

CONSOLIDATED
ORDINANCES

YUKON TERRITORY
1914

THE
CONSOLIDATED ORDINANCES
OF THE
YUKON TERRITORY

1914

Being a Consolidation of the Public General Ordinances

OF THE
COUNCIL OF THE YUKON TERRITORY



PRINTED BY DIRECTION OF THE COMMISSIONER OF THE YUKON TERRITORY
1915

70263—A

CONSOLIDATED ORDINANCES

OF THE

YUKON TERRITORY,

1914.

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PROCLAMATION.

BRINGING INTO FORCE "THE CONSOLIDATED ORDINANCES OF THE YUKON TERRITORY, 1914.



GEORGE BLACK,
Commissioner.

CANADA.

YUKON TERRITORY.

To all to whom these Presents shall come:

GREETING.

WHEREAS in and by a certain Ordinance of the Commissioner in Council, assented to on the thirtieth of March, 1914, intituled "An Ordinance Respecting the Consolidated Ordinances of the Yukon Territory, 1914, and By-Laws of the City of Dawson", it was, *inter alia*, enacted that so soon as the consolidation of such Ordinances and the Schedules should be completed pursuant to the said Ordinance and to the provisions of Chapter 6 of the Ordinances of the said Commissioner in Council of 1913, being an Ordinance to authorize such consolidation, the Commissioner might cause a correct Roll thereof, attested under his signature and countersigned by the Clerk of the Council, to be deposited in the office of the Territorial Secretary and that the Commissioner, after such deposit, might by proclamation declare the day on, from and after which the same should come into force and have effect as Law by the designation of "The Consolidated Ordinances of the Yukon Territory, 1914."

AND WHEREAS the said consolidation and Schedules have been completed and the Commissioner has caused a correct Roll thereof attested under his signature and countersigned by the Clerk of the Council to be deposited in the office of the Territorial Secretary;

NOW KNOW YE that I do by this proclamation declare that the said Roll so attested and deposited shall come into force and have effect as Law by the designation of "The Consolidated Ordinances of the Yukon Territory, 1914" on, from and after the first day of the month of April in the year one thousand nine hundred and fifteen.

GIVEN under the hand of the Commissioner and issued under the Seal of the Yukon Territory at Dawson this twenty-sixth day of March, one thousand nine hundred and fifteen and in the fifth year of His Majesty's Reign.

(S E A L.)

A. F. ENGELHARDT,
Territorial Secretary.

ORDINANCE No. 6 OF 1913.

An Ordinance Authorizing the Consolidation of the Ordinances of the Yukon Territory and the By-Laws of the City of Dawson.

[Assented to April 15th, 1913.]

Preamble. *Whereas*, It is expedient that measures should be adopted for consolidating the Ordinances of the Yukon Territory and the By-Laws of the City of Dawson.

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of said Territory, therefore enacts as follows:

Commission to be appointed to consolidate Ordinances and By-Laws. **1.** It shall be lawful for the Commissioner to issue a commission to two or more persons, constituting them Commissioners for consolidating the Ordinances of the North-West Territories in force in the Yukon Territory, the Ordinances of the Yukon Territory and the By-Laws of the City of Dawson, and to include in such consolidation and revision the Ordinances and By-Laws passed at the present Session of the Yukon Council, and such Ordinances and By-Laws passed at the next Session of said Council as it may be deemed expedient so to include, and from time to time, in case of the death or refusal or incapacity to act of any of the said Commissioners, to appoint some other person or persons to be a Commissioner or Commissioners as aforesaid to accomplish the purpose of this Ordinance.

Commissioners to prepare and arrange for publication Ordinances and By-Laws. **2.** The said Commissioners are hereby authorized and empowered to prepare and arrange for publication of the said Ordinances and By-Laws, to omit all such Ordinances and By-Laws and parts of Ordinances and By-Laws as have expired, been repealed or had their effect and all Ordinances and By-Laws repealing any or any parts of any Ordinances and By-Laws, as well as the Ordinances and By-Laws, and parts or Ordinances and By-Laws repealed and the schedules of all such repealed or repealing Ordinances and By-Laws, and to alter the numbers of the said Ordinances and By-Laws and the Sections thereof, and without in any manner changing or affecting the legal effect of the said Ordinances and By-Laws, correct any misprint or error or any contradiction or ambiguity in the said Ordinances and By-Laws, and to make such alterations in their language as are requisite in order to preserve a uniform mode of expression and may make such minor amendments as are necessary to bring out more clearly what they deem to have been the intention of the Yukon Council or the City Council, as the case may be, or to reconcile seemingly inconsistent enactments, or to correct clerical or typographical errors and to frame a comprehensive index to the entire work.

3. It shall be lawful for the Commissioner to direct the payment of such sum or sums as he may think fit, not exceeding the moneys to be appropriated from time to time by the Commissioner in Council for such purpose, as a remuneration for such Commissioners, and also for such further charges and expenses as may be incurred, laid out and expended in the printing and binding of the said Consolidated Ordinances and By-Laws or incident thereto.

Commissioner authorized to direct payment for consolidating, printing, etc.

ORDINANCE No. 5 OF 1914.

An Ordinance respecting the Consolidated Ordinances of the Yukon Territory, 1914, and By-Laws of the City of Dawson.

[Assented to March 30th, 1914.]

Preamble. *Whereas*, Pursuant to the provisions of Chapter 6 of the Ordinances of 1913, a Commission was issued under the seal of the Yukon Territory empowering certain Commissioners to revise and consolidate the Ordinances of the Yukon Territory and the By-Laws of the City of Dawson; and,

Whereas, It is expedient to provide for the incorporation with such revision and consolidation the Public and General Ordinances and By-Laws which may be passed during the present session of the Yukon Council.

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of said Territory, therefore enacts as follows:

Roll to be deposited. **1.** So soon as the said consolidation of such Ordinances and By-Laws has been completed the Commissioner may cause correct rolls thereof respectively (which may be partly printed and partly written), attested under his signature and countersigned by the Clerk of the Council, to be deposited in the office of the Territorial Secretary, which rolls shall be held to be the original thereof and to embody the several Ordinances and parts of Ordinances and By-Laws mentioned as repealed in the Schedules thereto respectively annexed. Any marginal notes, however, and headings in the body of the Ordinances and By-Laws and references to former enactments being held to form no part of the said Ordinances or By-Laws, but to be inserted for convenience of reference only.

Commissioner by proclamation to declare date of coming into force of Consolidated Ordinances. **2.** The Commissioner after such deposit of the said rolls respectively may by proclamation declare the day of, from and after which the same shall come into force and have effect as law by the designation respectively of "The Consolidated Ordinances of the Yukon Territory, 1914," and "The Revised By-Laws of the City of Dawson, 1914," and the expression "Consolidated Ordinances" wherever hereinafter in this Ordinance used shall mean "The Consolidated Ordinances of the Yukon Territory, 1914."

Effect of proclamation. **3.** On and from such day the same shall accordingly come into force and effect by the said designations to all intents as though the same were expressly embodied in and enacted in this Ordinance to come into force and to have effect on and

from such day; and on and from the same day all the enactments in the several Ordinances and parts of Ordinances and By-Laws and parts of By-Laws in such Schedules mentioned as far as they relate to the Territory shall stand and be repealed to the extent mentioned in the said Schedules save only as hereinafter provided.

4. The repeal of the said Ordinances and parts of Ordinances shall not revive any Ordinance or provision of law repealed by them; nor shall the said repeal prevent the effect of any saving clause in the said Ordinances and parts of Ordinances or the application of any of the said Ordinances or parts of Ordinances or of any Ordinance or provision of law formerly in force to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply.

Saving as to transaction anterior to repeal.

5. The repeal of the said Ordinances and parts of Ordinances shall not affect:

Matters not affected by repeal.

(a) Any penalty, forfeiture or liability incurred before the time of such repeal or any proceedings for enforcing the same had, done, completed or pending at the time of such repeal;

(b) Any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing, or in force at the time of such repeal;

(c) Any act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, regulation, proclamation, contract, lien, charge, status, capacity, immunity, matter or thing had, done, made, acquired, established or existing at the time of such repeal;

(d) Any office, appointment, commission, salary, allowance, security or duty or any matter or thing appertaining thereto at the time of such repeal;

(e) Any marriage certificate or registry thereof lawfully had, made, granted or existing before or at the time of such repeal.

2 Nor shall such repeal defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal; but every such—

(a) Penalty, forfeiture and liability;

(b) Action, suit, judgment, decree, certificate, execution, prosecution, process, order, rule, proceeding, matter or thing;

(c) Act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, regulation, proclamation, contract, lien, charge, status, capacity, immunity, matter or thing;

(d) Office, appointment, commission, salary, allowance, security or duty;

(e) Marriage certificate and registry thereof and every such other matter and thing, and the force and effect thereof respectively, may and shall continue as if no such repeal had taken place, and so far as necessary may be continued, prosecuted, enforced and proceeded with under the said Consolidated Ordinance.

nances of the Territory and other Ordinances and laws having force in the Territory, so far as applicable thereto and subject to the provisions of the said several Ordinances and laws.

Consolidated Ordinances not to be deemed new law.

6. The said Consolidated Ordinances shall not be held to operate as new laws, but shall be construed and have effect as a consolidation of the law as contained in the said Ordinances and parts of Ordinances of the Territory and substituted, and the Commissioner in Council is not to be deemed to have adopted the construction which may by judicial decision or otherwise have been placed upon the language of any of the Ordinances included amongst the said Consolidated Ordinances.

Construction where the same in effect as repealed Ordinances.

2. The various portions of the Consolidated Ordinance corresponding to and substituted for the provisions of the Ordinances and parts of Ordinances so repealed shall, where they are the same in effect as those Ordinances and parts of Ordinances so repealed, be held to operate retrospectively as well as prospectively and to have been passed upon the days respectively upon which the Ordinances and parts of Ordinances so repealed came into effect.

Reference in former Ordinance to repealed Ordinances.

7. Any reference in any former Ordinance remaining in force or in any instrument or document to any Ordinance or enactment so repealed shall after the Consolidated Ordinances take effect be held as regards any subsequent transaction, matter or thing to be a reference to the enactments in the Consolidated Ordinances having the same effect as such repealed Ordinances or enactment.

Effect of insertion of an ordinance in Schedule II.

8. The insertion of any such Ordinance in the said Schedule shall not be construed as a declaration that such Ordinance or any part of it was or was not in force immediately before the coming into force of the said Consolidated Ordinances.

Copies printed by direction of Commissioner to be evidence.

9. Copies of the Consolidated Ordinances printed under the direction of the Commissioner from the roll so deposited shall be received as evidence of the said Consolidated Ordinances in all Courts and places whatsoever.

Distribution of copies.

10. The Consolidated Ordinances shall be distributed in such numbers and to such persons only as the Commissioner may direct.

This Ordinance to be printed with Consolidated Ordinances.

11. This Ordinance shall be printed with the said Consolidated Ordinances and shall be subject to the same rules of construction as the said Consolidated Ordinances.

Citation of Consolidated Ordinances.

12. Any Chapter of the said Consolidated Ordinances may be cited and referred to in any Ordinance or proceeding whatsoever either by its title as an Ordinance or by its short title or by using the expression "The Consolidated Ordinance Respecting" (adding the remainder of the title at the beginning of the particular chapter), or by using the expression "The Consolidated

Ordinances, 1914, Chapter” (adding the number of the particular chapter printed in the copies printed under the direction of the Commissioner).

13. The provisions and enactments of this Ordinance in regard to the Ordinances and Consolidated Ordinances aforesaid and the revision and consolidation thereof shall as far as applicable apply to and include the By-Laws of the City of Dawson and the revision and consolidation thereof by said Commission.

Provisions to
apply to
revision of
By-Laws of
Dawson.

CHAPTER 63, R.S.C., 1906.

An Act to provide for the Government of the Yukon Territory.

As amended by Chapter 53, 6-7 Edward VII., Chapter 76, 7-8 Edward VII., Chapter 37, 8-9 Edward VII and Chapter 56, 2 George V.

NOTE.—This consolidation of Chapter 63 R.S. and its amending Acts, above mentioned, is a consolidation for office purposes.

New sections from amending Acts have the numbers bracketed thus (6).

SHORT TITLE.

Short title. **1.** This Act may be cited as *The Yukon Act.* 61 V., c. 6, s. 1.

INTERPRETATION.

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

(a) "Territory" means the Yukon Territory;

(b) "Commissioner" means the Commissioner of the Yukon Territory;

"Council" defined. (c) "Council" means the Council of the Yukon Territory;

(d) "Court" means the Territorial Court for the Yukon Territory;

(e) "Intoxicating liquor" means and includes all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids;

(f) "Intoxicant" includes opium or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them is liquid or solid. 61 V., c. 6, ss. 3 and 10; 62-63 V., c. 11, ss. 1 and 5; 1 E. VII., c. 41, s. 13, *as amended by 7-8 E. VII., c. 76, s. 1.*

"Commissioner in Council." (g) "Commissioner in Council" means the Commissioner by and with the advice and consent of the Council. 7-8 E. VII., c. 76, s. 2.

TERRITORY.

Continued a separate territory.

3. The territory described in the schedule to this Act shall continue to be a separate territory under the name of Yukon Territory. 1. E VII., c. 41, s. 13.

COMMISSIONER.

4. The Governor in Council may, by instrument under the Great Seal, appoint for the Territory a chief executive officer to be styled and known as the Commissioner of the Yukon Territory. 61 V., c. 6, s. 3. Commissioner.

5. The Commissioner shall administer the government of the Territory under instructions from time to time given him by the Governor in Council or the Minister of the Interior. 61 V., c. 6, s. 4. Administration of government.

6. The Governor in Council may from time to time appoint an Administrator to execute the office and functions of the Commissioner during his absence or illness or other inability. 7-8 E. VII., c. 76, s. 3. Appointment of Administrator.

6a. The Commissioner and every Administrator appointed under the said Act as so amended shall, before assuming the duties of his office, take and subscribe before the Governor General, or before some person duly authorized to administer such oaths, an oath of allegiance and an oath of office similar to those required to be taken by a lieutenant governor under the British North America Act, 1867. 7-8 E. VII., c. 76, s. 4. Oaths of Commissioner and Administrator.

6b. The salary of the Commissioner and of the Administrator shall be fixed by the Governor in Council and shall be payable out of the Consolidated Revenue Fund of Canada. 7-8 E. VII., c. 76, s. 5. Salaries.

COUNCIL.

7. There shall be a Council of the Yukon Territory, which shall be composed of ten members elected to represent the electoral districts to be named and described by the Commissioner in Council. Elective council.

2. Any person shall be eligible for election as a member of the Council who is qualified to vote at an election of such a member. 7-8 E. VII., c. 76, s. 6. Qualification of councillor.

8. The members of the Council shall, before entering upon the duties of their office, take and subscribe before the Commissioner such oaths of allegiance and office as the Governor in Council may prescribe. 62-63 V., c. 11, s. 1; 2 E. VII., c. 34, s. 1. Oaths of office and allegiance.

9. The Commissioner in Council may prescribe the qualifications of those entitled to vote at an election of members to the Council; provided that only those persons shall be entitled to so vote who are natural born or naturalized male British subjects of the full age of twenty-one years, and who have resided in the Territory for a period of twelve months prior to the date of the election. 7-8 E. VII., c. 76, s. 7. Qualification of electors.

(9a) Until the Commissioner in Council otherwise provides, the laws in force in the Territory immediately before the coming into force of this Act relating to the Council and to the election of representative members of the Council, shall, sub-

- ject to the provisions of this Act, apply to the Council as constituted under this Act and to the election of members of the Council. 7-8 E. VII., c. 76, s. 7;
- Writs for first election.** (9b) The writs for the election of the first Council under this Act shall be issued by the Commissioner and be returned within four months after this Act comes into force. 7-8 E. VII., c. 76, s. 10;
- Duration of council.** (9c) Every Council shall continue for three years from the date of the return of the writs for the general election, and no longer; but the Commissioner may, at any time, dissolve the Council and cause a new one to be elected. 7-8 E. VII., c. 76, s. 11;
- Yearly session.** (9d) There shall be a session of the Council convened by the Commissioner at least once in every year after the first session thereof, so that twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session. 7-8 E. VII., c. 76, s. 12;
- Sittings separate from Commissioner.** (9e) The Council shall sit separately from the Commissioner and shall present Bills passed by it to the Commissioner for his assent, and he may approve or disapprove of any of such Bills or reserve them for the assent of the Governor in Council. 7-8 E. VII., c. 76, s. 13;
- Sanction of Bills.**
- Quorum.** (9f) A majority of the Council, including the Speaker, shall form a quorum. 7-8 E. VII., c. 76, s. 14;
- Yukon Consolidated Fund.** (9g) All public moneys and revenue over which the Commissioner in Council has the power of appropriation shall form a fund to be known as the Yukon Consolidated Revenue Fund. 7-8 E. VII., c. 76, s. 15;
- Money Bills.** (9h) Bills for appropriating any part of the public revenue of the Territory or for imposing any tax or impost, shall originate in the Council. 7-8 E. VII., c. 76, s. 16;
- Recommendation of Commissioner.** (9i) It shall not be lawful for the Council to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue of the Territory, or of any tax or impost, to any purpose that has not been first recommended to Council by message of the Commissioner, in the session in which such vote, resolution, address, or bill is proposed. 7-8 E. VII., c. 76, s. 17;
- Sessional indemnity of councillors.** (9j) The Commissioner in Council may provide for the payment to each member in attendance in each session of the Council a sum not to exceed six hundred dollars, together with his actual travelling expenses, which allowance shall be payable out of the Yukon Consolidated Revenue Fund. 7-8 E. VII., c. 76, s. 18;
- Appropriation of moneys granted by Parliament.** (9k) When any sum of money is granted to His Majesty by Parliament to defray expenses for any specified public service in the Yukon Territory, the power of appropriation by the Commissioner in Council over that sum shall be subject to the specified purpose for which it is granted. 7-8 E. VII., c. 76, s. 19;
- Audit by Auditor General.** (9l) The receipt and expenditure of territorial funds and of such portion of any moneys appropriated by Parliament for the territory as the Commissioner is authorized to expend by

and with the advice and consent of the Council or any committee thereof, and the accounts with respect to such receipt and expenditure, shall be subject to examination and audit by the Auditor General in the same manner and to the same extent as are the receipt and expenditure of public moneys of Canada and the accounts with respect thereto under *The Consolidated Revenue and Audit Act*.

2. The Auditor General shall within the first three months of each fiscal year depute an officer of his office to proceed to the Territory for the purpose of examining and auditing such receipt, expenditure and accounts, and reporting thereon to him. Annual audit.

3. The public accounts of the Territory shall include the period from the first day of April in one year to the thirty-first day of March in the next year, which period shall constitute the fiscal year, both inclusive. 7-8 E. VII., c. 76, s. 20. Fiscal year.

(9m) The Governor in Council may appoint a fit and proper person, being a barrister or advocate of at least five years standing at the bar of any of the provinces of Canada, to be public administrator and official guardian in and for the Territory, under the name of "Public Administrator," and to hold office during pleasure. Appointment of Public Administrator.

2. The public administrator shall perform such duties as are imposed upon him, and be invested with such powers as are bestowed upon him, by or under any Act of the Parliament of Canada, or any Ordinance of the Governor in Council or the Commissioner in Council, and shall be otherwise subject to the provisions of any such Act or Ordinance with respect to the said office of public administrator: Provided that no such Ordinance of the Commissioner in Council shall have force or effect except in so far as it is not inconsistent with any Ordinance of the Governor in Council or any Act of the Parliament of Canada. His duties and powers.

3. With respect to such services or duties as he is required to render or perform by order of the Governor in Council or under any Ordinance of the Governor in Council or of the Commissioner in Council, the Public Administrator shall receive and be paid such fees or other remuneration as is prescribed by the Commissioner in Council. Remuneration.

4. Before entering upon his duties the public administrator shall take such oath of office and furnish such security for the faithful and proper performance of the duties of his office as are from time to time prescribed by the Governor in Council. Oath of office and security.

5. The work and operation of the office of public administrator, and his dealings and accounts in connection with estates or property coming into his hands by virtue of his office, shall be subject to inspection, examination and audit by the Auditor General of Canada, or by any officer deputed by him for that purpose. 7-8 E. VII., c. 76, s. 21. Audit of work of office.

(9n) The Auditor General, and, while he is engaged in any examination and audit under section 20, or in any inspection, examination and audit under section 21 of this Act, the officer so deputed by him, shall, in connection with such inspection, Powers of Auditor General.

examination and audit, have all the powers which the Auditor General has under *The Consolidated Revenue and Audit Act* in connection with the examination and audit of the receipt and expenditure of public moneys of Canada and the accounts with respect thereto. 7-8 E. VII., c. 76, s. 22.

Commencement of Act.

(9o) This Act shall come into force on the first day of May, one thousand nine and nine. 7-8 E. VII., c. 76, s. 23.

