduce evidence of the previous conviction of the accused for any offences, including any previous conviction by reason of which a greater punishment may be imposed. 5

Proof of previous conviction.

**574.** In any proceedings, 10  
 (a) a certificate setting out with reasonable particularity the conviction of an accused for an indictable offence, purporting to be signed by the person who made the conviction or by the clerk of the court, or  
 (b) a copy of the summary conviction of an accused, 15  
 purporting to be signed by the person who made the conviction or by the clerk of the court to which it was returned,  
 is, upon proof of the identity of the accused, *prima facie* evidence of the conviction of the accused without proof of 20  
 the signature or official character of the person by whom it purports to be signed.

SENTENCE.

Accused found guilty may speak to sentence.

**575.** Where a jury finds an accused guilty, or where an accused pleads guilty, the judge who presides at the trial shall ask the accused whether he has anything to say before sentence is passed upon him, but an omission to comply with this section does not affect the validity of the proceedings. 25

Saving.

Sentence justified by any count.

**576.** Where one sentence is passed upon a verdict of guilty on two or more counts of an indictment, the sentence is good if any of the counts would have justified the sentence. 30

Woman sentenced to death while pregnant. Inquiry as to pregnancy.

**577.** (1) A female person who is sentenced to death may move in arrest of execution on the ground that she is pregnant.  
 (2) Where a motion is made under subsection (1), the court shall direct one or more registered medical practitioners to be sworn to examine the female person together or successively and to determine whether or not she is pregnant. 35

Arresting execution.

(3) Where, from the report of a medical practitioner sworn under subsection (2), it appears to the court that a female person to whom this section applies is pregnant, 40

**573.** Section 964.

**574.** Section 982.

**575.** Section 1004.

**576.** Section 1005.

**577.** Sections 1008 and 1009.



execution shall be arrested until she is delivered of the child or until it is no longer possible in the course of nature that she should be so delivered.

#### FORMAL DEFECTS IN JURY PROCESS.

Judgment  
not to be  
stayed on  
certain  
grounds.

**578.** Judgment shall not be stayed or reversed after verdict upon an indictment 5  
(a) by reason of any irregularity in the summoning or empanelling of the jury, or  
(b) because a person who served upon the jury was not returned as a juror by a sheriff or other officer.

Directions  
as to jury  
or jurors  
directory.

**579.** No omission to observe the directions contained 10  
in any Act with respect to the qualification, selection, balloting or distribution of jurors, the preparation of the jurors' book, the selecting of jury lists, or the drafting of panels from the jury lists, is a ground for impeaching or quashing a verdict rendered in criminal proceedings. 15

Saving  
powers  
of court.

**580.** Nothing in this Act alters, abridges or affects any power or authority that a court or judge had immediately before the coming into force of this Act, or any practice or form that existed immediately before the coming into force of this Act, with respect to trials by jury, jury process, 20  
juries or jurors, except where the power or authority, practice or form is expressly altered by or is inconsistent with this Act.

**578.** Section 1010.

**579.** Section 1011,

**580.** Section 965.