[Section 10 of the Yukon Act repealed. 7-8 E. VII., c. 76, s. 8].

Other Ordinances. Taxation. Juris.

11. The Commissioner in Council may make ordinances,—

(a) imposing taxes for any purpose within his jurisdiction;
(b) respecting the summoning of juries and the enforcement of the attendance of jurors for the trial of civil and criminal cases and respecting the payment of the costs and expenses in connection therewith;

Liquor traffic.

(c) for the control and regulation of the sale of and traffic in intoxicating liquor in the Territory, subject to the provisions of any Ordinance of the Governor in Council and notwithstanding anything to the contrary in any Act of Parliament;

Game.

(d) for the preservation of game in the Territory. 62-63 V., c. 11, s. 2; 63-64 V., c. 34, s. 1; 2 E. VII., c. 34, s. 2; 3 E. VII., c. 73, s. 1.

Further powers to make Ordinances.

12. The Commissioner in Council may also, subject to the provisions of this Act, and of any other Act of the Parliament of Canada applying to the Territory, and of any Ordinances of the Governor in Council, make Ordinances for the government of the Territory in relation to the classes of subjects next hereinafter mentioned, that is to say:—

Territorial offices and officers.

(a) The establishment and tenure of territorial offices and the appointment and payment of territorial officers out of territorial revenues;

Prisons.

(b) The establishment, maintenance and management of prisons in and for the Territory, the expense thereof being payable out of territorial revenues;

Municipal institutions.

(c) Municipal institutions in the Territory;

Licenses.

(d) Shop, saloon, tavern, auctioneer and other licenses in order to raise a revenue for territorial or municipal purposes;

Incorporation of companies.

(e) The incorporation of companies with territorial objects, excepting railway companies (not including tramway and street railway companies) and steamboat, canal, telegraph and irrigation companies;

Marriage.

(f) The solemnization of marriage in the Territory;

Property and civil rights. Administration of justice.

(g) Property and civil rights in the Territory;

(h) The administration of justice in the Territory, including the constitution, organization and maintenance of territorial courts of civil jurisdiction, including procedure therein, but not including the appointment of judicial officers, or the constitution, organization and maintenance of courts of criminal jurisdiction, or procedure in criminal matters;

- (i) The defining of the powers, duties and obligations of sheriffs and clerks of the courts and their respective deputies; Sheriffs and clerks of court.
- (j) The conferring on territorial courts of jurisdiction in matters of alimony; Alimony.
- (k) The imposition of punishment by fine, penalty or imprisonment, for enforcing any territorial Ordinances; Enforcing of Ordinances.
- (l) The expenditure of territorial funds and such portion of any moneys appropriated by Parliament for the Territory as the Commissioner is authorized to expend by and with the advice of the Council or of any committee thereof; Expenditure of territorial funds.
- (m) Generally, all matters of a merely local or private nature in the Territory. Local and private.

2. The Commissioner in Council shall continue to have all the power and authority to make Ordinances which he had at the time of the coming into force of this Act, and any power to repeal, re-enact or substitute provisions which, upon the coming into force of this Act, the Commissioner in Council had with respect to the provisions of the Northwest Territories Act, *The Revised Statutes of Canada*, chapter fifty, and the Acts in amendment thereof as applying to the Territory, is hereby preserved and shall continue with respect to the corresponding provisions of this Act, if any. 2 E. VII., c. 34, s. 2. General saving of existing powers.

13. Nothing in the last preceding section contained shall be construed to give to the Commissioner in Council any greater powers with respect to the subjects therein mentioned than are given to provincial legislatures under the provisions of section ninety-two of *The British North America Act, 1867*, with respect to the similar subjects therein mentioned. 2 E. VII., c. 34, s. 2. Powers not to exceed those of provincial legislatures.

14. The Commissioner in Council shall pass all necessary ordinances in respect to education; but it shall therein always be provided that a majority of the ratepayers of any district or portion of the Territory or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor; and also that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and in such case, the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof. 2 E. VII., c. 34, s. 2. Education.

15. A copy of every Ordinance made by the Commissioner in Council shall be despatched by mail to the Secretary of State of Canada within ten days after the passing thereof, and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter. Ordinances to be laid before Parliament.

2. Any such Ordinance may be disallowed by the Governor in Council at any time within two years after its passage. 61 V., c. 6, s. 7. Disallowance.

ORDINANCES BY GOVERNOR IN COUNCIL.

- General powers.** **16.** Subject to the provisions of this Act, the Governor in Council may make Ordinances for the peace, order, and good government of the Territory, and of His Majesty's subjects and others therein: Provided that no such Ordinance shall,—
- Proviso.**
- (a) for the enforcement of any Ordinance, impose any penalty exceeding five hundred dollars;
 - (b) alter or repeal the punishment provided in any Act of the Parliament of Canada in force in the Territory for any offence;
 - (c) appropriate any public land or other property of Canada without authority of Parliament, or impose any duty of Customs or any excise.
- Specific.** **2.** Without limiting the generality of the powers so conferred the Governor in Council may make Ordinances,—
- Royalties on gold and silver.** (a) imposing a tax or royalty, not exceeding five per centum thereof, upon gold or silver the output of mines in the Territory, to be levied from and after the date of the Ordinance imposing it;
- Collection thereof.** (b) prescribing and regulating the place and manner of collection of such tax or royalty, and the methods of securing and enforcing the payment thereof;
- Forfeiture for non-payment.** (c) providing for the confiscation and forfeiture of gold and silver upon which such tax or royalty has not been duly paid, as well as for the confiscation and forfeiture of any vessel, vehicle, cart or other receptacle containing it, or used or intended to be used for the transportation thereof;
- Powers of officers.** (d) giving to any officer of the Crown, in respect of searches, examinations, and other proceedings for the enforcement of the provisions of any such Ordinance, all such powers, rights, privileges, and protection as officers of Customs have under the provisions of the Customs Act.
- No tax except as authorized.** **3.** No tax shall be imposed by Ordinance except as in this Act provided. 2 E. VII., c. 34, s. 3.
- Ordinances must be approved by Parliament.** **17.** Every Ordinance made under the authority of the last preceding section shall remain in force until the day immediately succeeding the day of prorogation of the then next session of Parliament, and no longer, unless during such session of Parliament such Ordinance is approved by resolution of both Houses of Parliament. 2 E. VII., c. 34, s. 3.
- Publication.** **18.** Every Ordinance made by the Governor in Council under the provisions of this Act shall have force and effect only after it has been published for four successive weeks in *The Canada Gazette*.
- Ordinances to be laid before Parliament.** **2.** All such Ordinances shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. 2 E. VII., c. 34, s. 3.

LAWS APPLICABLE TO TERRITORY.

19. Subject to the provisions of this Act, the laws relating to civil and criminal matters and the Ordinances in force in the Northwest Territories on the thirteenth day of June, one thousand eight hundred and ninety-eight, shall be and remain in force in the Territory, in so far as the same are applicable thereto, and in so far as the same have not been or are not hereafter repealed, abolished or altered by the Parliament of Canada, or by any Ordinance of the Governor in Council or the Commissioner in Council made under the provisions of this Act. 61 V., c. 6, s. 9.

Existing laws continued.

20. Every Act of the Parliament of Canada, except in so far as otherwise provided in any such Act, and except in so far as the same is, by its terms, applicable only to one or more of the provinces of Canada, or is, for any reason, inapplicable to the Territory, shall, subject to the provisions of this Act, apply to and be in force in the Territory. 61 V., c. 6, s. 9.

Application of Acts of Parliament.

21. The Governor in Council may, by proclamation, from time to time, direct that any Act of the Parliament of Canada, or any part or parts thereof, or any one or more of the sections of any such Act not then in force in the Territory, shall be in force in the Territory generally, or in any part or parts thereof mentioned in such proclamation. 61 V., c. 6., s. 9.

Acts may be made to apply by proclamation.

WILLS.

22. Every person of the full age of twenty-one years may devise, bequeath or dispose of by will, executed in manner hereinafter mentioned, all real and personal property to which he is entitled either at law or in equity at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon his heir-at-law, or upon his executor or administrator. 61 V., c. 6, s. 9.

Who may make. ...

23. No will shall be valid unless it is in writing and signed at the foot or end thereof, by the testator or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time, who shall attest and subscribe the will in the presence of the testator.

Execution.

2. No form of attestation shall be necessary and no other publication than as aforesaid shall be required. 61 V., c. 6, s. 9.

Attestation.

24. If any person who attests the execution of a will is, at the time of the execution thereof, or at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will shall not, on that account, be invalid. 61 V., c. 6, s. 9.

Incompetence of witness not to invalidate.

25. No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the

Executor may be witness.

execution of such will, or as a witness to prove the validity or invalidity thereof. 61 V., c. 6., s. 9.

Devise or bequest to attesting witness void.

26. If any person attests the execution of any will, to whom or to whose wife or husband, any beneficial devise or legacy affecting any real or personal property other than a charge for the payment of a debt is thereby given, such devise or legacy shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person, wife or husband, be null and void, and such person, so attesting shall be admitted to prove the execution of such will, or the validity or invalidity of such will, notwithstanding such devise or legacy. 61 V., c. 6. s. 9.

Revocation.

27. No will or codicil, or any part thereof, shall be revoked otherwise than by,—

- (a) marriage; or
- (b) another will or codicil executed in manner hereinbefore required; or
- (c) some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed; or,
- (d) the burning, tearing or otherwise destroying the same, by the testator or by some person in his presence and by his direction, with the intention of revoking the same. 61 V., c. 6, s. 9.

Construed as if executed immediately before death.

28. Every will shall be construed with reference to the real and personal property affected by it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will. 61 V., c. 6, s. 9.

Whole estate in realty to pass unless contrary intention appears.

29. If any real property is devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will, in such real property, unless a contrary intention appears by the will. 61 V., c. 6, s. 9.

Married Women.

Earnings, etc.

30. All the wages and personal earnings of a married woman, and any acquisitions therefrom, and all proceeds or profits derived from any occupation or trade which she carries on separately from her husband, or from any literary, artistic or scientific skill, and all investments of such wages, earnings, moneys or property, shall be free from the debts or dispositions of the husband and shall be held and enjoyed by such married woman, and disposed of without her husband's consent, as fully as if she were a *feme-sole*.

No order for protection.

2. No order for protection shall be necessary in respect of any such earnings or acquisitions.

3. The possession, whether actual or constructive, of the husband of any personal property of any married woman, shall not render the same liable for his debts. 61 V., c. 6., s. 9. Possession not to make liable.

31. A married woman may make deposits of money in her own name in any savings or other bank, and withdraw the same by her own cheque; and her receipt or acquittance shall be a sufficient discharge to any such bank. 61 V., c. 6, s. 9. Deposits in bank.

32. Nothing hereinbefore contained in reference to moneys deposited or investments by any married woman, shall, as against any creditor of the husband, give validity to any deposit or investment of moneys of the husband made in fraud of such creditor; and any money so in fraud deposited or invested may be followed as if this Act had not been passed. 61 V., c. 6, s. 9. Deposits or investments in fraud of creditors of husband not validated.

33. A husband shall not, by reason of any marriage, be liable for the debts of his wife; contracted before marriage, nor for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf, or in respect of any of her own contracts. Wife's debts. Husband not liable.

2. The wife shall be liable to be sued for any debts by her contracted before marriage, and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried. 61 V., c. 6, s. 9. Wife liable for ante-nuptial debts.

34. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money or property, declared by this Act or which is hereafter declared to be her separate property, and shall have, in her own name, the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman. 61 V., c. 6, s. 9. May sue in own name.

35. Any married woman may be sued or proceeded against separately from her husband in respect of any of her separate debts, engagements, contracts or torts, as if she were unmarried. 61 V., c. 6, s. 9. May be sued separately.

TERRITORIAL COURT.

36. There shall continue to be a superior court of record in and for the Territory, called the Territorial Court, consisting of one or more judges appointed by the Governor in Council by letters patent under the Great Seal. 61 V., c. 6, s. 10. Territorial Court continued.

37. Any person may be appointed a judge of the court who is or has been a judge of a superior or a county court of any province of Canada or of the Northwest Territories, or a barrister Qualifications.

or advocate of at least ten years standing at the bar of any such province or of the Northwest Territories or of the Yukon Territory. 61 V., c. 6, s. 10. 8-9 E. VII., c. 37, s. 1.

Not to hold other office of emolument.

38. A judge of the Court shall not hold any other office of emolument under the Government of Canada, or of any province of Canada or of the Territory: Provided that a judge of the Court shall be eligible for appointment as a member of the Council of the Territory. 61 V., c. 6, s. 10.

Law as to rights, etc., of court and judges.

39. The law governing the rights, privileges, power, authority and jurisdiction of the court and the judge or judges thereof, shall be the same, *mutatis mutandis*, as the law governing the rights, privileges, power, authority and jurisdiction of the Supreme Court of the Northwest Territories and of the judges of that court except as the same are expressly varied by this Act. 62-63 V., c. 11, s. 6.

Residence of judges.

40. Each judge of the Court shall reside at such place in the Territory as the Governor in Council, in the commission to such judge, or by order in council, directs. 62-63 V., c. 11, s. 6.

Tenure of office.

41. The judges of the Court shall hold office during good behaviour, but shall be removable by the Governor General, on address of the Senate and House of Commons of Canada. 62-63 V., c. 11, s. 6.

Oath of office.

42. Every judge shall, previously to entering upon the duties of his office as such judge, take an oath in the form following:—

‘I, _____, do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as one of the judges of the Territorial Court. So help me God.’

2. Such oath shall be administered by the Commissioner or by a judge of the Court. 62-63 V., c. 11, s. 6.

Officers of the court.

43. The Governor in Council may appoint such officers of the court and such other officers for the due administration of justice in the Territory, as are deemed necessary, and may define and specify the duties of such officers, and fix the fees or emoluments of such officers, and of witnesses and other persons attending or performing duties in relation to the administration of criminal justice, and provide the manner in which such fees and emoluments shall be paid. 61 V., c. 6, ss. 13 and 20.

Powers of court.

44. The Court shall, within the Territory, and for the administration of the laws for the time being in force within the Territory, possess all such powers and authorities as by the law of England are incident to a superior court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents and privileges of a court of record, and all other rights, incidents and privileges, as fully to all intents and purposes

as the same were on the fifteenth day of July, one thousand eight hundred and seventy, used, exercised and enjoyed in England by any superior court of common law, or by the Court of Chancery, or by the Court of Probate. 62-63 V., c. 11, s. 6.

45. The Court shall have jurisdiction in all and all manner Jurisdiction. of actions, causes and suits as well criminal as civil, real, personal, and mixed, and shall proceed in such actions, causes and suits by such process and course as are provided by law, and as tend with justice and despatch to determine the same, and shall hear and determine all issues of law, and shall also hear, and with or without a jury, as provided by law, determine all issues of fact joined in any such action, cause or suit, and give judgment thereon and award execution thereof, in as full and as ample a manner as might at the said date be done in England in the Court of Queen's Bench, or the Court of Common Bench, or the Court of Chancery, or the Court of Probate, or in matters regarding the public revenue, including the condemnation of contraband or smuggled goods, in the Court of Exchequer. 62-63 V., c. 11, s. 6.

46. The Court of Appeal of British Columbia is hereby New s. 46. constituted a Court of Appeal for the Territory. Court of Appeal.

2. An appeal shall lie from any final judgment of the Territorial Court to the judges of the said Court of Appeal sitting together as a full court where the matter in controversy amounts to the sum or value of five hundred dollars or upwards, or where the title to real estate or some interest therein is in question, or the validity of a patent is affected, or the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a public or general nature affecting future rights, or in cases of proceedings for or upon *mandamus*, prohibition or injunction. Jurisdiction.

3. The said Court of Appeal and the judges thereof shall Powers. have the same powers, jurisdiction and authority with reference to any such appeal and the proceedings thereon as if it were an appeal duly authorized from a like judgment, order or decree made by the Supreme Court of British Columbia, or a judge thereof, in the exercise of its ordinary jurisdiction.

4. Notice of any such appeal shall be given within twenty Notice of Appeal. days from the day upon which the judgment appealed from is pronounced or given, or within such further time as the Territorial Court may allow.

5. Execution of the judgment appealed from shall not be Execution. stayed except upon application to the Territorial Court or to the said Court of Appeal or a judge thereof, and upon such terms as may be just.

6. Three judges of the said Court of Appeal shall constitute Quorum. a quorum for the hearing of appeals from the Territorial Court.

7. The procedure upon such appeals shall be regulated by Procedure. the ordinary practice and procedure upon similar appeals coming before the said Court of Appeal, so far as such practice and procedure are applicable and are not inconsistent with any-

thing in this Act, and except in so far as is otherwise provided by general rules made in pursuance of this Act.

Rules.

8. The judges of the said Court of Appeal, or any three of them, may make general rules not inconsistent with this Act for regulating the practice and procedure upon appeals from the Territorial Court.

Appeal to
Supreme
Court of
Canada.

9. An appeal shall lie to the Supreme Court of Canada from the judgment upon any appeal authorized by this Act of the Court of Appeal of British Columbia, wherever such an appeal to the Supreme Court of Canada would have been authorized had the judgment appealed from been delivered by the Court of Appeal of British Columbia in a like case in the exercise of its ordinary jurisdiction upon appeal in respect of cases originating in the courts of the said province. 2 George V., c. 56, s. 2.

Powers of
judge of
Territorial
Court.

46. (a) All references in the Yukon Act to the judges of the Territorial Court shall be construed as referring to the judge of the Territorial Court and, except as otherwise provided in the case of appeals, the judge of the Territorial Court shall have all the powers and authority now vested in any or all of the said judges. 2 Geo. V., c. 56, s. 3.

Trial of
controversed
elections.

46. (b) When, under the provisions of the Dominion Controversed Elections Act, two judges are required for the trial of an election petition in the Yukon Territory, or for the hearing of a special case under the said Act, such judges shall be the judge of the Territorial Court and a judge of the Court of Appeal of British Columbia or of the Supreme Court of British Columbia, or two judges of the said courts of British Columbia, or either of such courts, and every such judge shall, for the purposes of the said Act, have all the powers of a judge of the Territorial Court. 2 Geo. V., c. 56, s. 5.

Illness or
absence of
judge.

46. (c) In case of the illness of the judge of the Court, or if the judge be absent, the Governor in Council may specially appoint any barrister or advocate of at least ten years standing to discharge the duties of the judge during his illness or absence, and the person so appointed shall, during the period aforesaid, have all the powers incident to the office of the judge of the Court. 2 Geo. V., c. 56, s. 6.

Disqualifi-
cation of
judge.

46. (d) If the judge of the Court—

(a) is interested in any cause or matter, or is disqualified by kinship to any party; or

(b) has been professionally engaged in any cause or matter as counsel or solicitor for any party previously to his appointment to the office of judge, and considers himself thereby incapacitated from sitting or adjudicating therein,

Judge *pro*
hac vice.

the Governor in Council may, upon the written application of the judge, setting out such impediment, appoint any other person having the qualifications hereinbefore mentioned to act as judge *pro hac vice* in relation to any such cause or matter. 2 Geo. V., c. 56, s. 7.

46. (e) Every such temporary judge, or judge *pro hac vice*, Oath. shall be sworn to the faithful performance of the duties of his office. 2 Geo. V, c. 56, s. 8.

46. (f) Any judge temporarily appointed to discharge the duties of the judge may, notwithstanding the expiry of the term of his appointment, or the happening of any event upon which his appointment terminates, proceed with and conclude the trial or hearing at that time actually pending before him of any cause, matter or proceeding, and pronounce judgment therein, and may likewise pronounce judgment in any cause, matter or proceeding previously heard by him and then under consideration or reserve; and any such trial, hearing or judgment shall have the same validity and effect as if heard or pronounced during the said term or previously to the happening of the said event. 2 Geo. V., c. 56, s. 9. May conclude pending proceedings.

46. (g) His Majesty may, by letters patent under the Great Seal, grant to each of two of the judges of the Territorial Court of the Yukon Territory now holding office, an annuity equal to the salary of the office now held by him, which annuity shall commence immediately after his resignation and continue thenceforth during his natural life: Provided that if, in the opinion of the Governor in Council, it becomes necessary or expedient at any time during the continuation of such annuities that there should be two or more judges in the said Territorial Court, or in any superior court of record in and for the said Territory, or if any judge of any such court should die, resign or otherwise vacate his office as such judge, the Governor in Council may appoint either or both of the judges receiving such annuity as aforesaid a judge or judges of such court, and if any judge so appointed, not being at the time incapacitated by illness or infirmity, does not thereafter perform the duties appertaining to such judgeship, such annuity shall forthwith cease and determine; but this provision shall not affect the authority of the Governor in Council to appoint any other qualified person to be a judge of such court. 2 Geo. V., c. 56, s. 1. Annuity for two judges.

(Sections 47 and 48 of the Yukon Act repealed. 2 Geo. V., c. 56, s. 2.) Proviso as to performance of duties if required.

49. Sittings of the court presided over by a judge or judges shall be held at such times and places as the Governor in Council or the Commissioner appoints, and such sittings shall be public. 2 E. VII., c. 34, s. 4. Sittings of the court.

50. The Governor in Council may, at any time, by proclamation divide the Territory into judicial districts, and give to each such district an appropriate name, and, in like manner, from time to time, alter the limits and extent of such districts. 62-63 V., c. 11, s. 6. Judicial districts may be formed.

51. Every judge of the court shall have jurisdiction throughout the Territory, but shall usually exercise the same within the Powers of single judge.

judicial district, if any, to which he is assigned by the Governor in Council, and in all causes, matters and proceedings, other than such as are usually cognizable by a court sitting *en banc*, and not by a single judge thereof, shall have and exercise all the powers, authorities and jurisdiction of the court. 62-63 V., c. 11, s. 6.

Certiorari.

52. Subject to any statute prohibiting or restricting proceedings by way of *certiorari*, a single judge shall, in addition to his other powers, have all the powers of the court as to proceedings by way of *certiorari* over the proceedings, orders, convictions, and adjudications had, taken and made by justices of the peace, and, in addition thereto, shall have the power of revising, amending, modifying or otherwise dealing with the same; and writs of *certiorari* may, upon the order of a judge, be issued by the clerk of the court mentioned in such order returnable as therein directed. 62-63 V., c. 11, s. 6

Powers of a judge.

53. Whenever, under any Act in force in the Territory, any power or authority is to be exercised, or anything is to be done, by a judge of a court, such power or authority shall, in the Territory, be exercised or such thing shall be done by a judge of the Territorial Court, unless some other provision is made in that behalf by such Act. 62-63 V., c. 11, s. 6.

Rules and orders.

54. Subject to the provisions of any Act or Ordinance relating to the Territorial Court, the judges of the said court may make general rules and orders prescribing and regulating the procedure and practice of the court in civil matters. 2 E. VII., c. 35, s. 7.

SPECIAL PROVISIONS AS TO JURISDICTION IN CIVIL MATTERS.

Jurisdiction of judge.

55. Every judge of the Court shall have jurisdiction, power and authority to hold courts, whether established by Ordinance or not, at such times and places as he thinks proper, and at such courts, as sole judge, to hear all claims, disputes and demands whatsoever, except as herein provided, which are brought before him, and to determine any questions arising thereout, as well of fact as of law, in a summary manner; and such courts shall be open public courts.

Actions of slander, etc.

2. On the application to set a cause down for trial, if the action be for slander, libel, false imprisonment, malicious prosecution, seduction or breach of promise of marriage, or if the case arises out of a tort, wrong or grievance in which the damages claimed exceed five hundred dollars, or if the action be for debt or founded on contract wherein the amount claimed or the damages sought to be recovered exceed one thousand dollars, or if the action be for the recovery of real property, and if either party signify his desire to have the issues of fact therein tried by a judge with a jury, or the judge so direct, the same shall be tried by a jury. 62-63 V., c. 11, s. 6.

Jury.

56. In cases of disputed accounts, the judge may, in place of a trial by jury, direct the evidence to be taken by any clerk of the court, or by any other competent person; which clerk or other person shall be sworn to take the same truly, and to reduce it to writing. 62-63 V., c. 11, s. 6. Disputed accounts.

57. The judge may give judgment on the verdict of the jury or upon the evidence taken by the clerk or other person as aforesaid, or may, in the case of a verdict, order a new trial, when justice seems to require it. 62-63 V., c. 11, s. 6. Judgment in such cases.

58. In all cases a judge may give such judgment and make such orders and decrees, interlocutory and final, as appear just and agreeable to equity and good conscience. 62-63 V., c. 11 s. 6. Equity and good conscience to direct.

59. No court or judge in the Territory shall have jurisdiction in respect of any action for a gambling debt, or of any action by any person on any promissory note, bill of exchange, cheque, draft or other document or writing whatsoever, the consideration or any part of the consideration for which was a gambling debt. 62-63 V., c. 11, s. 6. Gambling debts.

60. Every judgment of the judge shall be pronounced in open court as soon as may be after the hearing of the case; except that, in any case where the judge is not prepared to pronounce judgment at the close of the trial, he may postpone judgment and deliver and enter the same subsequently, and such judgment shall be as effectual as if rendered in court at the trial. 62-63 V., c. 11, s. 6. Judgment. how given.

61. The proceedings to carry into effect any judgment, order or decree of the court whether interlocutory or final, shall be as prescribed by Ordinance of the Commissioner in Council; or, if no such ordinance is in force when the judgment, order or decree is rendered, then in such manner as the judge who pronounced the same directs. 62-63 V., c. 11, s. 6. Execution of judgment.

62. The Governor in Council may, from time to time, by proclamation repeal the provisions of the seven sections next preceding, or any of them, from and after a day to be named in such proclamation. 62-63 V., c. 11, s. 6. Repeal of sections preceding.

ADMINISTRATION OF CRIMINAL LAW.

63. The procedure in criminal cases in the Territorial Court shall, subject to any Act of the Parliament of Canada, conform as nearly as may be to the procedure existing in like cases in the Northwest Territories on the thirteenth day of June, one thousand eight hundred and ninety-eight. Procedure in criminal cases.

2. No grand jury shall be summoned or sit in the Territory. 61 V., c. 6, s. 15. No grand jury.

Judge to have powers of one or more justices.

64. Every judge of the Court shall have and may exercise the powers of a justice of the peace, or of any two justices of the peace, under any laws or ordinances in force in the Territory. 61 V., c. 6, s. 15.

Summary trial in certain cases.

65. Every such judge may in a summary way, and without the intervention of a jury, hear, try and determine any charge against any person of having committed in the Yukon Territory the offence of,—

Theft, etc.

(a) theft or attempt to steal, or obtaining money or property by false pretences, or unlawfully receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, obtained or received, does not, in the opinion of such judge, exceed two hundred dollars; or,

Wounding.

(b) unlawfully wounding or inflicting any grievous bodily harm upon any other person, either with or without a weapon or instrument; or,

Indecent assault.

(c) indecent assault on any female, or on a male person under the age of fourteen years, when such assault, if upon a female, does not, in his opinion, amount to an assault with intent to commit rape; or,

Escape, etc.

(d) escaping from lawful custody or committing prison breach, or assaulting, resisting or wilfully obstructing any judge or any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer. 61 V., c. 6, s. 15.

Trial with jury.

66. When any person is charged with a criminal offence not within the next preceding section, and which is not otherwise by any law made summarily triable without the consent of the accused, the charge shall be heard, tried, and determined by the judge with the intervention of a jury: Provided that in any case the accused may, with his own consent, be tried by a judge in a summary way and without the intervention of a jury. 61 V., c. 6, s. 15.

Summary trial with consent.

Jury of six.

67. In any case of trial with the intervention of a jury, the jury shall be composed of six jurors. 61 V., c. 6, s. 15.

Accused summarily tried for one offence may be convicted of another.

68. Whenever upon a trial before a judge in a summary way such judge is not satisfied that the accused is guilty of the offence with which he stands charged, but the circumstances are such that, upon a trial before a jury under the Criminal Code for the like offence, the accused might be found guilty of some other offence, the judge shall have the same power as to findings as a jury would have in the like circumstances under the Criminal Code, and may convict the accused of such other offence, notwithstanding that such offence is one for which under the preceding sections, the accused could not, without his own consent, have been tried in a summary way.

Punishment in such case.

2. The person so convicted shall be liable to the punishment by the Criminal Code or otherwise by law prescribed for the offence of which he is so found guilty. 61 V., c. 6, s. 15.

69. The judge shall, upon every such trial, take or cause to be taken down in writing full notes of the evidence and other proceedings thereat; and all persons tried as aforesaid shall be admitted, after the close of the case for the prosecution, to make full answer and defence by counsel, attorney or agent. 61 V., c. 6, s. 15. Conduct of trial.

70. When any person is convicted of a capital offence and is sentenced to death, the judge shall forward to the Minister of Justice full notes of the evidence, with his report upon the case; and the execution shall be postponed, from time to time, by the judge, if found necessary, until such report is received and the pleasure of the Governor General thereon is communicated to the Commissioner. 61 V., c. 6, s. 15. Capital offences.

71. Subject to the provisions of any Ordinance of the Commissioner in Council, persons required as jurors for a trial shall be summoned by a judge from among such male persons as he thinks suitable in that behalf; and the jury required on such trial shall be called from among the persons so summoned as such jurors, and shall be sworn by the judge who presides at the trial. 61 V., c. 6, s. 15; 3, E. VII., c. 73, s. 1. Summoning of jurors.

72. Any person arraigned for treason or an offence punishable with death, or an offence for which he may be sentenced to imprisonment for more than five years, may challenge peremptorily and without cause any number of jurors not exceeding six; and every peremptory challenge beyond that number shall be void. Peremptory challenge by accused.

2. The Crown may peremptorily challenge any number of jurors not exceeding four. By the Crown.

3. Challenges for cause shall be the same as are provided for in the Criminal Code. 61 V., c. 6, s. 15. Challenges for cause.

73. Subject to the provisions of any ordinance of the Commissioner in Council, if by reason of challenges or otherwise, the number of jurors summoned for the trial is exhausted, the judge shall direct some constable or other person to summon by word of mouth from among the bystanders or from the neighbourhood, such number of persons as are necessary to make up a jury, who shall be subject to challenge as if summoned by the judge in the first instance, and the like proceedings shall be repeated if necessary, until a jury is obtained, competent to try the case. 61 V., c. 6, s. 15; 3 E. VII., c. 73, s. 1. Summoning of additional jurymen.

74. Subject to the provisions of any ordinance of the Commissioner in Council, any person so summoned to serve as a juror who makes default or refuses to serve as such juror, without lawful excuse to the satisfaction of the judge, may be fined by him in a sum not exceeding ten dollars, and committed to prison until such fine is paid. 61 V., c. 6, s. 15; 3 E. VII., c. 73, s. 1. Penalty for non-attendance.

Attendance
of witnesses.

75. Any person duly summoned, whether on behalf of the prisoner or against him, to attend and give evidence on any such trial, shall be bound to attend on the day appointed for the same, and shall remain in attendance throughout the whole trial; and, if he fails so to attend, he shall be deemed guilty of contempt of court and may be proceeded against therefor. 61 V., c. 6, s. 15.

Bench
warrant.

76. Upon proof to the satisfaction of the judge of the summoning of any witness who fails to attend, and upon such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause such witness to be apprehended and forthwith brought before him to give evidence and to answer for his contempt; and such witness may be detained on such warrant with a view to secure his presence as a witness, or may be released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his contempt. 61 V., c. 6, s. 15.

Charge of
contempt.

77. The judge may, in a summary manner, examine and dispose of the charge of contempt against such witness who, if found guilty of contempt, may be fined or imprisoned, or both, such fine not to exceed one hundred dollars, and such imprisonment to be with or without hard labour, and not to exceed the term of ninety days. 61 V., c. 6, s. 15.

Returns of
trial.

78. Returns of all trials and proceedings, civil and criminal, shall be made to the Commissioner in such form and at such times as he directs. 61 V., c. 6, s. 9.

Governor in
Council may
repeal 13
sections
preceding.

79. The Governor in Council may at any time by proclamation declare that the thirteen sections last preceding shall be repealed from and after the date named in such proclamation. 61 V., c. 6, s. 9.

Jury men to be
British
subjects.

80. No person shall be summoned or sworn as a juryman on any trial in the Territorial Court, unless he is a British subject. 61 V., c. 6, s. 17.

Charge in
writing
against
accused.

81. The trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence wherewith he is charged. 61 V., c. 6, s. 15.

Justices
holding
preliminary
investigation
to transmit
papers to
court.

82. Every justice of the peace or other magistrate holding a preliminary investigation into any criminal offence which may not be tried under the provisions of Part XV of the Criminal Code shall, immediately after the conclusion of such investigation, transmit to the clerk of the court, or the clerk of the court for the judicial district in which the charge was made, all informations, examinations, depositions, recognizances, inquisitions and papers connected with such charge, and such clerk

shall notify the senior judge of the court or the judge for the district of such investigation and the result thereof. 61 V., c. 6, s. 15.

83. Whenever any person charged is committed to jail for trial, the sheriff or other person in charge of such jail shall, within twenty-four hours, notify a judge of the court, in writing, that such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon, with as little delay as possible, one of the judges of the court shall cause the prisoner to be brought before him for trial, either with or without a jury, as the case requires. 61 V., c. 6, s. 15.

Notice by sheriff to judge of committal for trial.

84. The Governor in Council may, from time to time, direct that any building, or any part thereof, or any inclosure, in any part of the Territory, shall be a jail or lock-up for the confinement of prisoners charged with the commission of any offence or sentenced to any punishment or confinement therein; and confinement therein shall thereupon be held lawful and valid, whether such prisoners are being detained for trial or are under sentence of imprisonment in a penitentiary, jail or other place of confinement. 61 V., c. 6, s. 9.

Establishment of jails and lock-ups.

85. The Governor in Council may, at any time, direct that any building, or any part thereof, or any inclosure shall cease to be a jail or lock-up, and thereupon such building or part thereof, or such inclosure, shall cease to be a jail or lock-up. 61 V., c. 6, s. 9.

Disestablishment.

86. The Governor in Council may, from time to time, prescribe the terms and conditions upon which persons convicted or accused of any offence under any ordinance in force in the Territory, or any municipal by-law or regulation, or sentenced to confinement under any such ordinance, by-law or regulation, or arrested under any civil process, shall be received and kept in any jail or lock-up created under the authority of the two next preceding sections; and he may, from time to time, specify what jails and lock-ups shall be available for the confinement of such persons. 61 V., c. 6, s. 9.

Terms and conditions of confinement of offenders under ordinances, etc.

87. Every lock-up, guard-room, guard-house or place of confinement provided by or for or under the direction of the Royal Northwest Mounted Police Force, or the regular military force, or a municipal body, or by the Commissioner or Commissioner in Council of the Territory, shall be a penitentiary, jail, and place of confinement for all persons sentenced to imprisonment in the Territory, and the Commissioner shall direct in which such penitentiary, jail or place of confinement any person sentenced to imprisonment shall be imprisoned. 61 V., c. 6, s. 18.

Police guard-rooms, etc., to be penitentiaries, jails and places of confinement.

88. The Governor in Council may make rules and regulations respecting the management, discipline and policy of every

Their management and discipline.

penitentiary, jail or place of confinement used as such in the Territory. 61 V., c. 6, s. 18.

POLICE MAGISTRATES AND THEIR SPECIAL JURISDICTION.

- Appointment.** **89.** The Governor in Council may appoint police magistrates for Dawson and Whitehorse in the Territory, who shall reside at those places, respectively, and shall ordinarily exercise their functions there, but who shall have jurisdiction respectively in such portions of the Territory as are defined in their commissions. 1 E. VII., c. 41, s. 1.
- Tenure of office.** **90.** Such police magistrates shall hold office during pleasure and shall be debarred from practising professionally while holding office. 1 E. VII., c. 41, s. 2.
- Salaries.** **91.** The annual salary of each of such police magistrates shall be four thousand dollars, and such salaries may be paid out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada.
- Living allowances.** **2.** Such magistrates may be paid in addition to the said salaries such living allowances as may be fixed by the Governor in Council. 1 E. VII., c. 41, s. 3; 2 E. VII., c. 36, s. 1.
- Qualification.** **92.** No person shall be appointed a police magistrate hereunder unless he has been admitted and has practised as an advocate, barrister or solicitor in one of the provinces of Canada for a period of not less than three years. 1 E. VII., c. 41, s. 4.
- Ex Officio justices.** **93.** Each of the police magistrates so appointed shall *ex officio*, within the territorial limits of his jurisdiction, be a justice of the peace and have and exercise the authority and jurisdiction of two or more justices of the peace sitting or acting together. 1 E. VII., c. 41, s. 5.
- And magistrates for summary trials.** **94.** Each such police magistrate shall also, within such limits, be a magistrate for the purpose of Part XVI of the Criminal Code, and shall have and exercise all the jurisdiction of such a magistrate, including that vested in police magistrates of cities and incorporated towns by the said Part; and his jurisdiction under the said Part shall be absolute without the consent of the person charged, except in cases where such jurisdiction is dependent upon the provision of the said Part with respect to police magistrates of cities and incorporated towns, or where the accused is charged with theft or with obtaining property by false pretences, or with unlawfully receiving stolen property, and the value of the property stolen, obtained or received exceeds ten dollars, in which cases, unless the accused consents to be tried by the police magistrate, or unless he is a person in respect of whom the magistrate has absolute jurisdiction under the said Part, he shall be dealt with as in ordinary cases of indictable offences. 1 E. VII., c. 41, s. 5.

95. The Governor in Council may, subject to the limitations hereinafter mentioned, if he thinks proper, vest any police magistrate so appointed with civil jurisdiction,—

- (a) in cases of claims and demands of debt, or account, or breach of contract or covenant, or money demand, whether payable in money or otherwise, where the amount does not exceed five hundred dollars;
- (b) in other personal actions where the amount claimed does not exceed three hundred dollars, or, if the parties consent in writing, does not exceed five hundred dollars;
- (c) in all cases of claims for the recovery of a debt or money demand where the amount or balance of the claim does not exceed one thousand dollars exclusive of interest as hereinafter mentioned, and such amount or balance is ascertained by the signature of the defendant or of the person whom as executor or administrator the defendant represents, notwithstanding that the claim with the interest accrued or accumulated since such ascertainment exceeds the sum of one thousand dollars. 1 E. VII., c. 41, s. 6.

96. Such police magistrates, if given civil jurisdiction, shall also have jurisdiction in cases of replevin where the value of the goods or other property or effects distrained, taken or detained, does not exceed three hundred dollars. 1 E. VII., c. 41, s. 7.

97. Such police magistrates shall not have jurisdiction, in respect of actions,—

- (a) for gambling debts;
- (b) for spirituous or malt liquors drunk in a hotel, tavern, or house of public entertainment;
- (c) on notes of hand given wholly or partly in consideration of a gambling debt or for such liquors;
- (d) for the recovery of land or in which the right or title to any corporeal or incorporeal hereditament, or to any toll, custom or franchise, comes in question;
- (e) in which the validity of any devise, bequest or limitation under a will or settlement is disputed;
- (f) for malicious prosecution, libel, slander, criminal conversation, seduction, or breach of promise of marriage;
- (g) against a justice of the peace for anything done by him in the execution of his office, if he objects to such jurisdiction. 1 E. VII., c. 41, s. 8.

98. Each of the judges of the Territorial Court shall have, and may exercise in any part of the Territory, the criminal jurisdiction vested by this Act in police magistrates, and, in the exercise of such jurisdiction, shall have all the powers of a police magistrate. 2 E. VII., c. 35, s. 1.

99. The Governor in Council may, from time to time, assign to one of the judges of the said court the duty of ordinarily exercising such jurisdiction. 2 E. VII., c. 35, s. 2.

Appeal to
Territorial
Court.

100. There shall be an appeal to the Territorial Court from the final judgment of a police magistrate in any civil case where the amount in dispute, exclusive of costs, exceeds one hundred dollars.

Hearing and
decision.

2. The appeal in such case shall be heard upon the evidence taken before the police magistrate, and the judgment of the Territorial Court shall be final. 1 E. VII., c. 41, s. 9.

Procedure
and practice.

101. The Commissioner in Council shall have full power, from time to time, to make ordinances,—

- (a) prescribing and regulating the procedure and practice to be observed in connection with the exercise of the civil jurisdiction of police magistrates under this Act; or,
- (b) empowering the judges of the Territorial Court to make general rules and orders prescribing and regulating such procedure and practice. 1 E. VII., c. 41, s. 10.

APPEAL ON CRIMINAL CASES.

Appeal from
Territorial
Court.

102. For the purpose of Part XIX of the Criminal Code the court of appeal from the verdict or judgment of the Territorial Court or a judge thereof shall be the Supreme Court of Canada. 1 E. VII., c. 41, s. 11.

Court of
Appeal under
Part XIX of
Criminal
Code.

103. For the purpose of Part XIX of The Criminal Code, the court of appeal from the judgment of a police magistrate in a case where his jurisdiction is dependent upon the provision of the said Part with respect to police magistrates of cities and incorporated towns shall be the Territorial Court, and there shall be an appeal from the Territorial Court to the Court of Appeal of British Columbia. 2 Geo. V., c. 56, s. 4.

Appeal from
summary
convictions.

104. In the Territory the appeal from a summary conviction or order under Part XV of the Criminal Code shall be to a judge of the Territorial Court sitting without a jury at the place where the cause of the information or complaint arose, or the nearest place thereto where a court is appointed to be held. 1 E. VII., c. 41, s. 11.

JUSTICES OF THE PEACE.

Justice with
authority of
two justices.

105. While in the Territory, the Commissioner, each member of the Council, every judge of the court, and every commissioned officer of the Royal Northwest Mounted Police, shall *ex officio* have, possess and exercise all the powers of a justice of the peace, or of two justices of the peace, under any laws or ordinances, civil or criminal, in force in the Territory, and the Governor in Council may, by commission, appoint such other persons justices of the peace or police commissioners, having each the power of two justices of the peace within the Territory, as may be deemed desirable. 61 V., c. 6, s. 16.

CORONERS.

106. All persons possessing the powers of two justices of the peace in the Territory shall also be coroners in and for the Territory, 61 V., c. 6, s. 19. Coroners, who to be.

107. Except as hereinafter provided, no inquest shall be held upon the body of any deceased person by any coroner, unless it has been made to appear to such coroner that there is reason to believe that the deceased died from violence or unfair means, or by culpable or negligent conduct either of himself or of others, under such circumstances as require investigation, and not through mere accident or mischance. 61 V., c. 6, s. 9. Inquests, when only to be held.

108. Upon the death of any prisoner, the jailer or officer in charge of the jail wherein such prisoner dies shall immediately give notice to the nearest resident coroner, and such coroner shall proceed forthwith to hold an inquest upon the body. 61 V., c. 6, s. 9. Death of prisoner.

109. It shall not be necessary in any case that a coroner's jury shall exceed six persons, but in every case of an inquest six jurors must agree in order to render the verdict valid. 61 V., c. 6, s. 9. Coroner's jury.

110. Coroners shall have the same power to summon witnesses and to punish them for disobeying a summons to appear or for refusing to be sworn or to give evidence as are possessed by justices of the peace. 61 V., c. 6, s. 9. Power to summon witnesses, etc.

111. The fees of coroners, jurors and witnesses attending inquests may be fixed, from time to time, by the Governor in Council, and paid in such manner as he directs. 61 V., c. 6, s. 20. Fees of coroners.

ENFORCEMENT OF TERRITORIAL ORDINANCES.

112. Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any ordinance in force in the Territory may be brought summarily before a justice of the peace under the provisions of Part XV of the Criminal Code. 61 V., c. 6, s. 9. Enforcement of fines, etc.

PROHIBITION OF INTOXICANTS.

113. No intoxicating liquor or intoxicants shall be manufactured, compounded, or made in the Territory; and no intoxicating liquor or intoxicants shall be imported or brought into the Territory from any province or territory in Canada or elsewhere, except by permission of the Governor in Council. 62-63 V., c. 11, s. 3. Manufacture, or importation prohibited.

Such
importation
subject to
customs and
excise law.

114. All intoxicating liquors or intoxicants imported or brought from any place out of Canada, into the Territory, shall be subject to the Customs and excise laws of Canada. 62-63 V., c. 11, s. 4.

SCHEDULE.

The Yukon Territory shall be bounded as follows:—On the south, by the Province of British Columbia and the United States Territory of Alaska; on the west, by the said United States Territory of Alaska; on the north, by that part of the Arctic Ocean called Beaufort Sea; and on the east, by a line beginning at the point of intersection of the left bank of the Liard River, by the northern boundary of the province of British Columbia in approximate longitude $124^{\circ} 16'$ west of Greenwich; thence northwesterly along the line of the water-shed separating the streams flowing into the Liard River below the point of beginning or into the Mackenzie River, from those flowing into the Liard River above the point of beginning, or into the Yukon River, to the line of watershed of the basin of Peel River; thence northerly along the line of watershed between the Peel and Mackenzie Rivers to the sixty-seventh degree of north latitude; thence westerly along the parallel of the sixty-seventh degree of north latitude to the line of watershed between the Peel and Yukon Rivers; thence northerly along the said line of watershed to the trail across the portage in McDougall Pass between Rat and Bell Rivers; thence due north to the northern limit of the Yukon Territory; the said Territory to include the islands within twenty statute miles from the shores of the Beaufort Sea as far as the aforesaid due north line from McDougall Pass. 1 E. VII., c. 41, sch.

An Ordinance Respecting Liens in Favour of Miners.

AT THE GOVERNMENT HOUSE AT OTTAWA.

Saturday, the 26th day of May, 1906.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

THE Governor General by and with the advice and consent of His Majesty's Privy Council for Canada, enacts as follows:—

1. This Ordinance may be cited as *The Miners Lien Ordinance*. Short title.

2. In this Ordinance:

(a) The expression "owner" extends to and includes a person having any estate or interest in the mine upon or in respect of which the work or wood in respect of which a lien is claimed is done or furnished, and all persons claiming under him whose rights are acquired after such work is begun or such wood is commenced to be furnished; Interpretation "owner."

(b) The expression "layman" means any person other than the owner who is working said mining claim or a part thereof for an interest or share of the minerals or ore produced therefrom; "Layman."

(c) The words "registering" or "registration" means the filing or depositing of an instrument with the Gold Commissioner or Mining Recorder. "Registering."

(d) The word "miner" means any person working upon a mining claim or in connection therewith. "Miner."

(e) The words "Court" or "Judge" mean the Territorial Court of the Yukon Territory or a judge thereof. "Court or Judge."

LIEN FOR WORK OR WOOD.

3. Any person who performs any work or service upon or in respect to, or furnishes any wood to be used in the working of any placer or quartz mining claim, shall by virtue thereof have a lien for the price of such work or services or wood upon the said mining claim with the appurtenances thereto, the minerals or ore produced therefrom, the lands occupied thereby, or enjoyed therewith, or upon or in respect to which such work or service is performed or for, or upon which such wood is furnished as well as upon the machinery and chattels upon such lands, limited, however, in amount to the sum justly due to the person entitled to the lien. Who shall have lien.

Effect of
lien.

4. Such lien upon registration as in this Ordinance provided shall attach and take effect upon the date of the registration as against subsequent purchasers, mortgagees or other encumbrances whose mortgages or encumbrances are registered subsequent to the performance of such work or the furnishing of such wood.

To what
property
lien attaches.

5. The lien shall attach upon the estate or interest of the owner and all persons having any interest in the mine and the minerals or ores produced therefrom, and upon the appurtenances thereto, the lands occupied thereby or enjoyed therewith and the machinery and chattels upon such lands.

Lien, as to
half interest,
takes
priority over
mortgage,
etc.

6. Any lien registered under the provisions of this Ordinance shall, as to an undivided one-half interest in said mining claim, the appurtenances thereto, the lands occupied thereby or enjoyed therewith and the machinery and chattels upon such lands and as to one-half of the output from said mining claim, take priority over all mortgages and encumbrances against the same : Provided that a lien registered under this Ordinance shall not have priority over mortgages or encumbrances registered prior to the passing thereof.

REGISTRATION OF LIEN.

Claim
deposited
with Mining
Recorder and
Gold Com-
missioner.

7. A claim of lien may be deposited in the office of the Mining Recorder for the district in which the mine is situated and the office of the Gold Commissioner, and shall state:—

What to
state.

(a) The name and residence of the claimant and of the owner of the property to be charged, and of the person for whom and upon whose credit the work was done or wood furnished, and the time or period within which the same was or was to be done or furnished;

(b) The work done or wood furnished;

(c) The sum claimed as due or to become due;

(d) The description of the property to be charged; and,

(e) The date of the expiring of the period of credit agreed to by the claimant for payment for his work or wood.

Verified by
affidavit.

2. Such claims shall be verified by the affidavit of the claimant or his agent having a personal knowledge of the facts sworn to.

Claims may
be joined.

8. A claim may include the claims of any number of claimants aforesaid who may choose to unite therein; each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim.

Claims may
be registered
within 30
days.

9. The claim may be registered at any time within thirty days after the last day's labour for which the wages are payable, or on which wood was furnished, or within thirty days after the time fixed for payment, or if the labour is performed or wood furnished between the first day of November in any year and the thirtieth day of April in the following year, at any time within thirty days after the said thirtieth day of April.

10. The Mining Recorder, or his agent, in whose office the claim is deposited, shall forthwith forward to the Gold Commissioner a copy of such claim certified by him to be a true copy, and the Gold Commissioner shall enter a memorandum thereof against the mining claim described therein.

Mining Recorder to forward copy to Gold Commr.

11. Every lien in respect of which a claim has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof.

Lien ceases after expiration of time for registration where claim not deposited.

PROCEEDINGS TO REALIZE LIEN.

12. Every lien in respect of which a claim has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist upon the expiration of sixty days from the registration of such lien unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the Court in which, or judge before whom, the proceedings are instituted) is duly filed in the office of the Gold Commissioner.

Lien ceases after 60 days from registration where claim deposited.

13. Liens may be enforced by originating summons in which shall be set forth the grounds upon which such lien is claimed. Such summons shall be granted upon affidavit of the facts set forth therein, and the Court or judge may, either *ex parte* or after notice, appoint a receiver for such time and upon such terms as are just and proper, upon proof to his satisfaction that the lienholder is in danger of losing his claim unless such receiver is appointed.

Liens enforced by originating summons.

14. Upon such summons being granted the Court or judge may, after notice given to the various parties interested, including the workmen on the mining claim, which notice shall be given in such manner as the Court or judge directs, summarily determine and fix the liability of the owner or layman for wages due to the claimant and other workmen who have filed claims and also his liability to any other person in respect of wood furnished.

Court may summarily determine liability.

15. Any number of lien-holders may join in one summons and any action brought by a lien-holder shall be taken to be brought on behalf of all the lien-holders who shall have registered their liens before or within thirty days after the commencement of the action, or who shall within the said thirty days file in the proper office of the Court from which the summons issued a statement of their respective claims intitled in or referring to the said action.

Lien-holders may join in action.

2. In the event of the death of the plaintiff or his refusal or neglect to proceed, any other lien-holder who has registered his claim or filed his statement in the manner and within the time above limited for that purpose, may be allowed to prosecute and continue the action on such terms as are considered just and reasonable by the Court or judge;

In event of death, etc., others may prosecute claim.

Estate may be sold when claim not satisfied.

3. If the minerals or ore produced from said mining claim are not sufficient to satisfy the liens registered against it, the Court or a judge may direct a sale of the estate and interest charged with the lien, to take place at any time after one month from the recovery of judgment, and it shall not be necessary to delay the sale for a longer period thereafter than is requisite to give reasonable notice thereof;

Machinery, etc., may be sold.

4. The Court or judge may also direct the sale of any wood, machinery and chattels charged with the lien;

Costs may be added.

5. When judgment is given in favour of the lien-holder the Court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action;

Security may be given.

6. Upon application the Court or judge may receive security or payment into Court in lieu of the amount of the claim, and may thereupon vacate the registration of the lien;

Registration may be annulled. Court to determine whole matter.

7. The Court or judge may annul the said registration upon any other ground;

8. In any case the Court or judge may proceed to hear and determine the matter of the lien and make such order as is just, and in case the person claiming the lien has wrongfully refused to give a discharge thereof, or has no just cause for his claim or claims a larger sum than is found by the Court or judge to be due, the Court or judge may order and adjudge him to pay the costs of the other party.

DEVOLUTION AND ASSIGNMENT.

Lien passes on death of holder.

16. In the event of the death of a lien-holder his right of lien shall pass to his personal representatives.

Lien may be assigned.

17. The right of a lien-holder may be assigned by instrument in writing.

DISCHARGE OF LIEN.

Discharge of lien.

18. A lien may be discharged by a receipt signed by the claimant or his agent and verified by affidavit and filed in the offices mentioned in section 7 of this Ordinance; such receipt shall be numbered and entered like other instruments.

FEEES.

Registration fee.

19. The fee for registering any instrument under this Ordinance shall be \$2.

ENCUMBERED MINES.

Mortgagee, etc., to be notified by owner or layman.

20. Every owner or layman, or if any owner or layman is an incorporated company, or is absent from the territory, the manager or agent of such owner or layman, who hires, or contracts with, any person to perform any work or service upon or in respect to or to furnish any wood to be used in the working of any mining claim, against which any mortgage or encumbrance was

registered prior to the passing of this Ordinance, shall, immediately upon such hiring or contract, give notice in writing to every person holding any such mortgage or encumbrance of the fact of such hiring or contract. Such notice may be in form A in the schedule to this Ordinance.

21. Any person failing to give such notice who fails to pay any such person hired by him, or by whom wood has been furnished as in the next preceding section mentioned the full amount due such person, shall be liable to a penalty of not exceeding two hundred and fifty dollars, and, in default of payment of such penalty and the amount so due, to imprisonment for a term not exceeding three months unless he sooner pays such penalty and amount.

Penalty for failure to notify.

22. After a lien has been registered by any person so hired, or who has furnished wood, as aforesaid for money due him in respect of such hiring, or for such wood, against any placer mining claim, it shall not be lawful for the owner or layman to remove any gold from such mining claim if a lien-holder who has registered his lien gives to such owner or laymen a written notice in form B in the schedule to this Ordinance. After such notice is given any person interested in such mining claim either on account of wages or for wood, or as owner, layman, mortgagee or encumbrancer, may notify the mining inspector residing nearest to such mining claim that a lien has been registered against such mining claim and that a lien-holder has forbidden the removal of any gold therefrom, and upon receipt of such notice the mining inspector shall forthwith by himself or his agent take possession of every dump and sluice box upon and all gold dust produced from, such mining claim, and make provision for obtaining the gold therefrom at the expense of the owner or layman, and in the event of there being a prior mortgage or encumbrance against said mining claim shall pay or apportion *pro rata* not exceeding one-half of such gold and gold dust to and among all persons to whom amounts are due for wages or for wood furnished in connection with said mining claim and the balance to the owner of the mine or the mortgage or encumbrance. If there is no prior encumbrance on said mining claim the full amount of such gold and gold dust and so much thereof as may be required for the purpose shall be applied and so apportioned in payment of the amounts due to such persons for wages or for wood and any balance shall be paid to the owner of the mine.

After lien registered no gold to be removed.

Mining Inspector to take charge of dumps, and pay *pro rata*.

2. If there is any dispute as to the amount due for wages or wood, the said mining inspector shall deposit with the clerk of the Territorial Court the gold dust produced from the mining claim to abide the decision of a judge upon any action to enforce the lien.

In case of dispute, dust to be deposited in Court.

23. At every clean-up on any placer mining claim the men hired, or who have furnished wood, shall be entitled to have a representative present, as well as at the weighing of the gold dust obtained thereby, and it shall be the duty of the owner or

Claimants to be represented at clean up.

layman to give to such representative, if required, a statement in writing of the quantity of gold obtained from time to time from such mining claim.

Penalty for violation of.

24. Any owner or layman who violates any of the provisions of the next two preceding sections and fails to pay to any such person so hired, or who has furnished wood, the amount due to such person in respect of such hiring or for such wood, shall be liable to a penalty not exceeding two hundred and fifty dollars and in default of payment of such penalty and the amounts due by him for wages or for wood to imprisonment for a term not exceeding three months, unless he sooner pay such penalty and the amount due and unpaid in respect to such wages or for wood.

Ordinance to come into force on July 1st, 1906.

25. This Ordinance shall come into force on the first day of July, 1906.

Schedule—Form A.

Schedule "A."

To Take notice that
I have hired the following men to work mining claim No.
 (here give the ordinary description of the claim so as to clearly identify it and a list of the men hired) and that I propose to work such claim subject to the provisions of "The Miners Lien Ordinance" and to pay such men in accordance therewith and any other man who may be hired to work the same, whose name will be furnished by me when he is hired.

Take further notice that, unless you give notice in writing objecting to such hiring, the wages of such men will be given priority to your mortgage or encumbrance as to such one-half of the gold received.

Form B.

Schedule "B."

To Take notice
 that (name of workman who has filed lien)
has filed a lien against mining claim No. (here
 give the ordinary description of the claim so as to clearly identify it) and that I, the undersigned, being a lien-holder on said claim, forbid the removal from such mining claim of any gold or gold dust until the amount due for wages or for wood on said claim, is paid.

RODOLPHE BOUDREAU,
 Assistant Clerk of the Privy Council.

THE

CONSOLIDATED ORDINANCES

OF THE

YUKON TERRITORY

1914

Be it enacted by the Commissioner of the Yukon Territory, by and with the advice and consent of the Council of said Territory, as follows:—

repealed



THE
CONSOLIDATED ORDINANCES
OF THE
YUKON TERRITORY.

CHAP. I.

An Ordinance respecting the Form and Interpretation
of Ordinances.

SHORT TITLE.

1. This Ordinance may be cited as "*The Interpretation Ordinance.*" C.O.Y.T. c. 1, s. 1. Short title.

THE CONSOLIDATED ORDINANCES—CITATION.

2. This Ordinance and following series of Ordinances shall constitute and may be cited for all purposes as "*The Consolidated Ordinances of the Yukon Territory, 1914,*" and any chapter of the said consolidated Ordinances may be cited and referred to for all purposes whatever either by its title as an Ordinance or by its short title or by using the expression "*The Ordinance (or The Consolidated Ordinance) respecting _____*" (adding the remainder of the title given at the beginning of the particular chapter) or by using the expression "*The Consolidated Ordinances*" or "*The Consolidated Ordinances of the Yukon Territory*" together with a reference to the number of the particular chapter in the copies printed by authority. C.O.Y.T. c. 1, s. 2. What constitutes consolidated Ordinances citation.

APPLICATION.

3. This Ordinance and every provision thereof shall extend and apply to every Ordinance of the Territory, now or hereafter passed except in so far as the provision is inconsistent with the intent and object of such Ordinance or the interpretation which such provision would give to any word, expression Application of this Ordinance.

or clause is inconsistent with the context and except in so far as any provision hereof is in any such Ordinance declared not applicable thereto; and the omission in any Ordinance of a declaration that *The Interpretation Ordinance* applies thereto shall not be construed to prevent it so applying although such express declaration is inserted in some other Ordinance or Ordinances of the same session. C.O.Y.T. c. 1, s. 3.

FORM OF ENACTING.

Form of
enacting
clause.

4. The following words may be inserted in the preambles of Ordinances and shall indicate the authority by virtue of which they are passed: "The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of said Territory, enacts as follows." C.O.Y.T. c. 1, s. 4.

Preamble and
operative part
of Ordinances.

5. After the insertion of the words aforesaid, which shall follow the setting forth (if any) of the considerations or reasons upon which the law is grounded and which shall with these considerations or reasons constitute the entire preamble, the various clauses of the Ordinance shall follow in a concise and enunciative form. C.O.Y.T. c. 1, s. 5.

TIME OF COMMENCEMENT OF ORDINANCES.

Indorsement
of assent.

6. The Territorial Secretary shall indorse on every Ordinance of the Territory, immediately after the title of such Ordinance, the day, month and year when the same was by the Commissioner assented to or reserved by him for the assent of the Governor General; and in the latter case such Secretary shall also indorse thereon the day, month and year when the Commissioner has signified (either by speech or message to the Council or by proclamation) that the same was laid before the Governor General and that the Governor General was pleased to assent to the same; and such indorsement shall be taken to be a part of such Ordinance; and the date of such assent or signification (as the case may be) shall be the date of the commencement of the Ordinance if no later commencement is therein provided. C.O.Y.T. c. 1, s. 6.

AMENDMENT OR REPEAL.

Amendment
of law in
same session.

7. Any Ordinance of the Territory may be amended, altered or repealed by any Ordinance passed in the same session. C.O.Y.T. c. 1, s. 7.

INTERPRETATION.

Interpreta-
tion.
Law always
speaking.

8. In every Ordinance unless the context otherwise requires—
1. The law shall be considered as always speaking; and whenever any matter or thing is expressed in the present tense the same shall be applied to the circumstances as they arise so that effect may be given to each Ordinance and every part thereof according to its spirit, true intent and meaning.

2. The expression "shall" shall be construed as imperative, "Shall." and the expression "may" as permissive; "May."
3. Whenever the expression "herein" is used in any section "Herein." of an Ordinance it shall be understood to relate to the whole Ordinance and not to that section only;
4. The expression "His Majesty," the "King," or "the The Sovereign." Crown," means His Majesty, his Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas;
5. The expression "Commissioner" means the Commissioner "Commissioner." for the time being or other chief executive officer or administrator for the time being carrying on the government of the Territory by whatever title he is designated;
6. The expression "Commissioner in Council" means the "Commissioner in Council." Commissioner or person administering the government of the Territory for the time being acting by and with the advice of or by and with the advice and consent of or in conjunction with the Council of the said Territory;
7. The expressions "Government," "Government of the "Government." Territory" or "Yukon Government" used in any Ordinance whenever enacted mean His Majesty the King acting for the Territory;
8. The expression "the United Kingdom" means the United "United Kingdom." Kingdom of Great Britain and Ireland;
9. The expression "the United States" means the United "United States." States of America;
10. The expression "Territory" means the Yukon Territory "Territory." as defined by *The Yukon Act*.
11. The name commonly applied to any country, place, Name of country, place, body, corporation, society, officer, functionary, person, party officer, etc. or thing means such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof;
12. The expression "proclamation" means a proclamation "Proclamation." under the seal of the Territory;
13. When the Commissioner is authorized to do any act by Acts by proclamation such proclamation is to be understood to be a proclamation issued under an Order of the Commissioner, but it shall not be necessary to mention in the proclamation that it is issued under such Order;
14. Words importing the singular number or the masculine Number and gender. gender only, include more persons, parties or things of the same kind than one and females as well as males and the converse;
15. The expression "person" includes any body corporate "Person." and politic or party and the heirs, executors, administrators or other legal representatives of such person to whom the context can apply according to law;
16. The expression "writing," "written" or any term of "Writing." like import includes words printed, painted, engraved, lithographed or otherwise traced or copied;
17. The expression "now" or "next" shall be construed "Now." "Next." as having reference to the time when the Ordinance was assented to;

- "Month."
"Year." 18. The expression "month" means a calendar month; and the expression "year" means a calendar year; and the number of any year (unless the contrary is indicated) means "the year of our Lord" without the mention of "the year of our Lord."
- "Holiday." 19. The expression "holiday" includes Sunday, New Year's Day, Ash Wednesday, Good Friday, Easter Monday, the second Friday in May to be known as Arbour Day, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning Sovereign, Dominion day, Labour day and such day as may in each year be proclaimed a public holiday for the planting of forest and other trees, any other day appointed by proclamation for a general fast or thanksgiving and the 17th day of August to be known as Discovery Day.
- "Gazette." 20. The term "gazette" or "official gazette" means *The Yukon Official Gazette*;
- Time expiring
on holiday. 21. If the time limited by any Ordinance for any proceeding or the doing of anything under its provisions expires or falls upon a holiday, the time so limited shall be extended to and such thing may be done on the day next following which is not a holiday;
- Standard
time. 22. The local time of and at the one hundred and thirty-fifth meridian of longitude is hereby declared to be the standard time of the Yukon Territory; and when any Ordinance heretofore or hereafter passed refers to any particular time of day such standard time shall be considered to be meant;
- "Felony." 23. The expression "felony" means any crime which before the passing of *The Criminal Code* 1892 would have been a felony under the law of Canada; and "misdemeanour" means any crime or offence which before the passing of the said Code would have been a misdemeanour under the said law;
- "Oath." 24. The expression "oath" includes a solemn affirmation or declaration whenever the context applies to any person and case by whom and in which a solemn affirmation or declaration may be made instead of an oath; and in like cases the expression "sworn" includes the expression "affirmed" or "declared";
- "Sworn."
Officers to
take oaths. 25. Whenever (by any Ordinance or by any Order, regulation or commission made or issued by the Commissioner under any law authorizing him to require the taking of evidence under oath) an oath is authorized or directed to be made, taken or administered, such oath may be administered and a certificate of its having been made, taken or administered may be given by any one named in any such Ordinance, Order, regulation or commission, or by a judge of any court, a notary public, a justice of the peace or a commissioner for taking affidavits having authority or jurisdiction within the place where the oath is administered;
- "Sureties"
"Security" 26. The expression "sureties" means sufficient sureties and the expression "security" means sufficient security; and whenever these words are used one person shall be sufficient therefor unless otherwise expressly required;
- "Magistrate" 27. The expression "magistrate" includes justice of the peace;

28. The expression "justice" means a justice of the peace **"Justice."** and includes two or more justices if two or more justices act or have jurisdiction, and also any person having the power or authority of two or more justices of the peace;

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

30. Whenever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing. **Implied powers.**

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

32. If any sum of the public money be by any Ordinance appropriated for any purpose or directed to be paid by the Commissioner or the Government, then (if no other provision is made respecting it) such sum shall be payable under warrant of the Commissioner directed to the Treasurer of the Territory out of the general revenue fund of the Territory; and all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form with such vouchers at such periods and to such officers as the Commissioner directs; **Public expenditure.**

33. Words authorizing the appointment of any public officer or functionary or any deputy include the power of removing or suspending him, reappointing or reinstating him or appointing another in his stead in the discretion of the authority in whom the power of appointment is vested; **Appointment, removal, etc., of officials.**

34. Words directing or empowering any public officer or functionary to do any act or thing or otherwise applying to him by his name of office include his successors in such office and his or their lawful deputy; **Successors and deputies of officials.**

35. All officers now appointed or hereafter appointed under the authority of an Ordinance (whether by commission or otherwise) shall remain in office during pleasure only unless otherwise provided by law; **Officers retained during pleasure.**

36. When any act or thing is required to be done by more than two persons a majority of them may do it; **When majority may act.**

37. Words making any association or number of persons a corporation or body politic and corporate shall vest in such corporation power to sue and be sued, contract and be contracted with by their corporate name; to have a common seal and to alter or change the same at their pleasure; and to have perpetual succession; and power to acquire and hold **Effect of incorporation.**

personal property or movables for the purposes for which the corporation is constituted and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not violate the provisions of the Ordinance incorporating them;

Forms.

38. Whenever forms are prescribed slight deviations therefrom not affecting the substance or calculated to mislead shall not vitiate them;

Repeal of by-laws, etc.

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

Private Ordinances.

40. No provision or enactment in any Ordinance which is of the nature of a private Ordinance shall affect the rights of any person or of any body politic, corporate or collegiate, such only excepted as are therein mentioned or referred to;

Power of repeal reserved.

41. Every Ordinance shall be so construed as to reserve to the Council the power of repealing or amending it and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party whenever such repeal, amendment, revocation, restriction or modification is deemed by the Council to be required for the public good;

Effect of repeal limited.

42. The repeal of any Ordinance or part of an Ordinance shall not revive any Ordinance or provision of law repealed by such Ordinance or part of an Ordinance or prevent the effect of any saving clause therein;

Repeal no declaration as to law previously.
Repeal.

43. The repeal or amendment of any Ordinance shall not be deemed to be or to involve any declaration whatsoever as to the previous state of the law;

Continuation of previous officers, etc.

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

Repeal.

By-laws, etc., continued.

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

Repeal.

46. Whenever any Ordinance or part of an Ordinance is repealed and other provisions are substituted by way of amend-

ment, revision or consolidation, any reference in any unrepealed Ordinance (or in any rule, order or regulation made thereunder) to such repealed Ordinance or enactment shall, as regards any subsequent transaction, matter or thing be held and construed to be a reference to the provisions of the substituted Ordinance or enactment relating to the same subject-matter as such repealed Ordinance or enactment:

Reference to old law.

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

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

Repeal. Existing rights reserved.

48. Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinance or municipal by-law may be brought summarily before a justice of the peace under the provisions of part XV of *The Criminal Code*; and the words "on summary conviction" whenever they occur in any Ordinance shall refer to and mean under and by virtue of part XV aforesaid;

Enforcement of Ordinances.

49. Whenever any conviction made under the Ordinances of the Yukon Territory adjudges a pecuniary penalty or compensation to be paid, or an order requires the payment of a sum of money whether the Ordinance authorizing such conviction or order does or does not provide the mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment thereof, the justice by his conviction or order, after adjudging payment of such penalty, compensation or sum of money with or without costs, may order and adjudge *mutatis mutandis* as if the conviction were under Sections 739, 740 and 741 of *The Criminal Code*;

Provisions respecting convictions.

50. Any duty, penalty, fine or sum of money or the proceeds of any forfeiture under any law of the Territory shall (if no other provision is made respecting it) belong to the Crown for the public uses of the Territory and form part of the general revenue fund of the Territory;

Application of fines, etc.

51. Where a pecuniary penalty or a forfeiture is imposed for the contravention of any Ordinance then (if the provisions of part XV of *The Criminal Code* are not applicable to the case and if no other mode is prescribed for the recovery of such penalty or forfeiture or if the mode prescribed is not applicable to the case) the penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Legal Adviser or of a private party suing as well for the Crown

Recovery of penalties in unprovided cases.

as himself in the Territorial Court; if no other provision is made for the appropriation of the penalty or forfeiture one-half thereof shall belong to the Government of the Territory and the other half shall belong to the private plaintiff if there is any, and if there is none the whole shall belong to the Crown;

Repeal:
Penalties and
forfeitures not
affected.

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

Ordinances
public.

Judicial
notice.

53. Every Ordinance shall (unless by express provision it is declared to be a private Ordinance) be deemed to be a public Ordinance and shall be judicially noticed by all judges, justices of the peace and others;

Printed copies
of Ordinances.

54. Every copy of any Ordinance (public or private) printed by authority of law shall be evidence of such Ordinance and of its contents; and every copy purporting to be so printed shall be deemed to be so printed unless the contrary is shown;

Evidence of
Orders in
Council.

55. A copy of any regulation or Order of the Commissioner printed by *The Yukon Official Gazette* or a written copy thereof attested by the signature of the Territorial Secretary shall be evidence of such regulation or Order;

Construction
of Ordinances.

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

Reference to
sections.

57. Where reference is made in any Ordinance by number to two or more sections, subsections, clauses or paragraphs of any Ordinance or Statute, the number first mentioned and the number last mentioned shall both be deemed to be included in the reference.

Reference
by number.

58. Reference by number to any section, subsection, paragraph, clause or line of any other Ordinance shall be deemed to be a reference to such section, subsection, paragraph, clause or line of such other Ordinance as printed by authority of law;

Proceedings
under
Ordinance
preliminary
to coming
into force.

59. Where an Ordinance is not to come into operation immediately on the passing thereof and confers power to hold any election, to make any appointment, to make, grant or issue any instrument, Order in Council, order, warrant, scheme, letters patent, rules, regulations or by-laws, to give notices, to prescribe forms or to do any other thing for the purposes

of the Ordinance, that power may (unless the contrary intention appears) be exercised at any time after the passing of the Ordinance so far as may be necessary or expedient for the purpose of bringing the Ordinance into operation at the date of the commencement thereof, subject to this restriction that any such instrument, Order in Council, order, warrant, scheme, letters patent, rules, regulations or by-laws shall not (unless a contrary intention appears in the Ordinance or the contrary is necessary for bringing the Ordinance into operation) come into operation until the Ordinance comes into operation;

60. Nothing in this section shall exclude the application to any Ordinance of any rule of construction applicable thereto and not inconsistent with this section. C.O.Y.T. c. 1, s. 8; No. 2 of 1904; No. 2 of 1912. General rules of construction.

CUSTODY OF ORDINANCES.

9. All Ordinances heretofore passed, now passed and hereafter to be passed shall be and continue to remain of record in the custody of the Territorial Secretary. C.O.Y.T. c. 1, s. 9. Ordinances to be of record.

CERTIFIED COPIES OF ORDINANCES.

10. The Territorial Secretary shall affix the seal of the Territory to certified copies of all Ordinances intended for transmission to the Secretary of State or required to be produced before courts of justice and in any other case which the Commissioner directs; and such copies so certified shall be held to be duplicate originals and also to be evidence (as if printed by lawful authority) of such Ordinances and of their contents. C.O.Y.T., c. 1, s. 10. Authentification of copies.

11. The Territorial Secretary shall furnish a certified copy of any Ordinance to any person applying for the same upon receiving from such person such fee (not exceeding ten cents for every hundred words) as the Commissioner from time to time directs. C.O.Y.T. c. 1, s. 11. Certified copies.

12. The Territorial Secretary shall insert at the foot of every such copy so required to be certified a written certificate duly signed and authenticated by him to the effect that it is a true copy; and, in case of any Ordinance disallowed after it came into force, "but disallowed by the Governor General in Council, which disallowance took effect on the day of — A.D. 19 — ." C.O.Y.T. c. 1, s. 12. Certificate.
Disallowance.

CONSTRUCTION OF THIS ORDINANCE.

13. The provisions of this Ordinance shall apply to the construction thereof and to the words and expressions used therein. C.O.Y.T. c. 1, s. 13. Interpretation hereof.

repealed

CHAP. 2.

An Ordinance respecting Alimony.

Jurisdiction of
the Territorial
Court in ali-
mony.

1. The Territorial Court of the Yukon Territory shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England or to any wife who would be entitled by the law of England to a divorce and to alimony as incident thereto or to any wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her by the law of England to a decree for restitution of conjugal rights; and alimony when granted shall continue until the further order of the court. C.O.Y.T. c. 27, s. 1.

CHAP. 3.

An Ordinance respecting Trespassing and Straying of Animals.

- 1.** In this Ordinance—
- 1. The word "animal" means any horse, mule, jack, goat, neat cattle, swine or geese; Interpretation "Animal."
 - 2. The word "trespasser" means any animal which breaks into any ground inclosed by a lawful fence; "Trespasser."
 - 3. The word "estrays" means any horse, mule, jack or one of the neat cattle species, or any swine or geese running at large; "Estray."
 - 4. A legal fence, for the purpose of this Ordinance, shall be held to be not less than four feet six inches high, and shall consist of such courses of rails or wire, as the case may be, as shall be held sufficient for the protection of the ground within its bounds. C.O.Y.T., c. 71, s. 1. Legal fence.
- 2.** The Commissioner may, by order published in the *Yukon Official Gazette*, constitute any part of the Yukon into a pound district, and appoint therefor one or more pound-keepers. C.O.Y.T. c. 71, s. 2. Commissioner may constitute pound districts and appoint pound-keepers.
- 3.** The owner or occupier of any land surrounded by a lawful fence, or his agent, may capture any trespasser upon such land, and drive and deliver the same to the nearest pound-keeper of the district in which the trespass was committed, and the said pound-keeper shall impound such trespasser and shall be responsible for the feed and safe-keeping thereof, so long as he is legally bound to hold the same; and such pound-keeper shall collect the amount of the damages caused by, and all charges for the keep and other incidental expenses connected with such trespasser, before delivering up the same to the owner; and it shall be the duty of the captor to leave with the pound-keeper a statement in writing of his claim for damages done by such trespasser, and his reasonable charges incurred in driving the same to and delivering the same to the pound-keeper. C.O.Y.T. c. 71, s. 3. Owner or occupier of land surrounded by lawful fence may capture trespasser.
Pound-keeper may collect damages.
- 4.** Any resident in the Yukon Territory may capture any estray found within any pound district, and drive and deliver the same to the pound-keeper of such district, and the said estray shall be dealt with in every way as a trespasser under this Ordinance. C.O.Y.T. c. 71, s. 4. Any person may deliver estray to pound-keeper.
- 5.** In every case where damage is done to the inclosed lands of any person by any of the animals hereinbefore mentioned breaking the fences inclosing the same, such animal shall be considered and treated as a trespasser within the meaning of this Ordinance, if that part of the fence broken by such animal Animal breaking into enclosed land trespasser.

is legal; although other parts of the inclosing fence are not legal; and any animal hereinbefore mentioned breaking through a division fence, which its owner is bound to repair and keep up, shall be considered and treated as a trespasser within the meaning of this Ordinance, although the said fence is not a legal fence. C.O.Y.T. c. 71, s. 5.

Person in charge liable same as owner

6. The owner or occupant of any land, or the person in charge of any animal, shall be liable for any damage caused by such animal under his charge as though such animal was his own property; and the owner of any animal not permitted to run at large by law shall be liable for any damage done by such animal, although the fence inclosing the premises is not a legal one. C.O.Y.T. c. 71, s. 6.

Person leaving animal with pound-keeper to deposit poundage fees.

7. The person capturing any animal shall, at the time of delivering the same to the pound-keeper, deposit poundage fees, if such are demanded, and with the statement of his demand, as hereinbefore provided, give to the pound-keeper with a surety, if required by the pound-keeper, his written agreement in the words, or to the following effect:—

“I, A. B., do-agree that I will pay to the owner of the (*describing the animal*) by me this day impounded, all costs to which the said owner is put in case the distress by me proves to be illegal, or in case the claim for damages by me fails to be established.” C.O.Y.T. c. 71, s. 7.

Owner entitled to animal on giving security.

8. The owner of any animal impounded shall at any time be entitled to his animal on demand made therefor without payment of any poundage fees, on giving satisfactory security to the pound-keeper for all costs, damages and poundage fees that are established against him. C.O.Y.T. c. 71, s. 8.

Duty of pound-keeper.

9. On the pound-keeper impounding an animal it shall be his duty:

Notify owner.

1. If the owner is known, to immediately notify him of such impounding, and if such owner refuse within three days after such notification to pay all lawful damages and other charges, and take away his animal, to advertise for at least ten days the sale of such animal, by posting notices in three of the most public places in the pound district and upon the day named in such notice for such sale, to sell such animal by public auction.

Advertise.

Sell.

If owner not known post notices.

2. If the owner is not known, to cause to be posted forthwith in three of the most public places in the pound district, a notice giving as near as possible all the marks, natural and artificial, colour, and probable age of such animal; and after the expiration from such notice of:—

(a) Twenty days,

If the animal is a horse, mule, jack, or one of the neat cattle species and over two years old, and

(b) Six days,

If the animal is of the last mentioned kinds under two years old, or of any other kind of any age.

If no owner is found the pound-keeper shall advertise and sell the animal in the same manner as herein provided when the owner is known. C.O.Y.T. c. 71, s. 9. If owner not found advertise and sell.

10. The pound-keeper shall apply the proceeds of any such sale as follows: How proceeds of sale to be applied.

1. To the payment of his own proper charges;
2. To the payment of the captor's reasonable charges and damages;
3. The balance to the owner of the animal sold, if known, and if not known, after the same has remained in his hands for three months unclaimed, to the Commissioner, to become, if still unclaimed for one year thereafter, a part of the general revenue fund. C.O.Y.T. c. 71, s. 10.

11. The pound-keeper shall neither directly nor indirectly become the purchaser at any sale conducted under his direction. C.O.Y.T. c. 71, s. 11. Pound-keeper not to be purchaser at sale.

12. The persons mentioned in this Ordinance shall be entitled to receive the following amounts: Expenses and fees.

1. The owner or occupant of the land injured by a trespasser, or the captor of an estray, for driving and delivering the same to the pound-keeper, his reasonable expenses;
2. The pound-keeper—

For every horse, mule or jack, or head of cattle or swine, four dollars; for every sheep or goat, each one dollar and sixty cents, for each day the same shall be impounded, for their support;

For notifying the owner of the animal impounded, fifty cents;

For posting notices, if the owner is not known, one dollar; and the actual cost of newspaper advertisements when incurred;

For posting notices of sale, one dollar;

And for each mile necessarily travelled in the performance of his duties, ten cents;

And 5 per cent commission upon the amount realized on the sale, for selling animal and applying proceeds according to the provisions of this Ordinance. C.O.Y.T. c. 71, s. 12.

13. The owner of any animal captured or impounded under the provisions of this Ordinance shall be entitled to recover the same from any person in whose possession such animal may be, upon tender of all damages committed and the charges incurred up to the time of the tender. C.O.Y.T. c. 71, s. 13. Owner may recover animal on tender of expenses and charges.

14. A pound-keeper guilty of any neglect of duty imposed upon him by this Ordinance shall be liable to a penalty not exceeding one hundred dollars, upon the complaint of the party who suffered by such neglect. C.O.Y.T. c. 71, s. 14. Penalty for neglect of duty.

Penalty for rescuing estray.

15. If any person shall rescue any trespasser or estray from the person lawfully taking the same to the pound, he shall be liable to a penalty not exceeding one hundred dollars; and if any person shall make a breach of any pound, or shall unduly set at large any animal impounded, he shall be liable to a penalty not exceeding one hundred dollars. C.O.Y.T, c. 71, s. 15.

J. P. to dispose of complaints in summary manner.

16. In case of dispute between any of the parties mentioned in this Ordinance, or of any complaint being made that any penalty has been incurred, the same may be brought before a justice of the peace and disposed of by him in a summary manner. C. O. Y. T., c. 71, s. 16.

Not to affect action for trespass.

17. Nothing herein contained shall be construed to impair the action under any Statute, Ordinance or the Common Law, for damages occasioned by trespassers within the meaning of this Ordinance. C.O.Y.T. c. 71, s. 17.

Pound-keeper to forward report to Commissioner.

18. Every pound-keeper shall forward to the Commissioner, on the thirty-first day of December of each year, a return in such form as he directs, showing all cattle impounded during the year, and the amount of damages and other charges paid, and all sales made by him, and the surplus, if any, on each sale and how such surplus was disposed of. C.O.Y.T. c. 71, s. 18.

Does not apply to municipality.

19. This Ordinance shall not apply within any municipality. C.O.Y.T. c. 71, s. 19.

Animals turned loose, must be in good condition, etc.

20. No animal is to be turned loose to pasture between the 30th of October and the 30th of March unless it is in good condition and unless feed and water are obtainable where the animal is turned loose. C.O.Y.T. c. 71, s. 20.

Animals found in weak or poor condition.

21. Any one finding an estray in a weak or poor condition during the winter shall notify the nearest police detachment. The police shall, if the owner is known, order him to provide feed for the animal or to kill it; if the owner is not known, the police shall see that the animal is impounded, and it shall then be dealt with as provided in section 9 of this Ordinance, except that it may be sold after twelve days in pound. C.O.Y.T. c. 71, s. 21.

When no purchaser animals may be killed.

22. If no purchaser can be found for an animal at the pound-keeper's sale, the pound-keeper may kill it and sell it for dog feed unless it can be disposed of by private sale. C.O.Y.T. c. 71, s. 22.

Damaging caches.

23. An estray found damaging caches may be impounded. C.O.Y.T. c. 71, s. 23.

Penalty for improperly turning animals out.

24. Any one found guilty of turning an animal out to graze during the period mentioned above in section 1 of this Ordinance when the animal is in poor condition, or where there is no food nor water, and any owner who fails to stable or feed his animal

when warned to do so by any member of the Northwest Mounted Police, may, upon summary conviction, before a justice of the peace, be fined not more than \$100 and costs, and in default of payment, be sentenced to thirty days' imprisonment, with or without hard labour. C.O.Y.T. c. 71, s. 24.

repealed

CHAP. 4.

An Ordinance respecting Arbitration.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Arbitration Ordinance*. C.O.Y.T. c. 32, s. 1.

INTERPRETATION.

Interpretation
"Sub-
mission."
"Court."
"Judge."
"Rules of
Court."

2. In this Ordinance unless the contrary intention appears:
1. "Submission" means a written agreement to submit present or future difference to arbitration whether an arbitrator is named therein or not;
2. "Court" means the Territorial Court of the Yukon Territory;
3. "Judge" means a judge of the Territorial Court of the Yukon Territory;
4. "Rules of Court" means the rules of the Territorial Court of the Yukon Territory. C.O.Y.T. c. 32, s. 2.

REFERENCES BY CONSENT OUT OF COURT.

Effect of
submission.

3. A submission unless a contrary intention is expressed therein shall be irrevocable except by leave of the court or a judge and shall have the same effect in all respects as if it had been made an-order of court. C.O.Y.T. c. 32, s. 3.

Submission
includes
provisions in
schedule.

4. A submission unless a contrary intention is expressed therein shall be deemed to include the provisions set forth in the schedule to this Ordinance so far as they are applicable to the reference under submission. C.O.Y.T. c. 32, s. 4.

Stay of
proceedings.

5. If any party to a submission or any person claiming through or under him commences any legal proceedings in any court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to that court to stay the proceedings and that court and a judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration may make an order staying the proceedings. C.O.Y.T. c. 32, s. 5.

6. In any of the following cases:

- (a) Where a submission provides that a reference shall be to a single arbitrator and all the parties do not concur in the appointment of an arbitrator;
- (b) If an arbitrator refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy;
- (c) Where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;
- (d) Where an appointed umpire or arbitrator refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties or arbitrators do not supply the vacancy;

Appointment
of arbitrator
in certain
cases.

any party may serve the other parties or the arbitrators as the case may be with a written notice to appoint an arbitrator, umpire or third arbitrator. If the appointment is not made within seven clear days after the service of the notice the court or a judge may on application by the party who gave the notice appoint an arbitrator, umpire or third arbitrator who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. C.O. Y.T. c. 32, s. 6.

7. Where a submission provides that the reference shall be to two arbitrators one to be appointed by each party then unless the submission expresses a contrary intention—

Appointment
of arbitrators
where two
required.

1. If either of the appointed arbitrators refuses to act or is incapable of acting or dies the party who appointed him may appoint a new arbitrator in his place;

2. If on such reference one party fails to appoint an arbitrator either originally or by way of substitution as aforesaid for seven clear days after the other party having appointed his arbitrator has served the party making default with notice to make the appointment the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the court or a judge may set aside any appointment made in pursuance of this section.

8. The arbitrators or umpire acting under a submission shall unless the submission expresses a contrary intention have power:

Powers of
arbitrators.

1. To administer oaths to or take the affirmations of the parties and witnesses appearing; and

2. To state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and

3. To correct in an award any clerical mistake or error arising from any accidental slip or omission. C.O.Y.T. c. 32, s. 8.

Summoning
of witnesses.

9. For the purpose of procuring the attendance of a witness at an arbitration any party to a submission may sue out a writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum* but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

2. Such writs may be obtained from any clerk of the court or deputy clerk of the court on payment of the fees prescribed in *The Judicature Ordinance*. C.O.Y.T. c. 32, s. 9.

Enlargement
of time for
award.

10. The time for making an award may from time to time be enlarged by order of the Court or a judge whether the time for making an award has expired or not. C.O.Y.T. c. 32, s. 10.

Reconsideration
by
arbitrator.

11. In all cases of reference to arbitration the Court or a judge may from time to time remit the matters referred or any of them to the reconsideration of the arbitrators or umpire;

2. Where an award is remitted the arbitrators or umpire shall unless the order otherwise directs make their award within six weeks after the date of the order. C.O.Y.T. c. 32, s. 11.

Misconduct
of arbitrator.

12. Where an arbitrator or umpire has misconducted himself the Court or a judge may remove him.

Setting aside
award.

2. Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured the Court may set the award aside. C.O.Y.T. c. 32, s. 12.

Enforcement
of award.

13. An award on a submission may by leave of the Court or a judge be enforced in the same manner as a judgment or order to the same effect. C.O.Y.T. c. 32, s. 13.

GENERAL.

Attendance
of witness

14. The Court or a judge may order that a writ of subpoena *ad testificandum* or of subpoena *duces tecum* shall issue to compel the attendance before an official or special referee or before any arbitrator or umpire of a witness wherever he may be within the territory.

before referee
or arbitrator.

(2) The Court or a judge may also order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for examination before an official or special referee or before any arbitrator or umpire. C.O.Y.T. c. 32, s. 14.

Special case
for opinion
of court.

15. Any referee, arbitrator or umpire may, at any stage of the proceedings under a reference, and shall if so directed by the Court or a judge state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference. C.O.Y.T. c. 32, s. 15.

Costs.

16. Any order made under this Ordinance may be made on such terms as to costs or otherwise as the authority making the order thinks just. C.O.Y.T. c. 32, s. 16.

17. Whenever it is directed by any Ordinance that any party or parties shall proceed to the appointment of arbitrators or appoint arbitrators as provided by this Ordinance or that any party or parties shall proceed to arbitration under this Ordinance or any similar direction shall be made with respect to arbitration under this Ordinance such direction shall be deemed a submission. C.O.Y.T. c. 32, s. 17.

Directions for arbitration to be deemed submission.

SCHEDULE.

(a) If no other mode of reference is provided the reference shall be to a single arbitrator. Single arbitrator.

(b) If the reference is to two arbitrators the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award. Umpire.

(c) The arbitrators shall make their award in writing within six weeks after entering on the reference or after having been called on to act by notice in writing from any party to the submission or on or before any later day to which the arbitrators by any writing signed by them may from time to time enlarge the time for making the award. Time and manner of award.

(d) If the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the submission or to the umpire a notice in writing stating that they cannot agree the umpire may forthwith enter on the reference in lieu of the arbitrators. Arbitrators not agreeing, umpire to act.

(e) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award. Time for umpire's award.

(f) The parties to the reference and all persons claiming through them respectively shall subject to any legal objection submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute and shall subject as aforesaid produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for and do all other things which during the proceedings on the reference the arbitrators or umpire requires. Examination of parties.
Production of papers.

(g) The witnesses on the reference shall if the arbitrators or umpire think fit be examined on oath or affirmation. Oath or affirmation.

(h) The award to be made by the umpire or arbitrators shall be final and binding on the parties and the persons claiming under them respectively. Finality of award.

(i) The costs of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to and by whom and in what manner the costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof. C.O.Y.T. c. 32. Costs of reference.

repealed
CHAP. 5.

An Ordinance respecting Assessment.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Assessment Ordinance*. C.O.Y.T. c. 17, s. 1.

INTERPRETATION.

Interpretation. **2.** In this Ordinance, unless the context otherwise requires, the following expressions shall be construed in the manner in this section mentioned:

"Assessor." 1. "Assessor" means the person appointed by the proper authority as assessor in any incorporated town in which property is liable to taxation and the person elected or appointed overseer in any town organized under the Ordinance respecting towns.

"Income." 2. "Income" means the annual profit, gain, wages, salary or emoluments arising from any place, office, profession, trade, calling, employment, labour or occupation and directly or indirectly received by any person and includes the interest arising and directly or indirectly received from money, securities, notes, mortgages, debentures, accounts, public stocks, gold dust or from other property.

"Person." 3. "Person" includes firm, company, association and corporation.

"Personal property." 4. "Personal property" includes all such goods and chattels and other property as are enumerated in the first schedule to this Ordinance.

"Property." 5. "Property" includes both real and personal property.

"Real property." 6. "Real property" includes land and land covered with water and whatever is erected or growing upon or affixed to land and also rights issuing out of, annexed to or exercisable within or about the same.

"Town." 7. "Town" includes the city of Dawson, any incorporated town, and any town organized under the provisions of the Ordinance respecting towns.

"Land." 8. "Land" means the ground or soil and everything annexed to it by nature or that is in or under the soil except mines and minerals, precious and base, belonging to the Crown.

"Improvements." 9. "Improvements" extend to and mean all buildings and structures and all machinery and fixtures annexed to any building or structure. C.O.Y.T. c. 64, s. 2. No. 8 of 1903, s. 1.

PROPERTY LIABLE TO TAXATION.

Property liable to assessment. **3.** All real and personal property in any town and the income of every person carrying on any profession, trade, calling, employment, labour or occupation or filling any place

or filling or exercising any office and of every person residing in any town shall be liable to taxation for all purposes for which taxes and rates are levied by authority of law.

(1) The word "income" in this section includes the money described as "living allowance" paid by the Government of Canada to all persons in the Yukon Territory who hold office or appointment of any kind under the said Government of Canada whether Federal or Territorial. C.O.Y.T. c. 64, s. 3. No. 5 of 1912, s. 3. Income includes living allowance.

PROPERTY EXEMPT FROM TAXATION.

4. The following property shall be exempt from taxation. That is to say:

(a) All property vested in His Majesty the King or vested in any person for Imperial, Dominion or Territorial purposes, and either unoccupied or occupied by some person in an official capacity. If any such property is occupied by any person otherwise than in an official capacity the occupant shall be assessed and rated in respect thereto, but the property itself shall not be liable; Exemptions.

(b) Every church and place of worship and the land, to the extent of not more than one-half acre in connection therewith and every churchyard and burial ground;

(c) The real property of every public institution of learning, every public schoolhouse, townhall, courthouse, jail and lockup house.

(d) All school lands;

(e) All public landings, public breakwaters and public wharves;

(f) The property of every town, if occupied for the purposes of such town;

(g) Household furniture in actual use;

(h) Tools to the value of two hundred dollars belonging to a miner or mechanic and necessary for carrying on his business;

(i) Property specially exempted from taxation by any Ordinance of the Yukon Council;

(j) Income to the extent of two thousand dollars;

(k) The Good Samaritan hospital and St. Mary's hospital and the real and personal property occupied and used for the purposes of such hospitals as such. No. 29 of 1901, s. 4.

(l) Gold dust and bullion. C.O.Y.T. c. 64, s. 4. No. 16 of 1903, s. 1.

DUTIES OF ASSESSORS.

5. Every assessor shall, before the 20th day of September, in every year, ascertain by diligent inquiry and examination the names of all persons liable to be rated within the town for which he acts as assessor, their ratable property and income and the extent, amount and nature of the same. C.O.Y.T. c. 64, s. 5. When assessment to be made.

Assessor to set down particulars in assessment roll.

6. The assessor having ascertained as nearly as may be the names of all adult male persons resident in the city of Dawson, and the particulars of the land improvements and personal property and income to be assessed, shall prepare an assessment roll in which he shall set down in separate columns the names and description of every person liable to be rated, designating every such person by a number on the roll and by a statement of the occupation and residence of such person, distinguishing the resident from the non-resident and showing whether such person is assessed as owner, occupant or tenant, or on account of income. The assessor shall also set down a description of and the value of the land and improvements and personal property and income, showing thereunder as far as possible the various particulars enumerated in form "A" in the second schedule of this Ordinance and note any other facts that may aid in securing the proper and correct assessment.

2. The assessment roll shall be as nearly as possible in the said form "A" except that the columns under the heading "taxes on land" and "taxes on improvements, personal property and income" form part of the rate book and not of the assessment roll. No. 8 of 1903, s. 4. No. 11 of 1904, s. 4.

7. In making up the assessment roll the assessor shall be governed by the following rules:

Land and improvements assessed at fair value.

Rule 1. Land shall be assessed separately from improvements. Land and improvements shall be assessed at their fair value. In estimating such value regard shall be had to the situation of the property and the purpose for which it is used, or if sold by the then owners it could and would probably be used in the next succeeding twelve months. In case where the value at which any specified land or improvements has been assessed appears to be more or less than its true value the amount of the assessment shall nevertheless not be varied on appeal unless the difference be gross if the value at which it is assessed bears a fair and just proportion to the value at which land and improvements in the immediate vicinity of the land or improvements in question are assessed.

Income to be assessed at actual amount.

Rule 2. Income shall be assessed at its actual amount and the amount of any person's income during the year preceding shall be taken in the absence of more certain information as the amount of his income for the year in which the assessment is made. In the assessment of income no deduction shall be made by reason of indebtedness or expense of living.

Personal property to be assessed to owner.

Rule 3. Personal property shall be assessed to the owner if known to the assessor, otherwise in the name of the person in possession thereof, provided that the assessment thereof may be transferred to the name of the owner at any time by the assessor or assessment or appeal court, after notice to such owner.

Real estate to be assessed where situated.

Rule 4. Persons owning land or improvements situated in any town shall be assessed for such property in the town in which the property lies.

Non resident property.

Rule 5. Where the person liable to be assessed in respect to any land or improvements which is unoccupied is not resident

within the town in which the property lies or is unknown such real property shall be assessed as property of a non-resident and shall be so designated in the assessment roll.

Rule 6. Land and improvements shall, in all cases, be assessed to the owner thereof. Real property to be assessed to owner.

Rule 7. Income derived from any profession, trade, calling, employment, labour or occupation and the income derived from any place or office shall be assessed in the town in which such profession, labour, trade, calling, employment or occupation or such place or office is filled or exercised, provided the same is carried on, filled or exercised in a town in which an income tax is levied, otherwise the same shall be assessed in the town in which the person receiving such income resides. Income to be assessed where party resides.

The income of a partnership or incorporated company shall be assessed against the firm or company at the usual place of business of the partnership or company in the Yukon Territory, and if a partnership or incorporated company has more than one place of business, each branch shall be assessed as far as may be in the locality where it is situated for that portion of the income of the partnership or company which is received at that particular branch. Assessment of partnership.

Rule 8. Whenever two or more persons are either as business partners or by any other kind of joint, or joint and several interest, the owners of any personal property or of real and personal property together, the names of each of such persons shall be entered on the assessment roll and the property apportioned among them to the best of the assessor's judgment. Income of all owners to be entered on roll.

Rule 9. All property under the control of any person as executor, administrator, trustee, guardian or agent, the separate property of a married woman and property of an infant shall be assessed and rated in the name of the person exercising control over such property but such rating shall be kept separate and distinct from the rating and assessment of such person in his own right and if there is more than one person exercising such control notice given to any one of such persons shall be sufficient. Property under control of trustee or executor to be assessed to him.

Rule 10. The assessor shall on or before the 30th day of September in each year complete the roll. Roll—when to be completed.

2. The assessor shall forthwith thereafter sign the said roll, first attaching thereto a certificate in form "B" in the second schedule to this Ordinance. Assessor to sign roll.

Rule 11. Notice that the assessment roll certified as required by the next preceding rule is completed shall as soon as practicable and not later than one week after the day fixed for the completion of the roll in each year be forwarded by the assessor to the Territorial Secretary. Such notice shall state the number of persons assessed, the total value of lands or improvements, of personal property and of income assessed in such roll and the total of all such assessments. C.O.Y.T. c. 64, s. 7. No. 8 of 1903, ss. 5, 6, 7, 8, and 9. No. 11 of 1904, s. 5. Notice of completion of assessment to be given to Territorial Secretary.

8. The assessor shall forthwith on the completion of the assessment roll give notice of the assessment by delivering to each person, firm, company, association or corporation, or by Notice of assessment to be given to each person on roll.

mailing to such person, firm, company, association or corporation postage prepaid, a notice setting forth the sums at which the lands or improvements, the personal property and income respectively of such person, firm, company, association or corporation are assessed. The assessor shall enter on the roll opposite the proper name the date of such delivery or mailing and such entry shall be presumptive evidence of such delivery or mailing.

2. Such notice may be in the Form "C," in the second schedule to this Ordinance, or to the like effect. C.O.Y.T. c. 64, s. 8.

Person commencing business after assessment to give notice.

9. Every person who commences business of any kind in a town and whose property has not been assessed at the previous general assessment or who has not been rated, shall give notice in writing to the assessor within one week after commencing business of his place of residence and his place of business and the assessor shall, within one week after such notice, assess the property of the person so commencing business in the same way as other ratepayers are assessed under the general assessment. The assessor may, at any time, upon learning that any such person has commenced business, whether such person has given such notice or not, assess the property of such person in such way as aforesaid.

To be assessed at same rate.

2. The assessor shall rate such person at the same rate as the ratepayers in the town and every such rate shall be collected in the same manner as the other rates are collected. The assessor shall notify the Territorial Secretary of every assessment and rate made under the provisions of this section.

Penalty for not giving notice.

3. Any person so commencing business who does not give such notice shall be liable to a penalty of one hundred dollars and in default of payment to imprisonment for a period not less than thirty days and not more than ninety days. C.O.Y.T. c. 64, s. 9.

May add property missed after assessment.

10. If in any year the assessor after the assessment roll has been completed, discovers that property or income of any person to an amount of not less than one hundred dollars and which is liable to taxation has been omitted from the assessment roll, the assessor shall at any time before the first day of January next following the completion of such assessment roll proceed to assess such person for such property or income and the rates thereon shall be levied at the rates fixed for the current year and collected in the same manner as the rates on other property.

May appeal.

2. The person assessed shall have the right to appeal from such assessment and the assessment appeal court shall have power to reverse, vary or modify the assessment so made and amend the assessment roll accordingly. C.O.Y.T. c. 64, s. 10.

If person assessed dies notice to be given to administrator.

11. If any person who is assessed in the assessment roll dies after the making of the assessment by the assessor the notices required by this Ordinance to be given to the person assessed may be given to his executors or administrators, if any, and to the public administrator, if there are no executors

or administrators, and they or he shall have the right of appeal in the same manner as if they or he were assessed as such executors or administrators in respect to the property assessed against the deceased. C.O.Y.T. c. 64, s. 11.

12. If, before the rate referred to in section 45 is struck, the assessor believes that any person who may be liable to be assessed is about to leave the Yukon Territory, he may demand from such person payment of a tax not exceeding two dollars per centum on what the assessor then deems the assessable value of the real and personal property and income of such person and may forthwith proceed to collect such tax as if the same was due and payable after a rate had been duly levied.

Assessor may make demand of party leaving territory.

1. If the tax so collected is less than the amount subsequently shown on the rate book to be due by such person, the balance, after deducting the amount so collected, shall become due and payable and shall be collected in the same way as if no previous amount had been collected.

Balance due collected in usual way.

2. If such tax is greater than such amount the balance shall be forthwith refunded to such person. No. 5 of 1906, s. 1.

Refund.

13. Personal property within the city of Dawson shall be liable to be assessed and rated in said city notwithstanding the owner of such property is not a resident of such city unless it is the property of the holder of a license issued under the provisions of this Ordinance; provided that such property, if in the said city merely in transit, shall not be so liable unless it remains within the said city more than twenty days. No. 5 of 1906, s. 2.

Non-resident (Dawson) property taxable except in transit.

14. There shall be levied and collected annually on every railway within the Yukon Territory, including the city of Dawson, if such railway has been or as soon as it has been in operation for two years or more, a tax equal to \$100 per mile of the line of railway actually operated in lieu of any rate which might be levied in assessment of personal property and income. No. 5 of 1906, s. 3.

Railways; \$100 per mile.

15. There shall be levied on every person and company engaged in passenger and freight traffic or either, on water, between places within the Yukon Territory, including the city of Dawson, a tax equal to 50 cents per ton on the net tonnage, customs-house measurement, of each vessel propelled by mechanical power engaged at any time during the year in such traffic. Such tax shall be in lieu of any rate which might be levied on assessment of personal property and income. No. 5 of 1906, s. 4.

Steamers; 50 cents per ton.

16. Every bank having one or more offices within the Yukon Territory, including the city of Dawson, shall pay annually to the Collector of Rates on the first day of January in respect to each such office, if within the city of Dawson the sum of \$1,200, and if elsewhere within the said Territory the sum of \$250.

Banks; in Dawson \$1,200; elsewhere \$250.

Bank's income and personal property exempt.

1. Every such sum shall be due and payable whether a rate is levied or not and shall exempt such bank from assessment and rate in respect to the income and personal property of such bank except such personal property as is held by such bank as security. No. 5 of 1906, ss. 4 and 5.

Amount due; how collected.

17. The amount so due and payable under the provisions of the next four preceding sections or any one of them may be collected in the same manner, and delay in payment shall be subject to the same penalty as if the said amount was due after assessment made and rate levied. No. 5 of 1906, s. 7.

Sections 19 to 20a inclusive only in force after proclamation of Commissioner.

18. The following provisions of this Ordinance from section 19 next following to 20 A, both inclusive, relating to licenses and taxes on land shall apply only to and within such area or areas within the Territory as the Commissioner from time to time designates by proclamation. No. 5 of 1906, s. 9.

19. Within every such area there shall be levied and collected the following taxes:

- (a) On every unoccupied lot of land as shown on the Government plan of land within such area, \$5;
- (b) On every such lot occupied by a residence whether inhabited or not, \$10; and,
- (c) On every other such lot, \$25.

20. No person shall carry on within any such area any of the callings in this section mentioned without having first obtained a license for the purpose and paid the fee mentioned in this section.

The license fee shall be for,

- (1.) Auctioneer, \$50;
- (2.) Baker, \$10;
- (3.) Barber—keeping barber shop, \$10 for one chair and \$5 for every additional chair;
- (4.) Billiard—keeping billiard or pool table or bagatelle board or Mississippi, pigeon hole or other table or board for play with balls, \$10 for one table or board and \$5 for every additional table or board;
- (5.) Blacksmith, \$10;
- (6.) Bottling works—carrying on work of bottling, \$50.
- (7.) Bowling alley—keeping bowling alley, each alley, \$10;
- (8.) Brewery—keeping brewery, \$250;
- (9.) Broker—carrying on business of broker of any kind, \$25;
- (10.) Butcher—butcher or keeper of meat market, retail, \$25;
- (11.) Butcher—butcher or keeper of meat market, importing stock, wholesale, \$200;
- (12.) Cigar stand or store—keeping cigar stand or store, \$10;
- (13.) Dealer—second-hand dealer, \$25;
- (14.) Druggist, \$25;
- (15.) Electric light plant—keeping electric light plant, furnishing light or power for sale, \$200;
- (16.) Freighting by horses or mules, \$10;
- (17.) Grocer of any kind, \$50;

- (18.) Hawker, \$25;
- (19.) Insurance agent, \$10;
- (20.) Jeweller, \$25;
- (21.) Steam laundry—keeper of a steam laundry, \$25;
- (22.) Livery and boarding stable—keeping livery stable, \$25;
- (23.) Manufacturer of any kind, including tinsmiths, plumbers, painters and paperhangers, \$25;
- (24.) Merchant—hardware, stationery or dry goods, \$50;
- (25.) Merchant—general, \$100;
- (26.) Merchant, fruit selling, candy, tobacco or cigars, \$10;
- (27.) Merchant of any other kind, \$50;
- (28.) Miller—sawmill, \$100;
- (29.) Patent medicine vendor not conducting general drug business, \$50;
- (30.) Pawn-broker, \$25;
- (31.) Pedlar, \$25;
- (32.) Photographer, \$10;
- (33.) Printing office, \$10;
- (34.) Professions—practising as barrister, solicitor or advocate or as physician or surgeon or dentist or surveyor or in any profession, \$25;
- (35.) Restaurant keeper, \$15;
- (36.) Rifle or shooting gallery, \$15;
- (37.) Scavenger, \$10;
- (38.) Transfer or express business, \$10;
- (39.) Water dealer—each wagon, \$10;
- (40.) Dress-makers, milliners and shoe-makers carrying small stocks of goods, \$15.
- (41.) Hand laundry, \$10.
- (42.) Ice cream and soda fountain parlours, unless otherwise licensed, \$10.
- (43.) Rooming houses, \$25.
- (44.) Wood dealers, \$25.
- (45.) Wood sawing machines, whether steam or gasoline, \$25. No. 5 of 1906, s. 10. No. 11 of 1907, ss. 1 and 2.

20A. (a). All licenses shall be issued by the Territorial Treasurer or by some person or persons named by him and the matter of application for licenses and their issue and all matters incidental thereto shall be under the direction and control and with the Department of the Territorial Treasurer; and all license fees and taxes on land under this Ordinance shall be collected by the Treasurer or by such person or persons.

(b) Applications for licenses shall be in writing setting forth the following particulars:

- (1) The name, occupation and address of the applicants;
- (2) The nature of the license applied for;
- (3) The place where the calling to be licensed is to be carried on.

(c) One license shall be sufficient for any one place of premises for a partnership or company.

(d) All licenses, unless they are expressed to be granted for a shorter period, shall be for the year current at the time of

All licenses under direction of Territorial Treasurer.

Applications for license to state particulars.

One license for partnership.

All licenses expire 30th June.

issue thereof, and shall expire on the 30th day of June next thereafter.

No reduction for portion of year.

(e) The fee payable in respect to any license shall be the annual fee whether the license is issued on the first of July in any year, including the said year current or later.

Existing licenses valid.

(f) Existing licenses shall be valid until the expiration of their several terms, and the holders during the term of such licenses, shall not be obliged to take out similar licenses.

License to be produced.

(g) Every licensee shall produce his license when required so to do by the Treasurer or person or persons named by him, or by any police magistrate, justice of the peace or by any police officer.

Transfer of license. Fee, \$1.

(h) Licenses may be transferred provided that the person desiring to obtain a transfer of a license makes application in writing for such transfer to the same officer setting out the same particulars in regard to transfer as would be required if he was applying for a license and pays a fee of \$1.

Provisions for sale of land for taxes apply to collection of license fees. Penalty for operating without license.

(i) All the provisions of this Ordinance respecting the collection of license fees and the sale of land for taxes shall apply to the collection of the license fees and taxes provided for by the two next preceding sections thereof.

(j) Any person carrying on or attempting to carry on any calling mentioned in section 20 of this Ordinance without the license required by this Ordinance shall be liable to a penalty equal to three times the fee payable for such license and in default of payment to imprisonment for a term not exceeding six months.

ASSESSMENT APPEAL COURT.

Court of appeal.

21. There shall be a court of appeal consisting of not more than three members appointed by the Commissioner in every town and such court shall hear all appeals from persons aggrieved by the assessment made by the assessor.

Members of court.

2. The person named by the Commissioner when present shall preside at all meetings of the court: in his absence the members present shall appoint one of their number to preside.

Quorum.

3. Two members of the court shall form a quorum for the hearing of appeals and the decision of a majority of the members present shall be final.

Assessor to be clerk.

4. The assessor shall be the clerk of the court and shall make and keep on file a record of its proceedings. C.O.Y.T. c. 64, s. 12.

INSPECTION OF ROLL.

Roll to be open for inspection.

22. On and after the assessment roll is completed by the assessor and until ten days after such roll is revised and corrected by the assessment appeal court the same shall be open for inspection during office hours when the said court is not sitting. Such inspection may be had either at the office of the assessor or at some public place named by him for the purpose. C.O.Y.T. c. 64, s. 13.

APPEALS FROM ASSESSMENT.

23. Any person complaining that he has been wrongfully inserted in or omitted from the roll or that his property has been undervalued or overvalued by the assessor may give notice in writing to the assessor that he appeals from the assessment for any or all of the causes aforesaid and shall give a name and address where notices may be served upon him by the assessor.

Persons wrongfully assessed may appeal.

2. If any ratepayer complains that the property or income of any person within his town has been undervalued or overvalued or that any person has been wrongfully inserted in or omitted from the roll he may give notice in writing to such person and to the assessor that he appeals from such assessment or in respect to such insertion or omission and the matter shall be decided in the same manner and by the same court as an appeal by a person assessed:

May appeal against another person.

Provided that no person shall have the right to appeal from his assessment in respect to personal property if after demand in writing he has,

No appeal as to personal property and income under certain conditions.

(a) refused permission to the assessor to enter any building in which such property or any part of it is stored, or

(b) failed to produce his books, invoices and accounts relating thereto, or

(c) failed to give to the assessor any other information in regard thereto, or

(d) furnished the assessor with any false or misleading information in regard thereto,

Do, as to income.

And provided that no person shall have the right to appeal from his assessment in respect to income, if after such demand he has,

(a) failed to furnish the assessor with all information necessary to determine the amount of such income, or

(b) furnish the assessor with any false or misleading information in regard thereto.

The court of appeal shall forthwith dismiss any appeal from an assessment of property or income in respect to which the assessor proves such demand and such refusal, failure or false or misleading information as aforesaid. C.O.Y.T. c. 64, s. 14. No. 5 of 1906, s. 8.

Appeal dismissed.

24. The notice of appeal may be in the form given in form "C" in the schedule of this Ordinance. Such notice shall state particularly the grounds of objection to the assessment or to such insertion or omission and shall be served on the assessor not later than fifteen days after the notice of assessment has been given by delivering or mailing the same. C.O.Y.T. c. 64, s. 15.

Form of notice of appeal.

25. The court shall meet for the hearing of appeals on or before the fourth Tuesday in October in each year at the courthouse, if there is any, in such town, and if not, in such place as the chairman of the court appoints. The court may adjourn from time to time and from place to place. C.O.Y.T. c. 64, s. 16.

Time of meeting of court.

Court may adjourn.

26. If at the time appointed for the meeting of the court a quorum is not present the chairman or, in his absence or if there is no chairman, any member of the court present may adjourn the court until another time; and if no member of the court is present it shall stand adjourned until the following day at the same place and hour. C.O.Y.T. c. 64, s. 17.

Witnesses may be examined on oath.

27. The court shall have the power to examine witnesses upon oath or affirmation to be administered by the chairman and the person appealing or any person interested in such appeal may call and examine witnesses on oath or affirmation before the court. C.O.Y.T. c. 64, s. 18.

Court may issue subpoenas.

28. The court shall have the power to issue subpoenas *ad testificandum* and *duces tecum* for the attendance of witnesses before the court; such subpoenas shall be in such one of the forms "D" in the second schedule to this Ordinance, as is appropriate and may be signed by any member of the court.

Subject to the same penalties as in Territorial court for disobeying subpoena.

2. Any person served with any such subpoena who, having been paid or tendered such fees as witness as he would be entitled to in a civil case in the Territorial court, disobeys the subpoena shall be liable to a penalty of not less than twenty-five dollars or more than one hundred dollars and in default of payment to imprisonment for a period not exceeding ninety days. C.O. Y.T. c. 64, s. 19.

Assessor to prepare list of appeals.

29. The assessor shall, immediately after the expiration of the time for giving notice of appeal, prepare a list of appeals to be heard, entering them thereon in the order in which the notices were received by him, and giving in each case the names of the complainant and the person complained against, or to whom the assessment is sought to be transferred, with a concise description of the subject-matter of the complaint and a notice of the time and place at which the court will meet to hear such appeal. Such list may be in the form "E" in the second schedule to this Ordinance or to the like effect. C.O.Y.T. c. 64, s. 20.

Assessor to give notice of sitting of court of revision.

30. The assessor shall give notice of the time and place of hearing such appeals by—

(a) Posting a copy of such list with notice of the time and place of the first meeting of the assessment appeal court in at least five conspicuous public places in the town, one of which shall be the post office and another the office of the assessor, or—

(b) By publication in a newspaper published in such town by at least one insertion in such newspaper at least five days before the first day of meeting of such court. No other notice of the time and place of meeting of such court shall be necessary. C.O.Y.T. c. 64, s. 21.

Court to hear appeals in order of entry.

31. The court shall proceed with the appeals in the order as nearly as may be in which they are entered, but the court may, if it sees fit, grant an adjournment of the hearing of any

appeal to any time and may change the order of proceeding with the appeals. In case of an adjournment it shall not be necessary to serve notice of such adjournment on any of the parties to such appeal, but the chairman of the court shall publicly announce the day the court will hear such appeal. C.O.Y.T. c. 64, s. 22.

32. The court after hearing the complainant and any witnesses he produces and the party complained against and such witnesses as he produces and the assessor, if necessary, shall determine the matter. Court to decide after hearing complaint and witnesses.

2 If the object of the appeal is to reduce the assessment, the assessor shall appear and represent the interests of the town. C.O.Y.T. c. 64, s. 23.

33. On any appeal the court may:

(a) Confirm, reduce or increase the value of any property or income on the assessment roll. Court may confirm, amend, add or strike off roll or transfer assessment.

(b) Add to the roll the name and assessment of any person left off the roll;

(c) Strike off the roll the name of any person wrongfully entered thereon;

(d) Transfer the assessment to the proper person when any property or income has been assessed in the name of a person who is not legally liable to be assessed therefor;

(e) When any property has been assessed more than once to strike out such assessment as is improper or illegal and generally to correct any clerical errors made by the assessor in the assessment roll. C.O.Y.T. c. 64, s. 24.

34. The court shall also have power of its own motion and after notice to add to the roll the name of any person improperly left off, with the value of property and income for which in the judgment of the court such person should be assessed and to the amount of the assessment of any person. C.O.Y.T. c. 64, s. 25. Court may add name of any person improperly left off.

35. All reductions and increases of assessments rendered necessary by the decisions of the court as well as all transfers of assessment from one person to another and all other necessary changes, corrections, alterations or additions made by the said court shall be minuted upon the assessment roll by the assessor in red ink. C.O.Y.T. c. 64, s. 26. Amendments to be made by assessor in red ink.

36. If either party fails to appear the court may proceed *ex parte*, and if neither party appears the court may confirm the assessment. C.O.Y.T. c. 64, s. 27. Court may proceed *ex parte*.

37. It shall not be necessary to hear the complainant or assessor or person complained against except where the court deems it necessary or proper or where evidence is tendered by or on behalf of either party. C.O.Y.T. c. 64, s. 28. Court need not call complainant or assessor unless it deems necessary.

38. The chairman of the court shall have such and the like power and authority to preserve order in such court during the sitting thereof and by the like ways and means as are exercised and used in like cases by the Territorial court. C.O.Y.T. c. 64, s. 29.

39. The decision of the court shall in all cases be final. C.O.Y.T. c. 64, s. 30.

MISCELLANEOUS PROVISIONS RESPECTING APPEAL.

40. Any sum rated upon any person may be collected or recovered notwithstanding any appeal, but if any money has been paid by the appellant and the court adjudges that the same or any part thereof be returned, the same shall by order of the court be repaid out of any moneys received from the general rates of the town. C.O.Y.T. c. 64, s. 31.

41. No certiorari to remove any assessment, rate or order or any proceeding of the assessment appeal court touching any assessment, rate or order, shall be granted unless it is made to appear by affidavit that the merits of the assessment, rate, order or proceeding will by such removal come properly in judgment; nor shall any assessment, rate, order, or proceeding be quashed for matter of form only nor any general assessment or rate for any illegality in the assessment or rate of any individual, except as to such individual. C.O.Y.T. c. 64, s. 32.

42. No action shall be brought against an assessor, collector or other person who has received money on a rate subsequently quashed, reversed or varied; any person who has paid such money shall be entitled to receive the amount out of the general rates of the town on the order of the assessor or of the assessment appeal court. C.O.Y.T. c. 64, s. 33.

43. The assessment roll as finally passed by such court shall be certified by the assessor as so passed, and shall bind all persons assessed in such roll notwithstanding any defect or error therein or any irregularity on the part of the assessor or in respect to the making up of the roll or in the proceedings of the court or any error or irregularity in the notices required to be given or any neglect or omission to deliver mail or transmit such notices. C.O.Y.T. c. 64, s. 34.

44. A copy of any assessment roll or portion of any assessment roll written or printed without any erasure or interlineation and certified to be a true copy by the assessor shall be received as *prima facie* evidence in any court of justice without proof of the signature of the assessor or the production of the original assessment roll or of part of which such certified copy purports to be a copy. C.O.Y.T. c. 64, s. 35.

RATE BOOK.

45. Upon an estimate being made by the proper authority of all sums which are required for the lawful purposes of the town for the then current year after crediting the probable receipts from all sources of revenue other than the rates for such year, and after making due allowance in such estimate for the abatement, losses and expenses which may occur in the collection of the rates and taxes and for the rates and taxes which may not be collected or collectable the assessor shall determine upon, levy and collect a rate or rates of so much on the dollar of the assessed value of the property and income assessed in such roll as he deems sufficient to produce the amount necessary to defray the expenses of the town for the then current year as stated in such estimate, including any deficiency from any preceding year. C.O.Y.T. c. 64, s. 36. No. 18 of 1914, s. 2.

Assessor to levy and collect rate sufficient to produce amount estimated.

46. No individual taxpayer who is the owner of real property shall pay less than two dollars in annual taxes on all his real property and after the rate is levied the assessor is empowered to collect at least two dollars from each such taxpayer. No. 11 of 1907, s. 3.

All owners of real estate to pay at least \$2 taxes.

47. The assessor shall make a rate book by carrying out in form "A" under the several headings "Taxes on Land" and "Taxes on Improvements, Personal Property, and Income" opposite the name of each person, firm, company and corporation, the rate of mills on the dollar, the arrears of taxes, taxes for the year 19. . . . and the total amount of taxes due.

Headings of rate book.

2. Such rate book shall be revised;

(a) In the city of Dawson by the city clerk, aided by such persons as he may select, and

(b) In other towns by such person or persons as may be appointed by the Commissioner of the Yukon Territory for such purpose.

Rate book to be revised by person appointed by commissioner.

3. The person or persons whose duty it is to revise the rate book in towns other than the city of Dawson, shall correct all errors whether of addition or otherwise therein and see that the same complies in every respect with the law and report in respect to such rate book as revised and corrected to the Territorial Secretary.

4. The Commissioner of the Yukon Territory may refer such rate book back for further revision and report. C.O.Y.T. c. 64, s. 37. No. 11 of 1904, s. 7.

COLLECTOR OF RATES.

48. In the city of Dawson the assessor shall be the collector of rates, in other towns the overseer shall be such collector.

Assessor or overseer to be collector.

COLLECTION OF RATES.

49. As soon as the rate book has been revised and not later than the 10th day of November the person or persons

Assessor to send notice in form F.

whose duty it is to revise the same shall deliver the same as revised to the assessor, who shall forthwith cause every person, firm, company, association and corporation rated in the rate book or his or its agent, manager, cashier or secretary to be served with a notice in the form "F" in the second schedule to this Ordinance.

2. Such notice may be served by leaving the same at the place of residence or business of such person, firm, company, association or corporation or the place of residence or business of such agent, manager, cashier or secretary or by mailing the same to his or their last or usual address or by posting up the same on the property assessed.

3. All amounts rated against any person, firm, company, association or corporation shall become due and payable within five days after service, mailing or posting of such notice, at such place as is named in such notice. C.O.Y.T. c. 64, s. 39.

If taxes not paid forthwith, assessor may levy by distress.

50. If any person, firm, company, association or corporation fails to pay to the assessor the rates due and payable by him, the assessor may by himself or his agent levy the same with costs by distress of the goods of such person, firm, company, association or corporation, or of any goods in the possession of such person, firm, company, association or corporation wherever the same may be found.

Lien, distress and sale for taxes.

2. If such rates are due and payable in respect to lands and improvements the same shall constitute and be a lien upon such real property having priority over any deed, transfer, mortgage, judgment, private lien, claim or encumbrance of any kind whatsoever and the assessor may levy such rates with costs by distress of any goods found by him upon such lands and improvements at any time after such thirty days whether such goods are the property of the person assessed and rated in respect to such lands and improvements or of any other person whatsoever. If such rates are not paid by the person liable therefor or by distress made under this section for six months after such rates become due and payable the assessor may sell such lands and improvements under the provisions relating to such sale in this Ordinance hereinafter contained.

Distress for rates on income.

3. If any person, firm, company, association or corporation fails to pay rates due and payable in respect to income within the said thirty days the assessor may give notice to any person, firm, company, association or corporation from whom any debt is due or accruing due to such first mentioned person, firm, company, association or corporation and the person, firm, company, association or corporation served with such notice shall at once or as soon as such debt accrues due pay such rates to the extent of such debt to the assessor and such payment shall be a discharge and release *pro tanto* of such debt. After such notice has been given that such debt is due or has accrued due the assessor may levy distress of the goods of the person, firm, company, association or corporation to the amount of such debt or so much as is sufficient to pay such rates and such distress shall be a discharge and release as aforesaid.

4. No warrant shall be necessary to enable the assessor to levy distress under this section or to justify him in so doing. It shall be sufficient for him to serve a notice on the person, firm, company, association or corporation on whose goods or on the goods in the possession of whom he is about to make distress of the amount claimed by him for rates and of the fact that he is about to make a distress.

Notice of distress.

5. Goods distrained may be impounded on the premises or any part thereof on which they are found or may be removed for safe-keeping. In either case the assessor may leave any person or persons in charge of the same if he deems it necessary for their safe-keeping. C.O.Y.T. c. 64, s. 40. No. 8 of 1903, s. 12.

Goods to be impounded.

51. The assessor after giving five days' notice of sale by handbills posted in at least five conspicuous places in the locality in which the sale is to take place shall sell such goods on the premises or at any other place for the best price to be gotten therefor and shall apply the proceeds of such sale towards satisfaction of the rates due and expenses incurred and shall pay the surplus if any to the owner of such goods if known to the assessor or to the person in whose possession they were when the distress was levied. C.O.Y.T. c. 64, s. 41.

Assessor may sell after five days' notice.

52. The assessor may at his option sue for any unpaid rate and recover the same in the name of the town together with costs as for a debt due to the town. If a distress and sale of goods is made by the assessor he may sue for any balance unpaid after such sale. C.O.Y.T. c. 64, s. 42.

Assessor may sue for taxes.

53. If any person who is indebted to the town for rates and who has been served with a notice requiring him to pay the same is about to leave the town the assessor may make an affidavit before a judge of the Territorial Court or before any stipendiary magistrate or justice of the peace that such person is indebted to the town for such rates and that he verily believes that such person is about to leave the town and that such rates will be lost unless the goods of such person are forthwith distrained or unless such person is forthwith arrested and thereupon such judge, stipendiary magistrate or justice of the peace may, notwithstanding that the time mentioned in such notice has not expired, by order direct the assessor forthwith to levy distress of the goods of such person or may make an order that such person be arrested and held to bail for such sum not exceeding the amount of such rates and probable costs as to such judge, stipendiary magistrate and justice of the peace seems proper.

If person owing taxes about to leave town, judge may order arrest.

2. It shall not be necessary to state in any such affidavit the grounds of belief.

3. Such order directing the assessor to levy distress shall authorize and justify the assessor in making any distress which he could have made if such rates were due and payable. Such order that any person be arrested and held to bail shall be subject to all the provisions of rules 409 to 419 both inclusive

of the Judicature Ordinance so far as the same relates to the execution of a special order and the imprisonment of any person thereunder. C.O.Y.T. c. 64, s. 43.

Certificate of assessor to be *prima facie* evidence of taxes due.

54. In any action brought against any person for the recovery of rates due to a town where there is a defence pleaded a certificate in writing purporting to be signed by the assessor that the defendant's name appears on the rate book of the town for the sum claimed from him for rates and that the said sum has not been paid shall without proof of handwriting be *prima facie* evidence in any court of such rates being due and unpaid. C.O.Y.T. c. 64, s. 44.

Persons paying taxes before certain dates entitled to reduction.

55. All persons paying taxes on or before the fifteenth day of November of the year in which such taxes were levied shall be entitled to a reduction of ten per cent on the amount of such taxes, and all persons paying taxes after the fifteenth and before the thirtieth day of November of the year in which such taxes were levied shall be entitled to a reduction of five per cent on the same. No. 2 of 1913, s. 1.

Taxes not paid until after 31st December entitled to penalty of 4%.

Commissioner may grant rebate of penalty in certain cases.

56. Upon all taxes remaining due and unpaid on the 31st day of December of the year in which such taxes were levied there shall be added at the beginning of each month thereafter, as a penalty, an additional sum amounting to four per cent of such taxes.

2. Provided that the Commissioner, in any case where it is deemed by him equitable to do so, may, upon payment of taxes in arrear, by memorandum in writing over his signature, grant and allow a rebate of such penalty or so much thereof as he may think just, and such memorandum shall be filed with the tax collector and shall set forth the grounds upon which the rebate is granted, and a copy thereof shall be laid before the Yukon Council within the first five days of the session of said Council next after the granting of any such rebate. C.O.Y.T. c. 64, s. 46. No. 2 of 1913, s. 2.

GENERAL PROVISIONS.

If person owing taxes absconds attachment may issue for any amount.

57. Any person absent or absconding from the town who is indebted for rates may be proceeded against for such rates under the provisions of Order 35, of the Judicature Ordinance notwithstanding that the amount of such rates is less than one hundred dollars. C.O.Y.T. c. 64, s. 47.

Taxes to be lien against insolvent estate.

58. The rates of any person who becomes insolvent or assigns his property shall constitute a lien upon his estate and shall be paid by the trustee or assignee of such property and in default of payment such rates may be collected from such trustee or assignee in the same manner and by same proceeding as if such rates had been rated on such trustee or assignee personally unless he satisfies the assessor that sufficient money or property of such person to satisfy such rates has not come into his possession or under his control. C.O.Y.T. c. 64, s. 48.

59. No personal property shall be taken possession of by the holder of any transfer, bill of sale, mortgage, judgment or any lien thereon nor shall the same be seized or levied upon, under or by virtue of any warrant, execution, attachment or other process, nor shall the same be distrained for rent, nor shall the same be sold under any order of any court until such holder or the person at whose instance or suit the warrant, execution, attachment or other process issued or order of sale was granted pays all rates rated against the owner or person in possession thereof.

No transfer of property to be good until taxes paid.

2. Any sheriff, constable or other officer having process to levy upon such property shall before selling the same pay such rates to the assessor.

3. The assignee, grantee, mortgagee or person holding any lien upon such property or the sheriff, constable or other officer who takes possession thereof shall be personally liable to the town for the amount of the rates rated against the owner or person in possession thereof and may be sued therefor by the assessor representing the town as for any ordinary debt. C.O.Y.T. c. 64, s. 49.

SALE OF LANDS AND IMPROVEMENTS FOR RATES.

60. When any lands and improvements become liable to be sold for rates in respect thereto unpaid the assessor may proceed in the following manner:—

Proceedings for sale of real property for taxes.

1. He shall prepare a copy of the list of lands to be sold, as authorized by this Ordinance, with the amount of taxes due thereon, and shall include therein, in a separate column a statement of the proportion of costs chargeable on each lot for advertising, and the sum of fifty cents for each parcel to be sold, and shall cause said list to be posted in a conspicuous place in his office, and in ten other places in the town for four weeks before the day fixed for said sale, and shall publish in one or more newspapers published in said town and if no newspaper is published in said town then in the newspaper published nearest thereto, during four weeks preceding the day of sale named therein, a notice in the following form:

List of lands to be sold for taxes to be prepared.

Sale of lands in the _____ for arrears of taxes.

Notice is hereby given that certain lands in the _____ will be offered for sale for arrears of taxes on the _____ day of _____ 19____, at _____ o'clock in the _____ noon and that a list of said lands has been posted up in the following places:—

Tax Collector.

2. He shall give notice of the proposed sale by serving such notice on the owner or occupant of such property or mailing such notice to the last or usual address of such owner known to him or by posting such notice in a conspicuous place upon such property at least twenty days before the day fixed for the sale.

Notice of sale.

Notice to state amount, etc.

3. Such notice shall state the amount of the rates unpaid, the property proposed to be sold and the time and place of such sale.

To be sold to highest bidder.

4. At the time and place appointed for such sale the assessor by himself or his agent shall proceed to sell such property at public auction to the highest bidder therefor.

Form of receipt.

5. Upon the sale of such property to such bidder the assessor shall deliver to the purchaser a receipt for the price paid therefor, in form G, in the second schedule to this Ordinance. C.O. Y.T. c. 54, s. 50. No. 8 of 1903, s. 13. No. 1 of 1906, s. 1.

Out of price realized to pay costs, expenses and rates, and balance to owner.

61. Out of the price realized at such sale the assessor shall first pay the costs and expenses of and incidental to such sale and the said rates and shall pay the balance to the owner of such property if known to the assessor unless the said property is subject to a lien or encumbrance. If the owner of such property is unknown or cannot be found by the assessor or if the same appears to be subject to any lien or encumbrance the assessor shall pay the balance of such price after paying such costs, expenses and rates into the Territorial Court to abide the order of any judge thereof. C.O.Y.T. c. 64, s. 51.

If purchaser fails to pay property may be resold

62. If the purchaser of any property at such sale fails immediately upon the same being knocked down to him to pay the assessor or his agent the amount of the purchase price thereof or to deposit with the assessor or his agent such smaller amount as is equal to the amount of the rates and expenses of sale the assessor shall again forthwith put up the property for sale. C.O.Y.T. c. 64, s. 52.

Mortgagee may pay amount due and add same to mortgage.

63. Any mortgagee, judgment creditor or other person holding any encumbrance upon or against any real property advertised for sale under the provisions of this Ordinance may pay the rates, costs and expenses incidental to the proposed sale and obtain from the assessor a certificate to that effect and shall thereupon be entitled to add the amount so paid to the amount due on such mortgage, judgment, charge or encumbrance. C.O.Y.T. c. 64, s. 53.

Error not to affect liability of assessment.

64. No error, informality or irregularity on the part of the assessor, the assessment appeal court, the person or persons appointed to revise the rate book or of any other officer and no error or omission in giving any notice required by this Ordinance to be given shall affect or prejudice the validity of any general or individual assessment made or of any rate rated, distrained for or collected.

2. The invalidity, irregularity or illegality of any individual assessment or rate shall not extend to or affect the validity of any general assessment or of any other assessment or rate. C.O.Y.T. c. 64, s. 54.

Application to confirm sale of land for

65. No application for an order for confirmation of a sale of lands or improvements for taxes made under the provisions of this Ordinance shall be heard by a judge until three months

after the said sale and until all persons appearing by the records of the proper Land Titles Office to have any interest in the said lands or improvements have received notice of such application unless such notice is dispensed with by the judge. taxes not to be made until three months after sale.

2. The application to confirm a tax sale made under this Ordinance may be made by the assessor making the sale, the Legal Adviser, or any person interested in the sale on notice to the owner, unless the judge to whom the application is made dispenses with such notice. To confirm sale.

3. Such notice shall be given by summons of the judge obtained *ex parte* to be served in such manner as the judge directs and returnable in one month or such longer time as the judge directs after service thereof. C.O.Y.T. c. 64, s. 55. No. 8 of 1903, s. 15. No. 1 of 1906, s. 2. Notice to be given.

66. Any person interested in such lands or improvements may at any time before the time for hearing such application redeem the said lands or improvements by paying to the purchaser or his assignee the amount of the purchase money paid, and any further sums charged against the said lands or improvements and lawfully paid, together with 20 per cent thereon, and such costs as the judge allows. C.O.Y.T. c. 64, s. 56. No. 8 of 1903, s. 15. Person interested may pay taxes and costs.

67. From the time of payment to the purchaser or his assignee of the amounts mentioned in the next preceding section all right and interest of the purchaser in said lands or improvements shall cease and determine. After payment of taxes and costs purchaser's interest to cease.

68. Subject to the foregoing provisions, on any application for an order for such confirmation the production of a receipt for the price paid for the said lands or improvements, executed by the proper officer, shall be *prima facie* evidence that all conditions have existed, and all acts been performed and all requirements of this Ordinance in that behalf been complied with necessary to entitle the applicant to the order of confirmation applied for. Receipt prima facie evidence of Ordinance being complied with.

2. If such application be not made until after the expiration of six months from the date of the receipt, such receipt shall be conclusive evidence that all conditions have existed, and all acts been performed and all requirements of the Ordinance in that behalf been complied with necessary to entitle the applicant to the order of confirmation applied for, except on one of the following grounds: Receipt to be conclusive evidence if application to confirm not made for six months.

1. Fraud or collusion.

2. That all taxes have been paid previous to the sale.

3. That the land was not liable to assessment. C.O.Y.T. c. 64, s. 58. No. 8 of 1903, s. 15. No. 1 of 1906, s. 2.

69. Forthwith upon the passing of a judge's order confirming any such sale, the assessor shall, in his own name as such assessor, execute and deliver to the purchaser a transfer in form "H" in the schedule to this Ordinance, which shall be as effectual to convey all the estate of the owner thereof Assessor to give transfer.

in the property sold as if the same had been executed and delivered by such owner to such purchaser and as if such property was free of all liens and encumbrances of every kind and description. No. 1 of 1906, s. 3.

Action for anything done must be brought within six months.

70. No action shall be commenced for anything done in pursuance of any provision of this Ordinance after six months from the date of the act complained of and the place of trial of every such action shall be the place where a court is held nearest to the place where the cause of action arose. C.O.Y.T. c. 64, s. 59.

Penalty for other infractions.

71. Any person guilty of any other infraction of any of the provisions of this Ordinance other than the provisions of section 20 hereof shall be liable to a penalty of not less than \$25 and not exceeding \$500 and to imprisonment for a term not exceeding six months. No. 5 of 1906, s. 22.

FIRST SCHEDULE.

Personal property to be assessed at cash value.

1. All personal goods and chattels of every kind and description at their actual cash value, including the bonds and debentures of all incorporated and joint-stock companies except as in this schedule qualified.

Average stock to be assessed.

2. The average stock of goods on hand of every merchant, trader, dealer, manufacturer, tradesman or mechanic; such average stock to be arrived at by taking the mean between the various amounts of goods on hand at different times of the year estimated at cost.

SECOND SCHEDULE

FORM A.—SECTION 6.

ASSESSMENT and Tax Roll for the Year 19 , of the Town of

Name and description of persons assessed and taxes.

Description and value of real, personal and income.

No. on Roll.	Name of Occupant Owner, or other Taxable Party.	British Subject Alien	Occupation.	Residence, Street No., etc.	Resident.	Non-resident.	Owner.	Occupant or Tenant.	Income.	Built on.	Vacant.	Estate Name or D.G.S. No.	No. of block.	No. of lot.	Size of Lot.			Value of Land.	Buildings and Improvements.	Total Value of Real Property.	Total Assessment value Personal Property and Income.
															Frontage.	Depth.	Rate per foot.				
																		\$	\$	\$	\$

Amount of taxes due on real, personal and income

Value of Personal Property.	Assessable Income.	Total Assessable Value.	Date of Notice Mailed.	Exemptions.	Rate of Mills on \$	Arrears of Taxes.	Taxes on Land for the Year 191 .	Taxes on Improvements, Personal Property and Income for the Year 191 .	Total Amount of Taxes Due.	Remarks.
\$	\$	\$		\$	\$	\$	\$	\$	\$	

Assessment.

Chap. 5

43

FORM B.

Section 7.

I certify that I have set down in the foregoing Assessment Roll with the names numbered from 1 to No both inclusive, all of the land and improvements liable to taxation situate in the town of and the true actual cash value thereof in each case, according to the best of my information and judgment; and also that the said Assessment Roll contains a true statement of the aggregate amount of the personal property and improvements and of the taxable income of every person named on the said roll, and that I have estimated and set down the same according to the best of my information and belief; and I further certify that I have entered therein the names of the several persons owning property or receiving incomes and that I have not entered the name of any person whom I did not truly believe to be liable to be assessed in respect to the property and income assessed against him therein to the extent such person is so assessed .

Dated at the town of this day of
A.D., 19

FORM C.

SECTION 8.

NOTICE OF ASSESSMENT.

For the Year 19

Town of

No. on Roll.	Name of Person Assessed.	Occupation.	P.O.	Address.	DESCRIPTION OF LAND.			Value of Real Property.	Value of Personal Property.	Income.	Total.
					D.G.S. No. or Estate.	Block.	Lot.				

Take notice that you, whose name is mentioned above, are assessed as above specified for the year 19 . If you deem yourself aggrieved by such assessment or any part thereof you may appeal therefrom by giving me as clerk of the assessment appeal court notice of appeal not later than fifteen days after this notice of assessment has been given by delivering or mailing the same to you; and your appeal will be heard at the meeting of the assessment appeal court at next on the of next at the hour of o'clock in the afternoon, or at such time and place as such Court from time to time appoints.

To the Clerk of the Assessment Appeal Court,—Sir:—Take notice that I appeal against the above assessment in respect to for the following reasons My address for service is assessor of the town of

Assessment.

Chap. 5.

FORM D.

Section 28.

SUBPENA AD TESTIFICANDUM.

Town of _____ To AB, CD and EF (according to the number).

You and every one of you are hereby required to appear before the assessment appeal court at _____ in the town of _____ on the _____ day of 19____ at the hour of _____ of the clock in the _____ noon to give evidence on the part of _____ on an appeal now pending before the said court, wherein the assessment of _____ (or the insertion or omission of the name of _____) is complained of which you are not to omit under the penalty by law in such case made and provided.

Dated at _____ this _____ day of _____

A.D. 19 _____

Member of the assessment appeal court.

FORM D.

Section 28.

SUBPENA DUCES TECUM.

The same as form D above except that the following should be inserted between the words "is complained of" and the word "which," that is to say:

"And also to bring with you and produce at the time and place aforesaid (*specify the documents to be produced*)."

FORM E.

Section 29.

Appeals to be heard at a court to be held at _____ on the _____ day of _____ 19____

Appellant.	Respecting Whom.	Matter Complained of.
A. B.	Self.	Over-assessed.
C. D.	E. F.	Name omitted.
G. H.	J. K.	Not bona fide owner or occupant.
L. M.	N. O.	Personal property under-assessed.

FORM F,

Section 49.

Take notice that you have been rated in the town of _____ for the year 19____ for the sum of \$_____ and that such sum is due and payable at my office within five days after mailing or posting of this notice.

Dated at _____ this _____ day of _____ A.D. 19____.

Collector of Taxes.

No. 29 of 1901.

FORM G.

Section 60.

_____, Y.T.

No.

TAX SALE INTERIM RECEIPT.

Roll No.

_____, Y.T.,

Received from Mr. _____ the sum of _____ dollars, in payment of the following property purchased at tax sale: D. G. S. No. _____ Block No. _____ Lot No. _____

This receipt to be surrendered to the tax collector on delivery to purchaser of transfer of such property under Sec. 60 of Chapter 5 of the Consolidated Ordinances of the Yukon Territory.

Tax Collector for

FORM H.

Section 69.

TRANSFER OF LAND ON SALE FOR TAXES.

I, _____, of _____, in the Yukon Territory, assessor in and for _____, by virtue of authority vested in me to sell lands for arrears of taxes by Chapter 5 of the Consolidated Ordinances of the Yukon Territory and Ordinances in amendment thereof, do hereby in consideration of the sum of _____ dollars paid to me by _____ of _____ transfer to the said _____ all that piece of land being (here insert a sufficient description of the land and refer to the certificate of title). Signed by the above named in presence of _____

(Signature with official seal.)

repealed

CHAP. 6.

An Ordinance respecting Auctioneers, Hawkers and Pedlars.

"Hawker" or "pedlar" interpretation.

1. In this Ordinance the expression "hawker" or "pedlar" means and includes any person who (being a principal or any agent in the employ of any person) goes from house to house selling or offering for sale any goods, wares or merchandise or carries and exposes samples or patterns of any goods, wares or merchandise to be afterwards delivered within the Yukon Territory to any person not being a wholesale or retail dealer in such goods, wares or merchandise; but shall not mean or include any persons selling fish or game caught in the Yukon Territory, or farm produce grown in said Territory. No. 11, 1903, s. 1.

Must have license.

2. No person shall follow the calling or pursue the business of an auctioneer, hawker, or pedlar within the Yukon Territory without having first obtained a license therefor, which license shall, when so ordered by the Commissioner, be issued by the Territorial Secretary. No. 11, 1903, s. 2; No. 11, 1914, s. 1.

Applicant to furnish list of wares.

3. Every applicant for a hawker's or pedlar's license shall, as part of his application for such license furnish a statement in writing containing a full description of the goods, wares and merchandise which he proposes to sell or offer for sale under such license. No. 11, 1903, s. 3.

License fee.

4. On every application for a license under this Ordinance there shall be paid the sum of \$25.

Person not resident of Territory for six months not entitled to license.

2. No license shall be issued under this Ordinance to any person who at the time of the application therefor has not been a resident of the Yukon Territory and domiciled therein for at least six months immediately preceding the date of such application. No. 11, 1914, s. 2.

Restrictions.

5. No hawker or pedlar shall sell or offer for sale any goods, wares or merchandise other than those set forth in his application for license. No. 11, 1903, s. 5.

Expiry of license.

6. Every license issued under this Ordinance shall expire of the thirty-first day of December of the year in which it is issued. No. 11, 1903, s. 6.

Penalty.

7. Any person violating the provisions of this Ordinance shall be liable on summary conviction thereof to a fine not exceeding \$100 and costs of prosecution. No. 11, 1903, s. 7.

8. The provisions of this Ordinance shall not apply within a municipality nor shall any license be issued under the provisions hereof in any such municipality, nor shall such provisions apply or any license be issued under the provisions hereof, within any district brought by proclamation within the provisions of Section 18 of *The Assessment Ordinance*. No. 11, 1903, s. 8 ; No. 11, 1914, s. 3.

Not to
apply to
municipality.

repealed

CHAP. 7.

An Ordinance respecting Mortgages and Sales of Personal Property.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited and known as *The Bills of Sale Ordinance*. C.O.Y.T. c. 39, s. 1.

REGISTRATION DISTRICTS.

Registration districts. **2.** For the purpose of the registration of mortgages and other transfers of personal property in the Territory the following shall be registration districts:

Whitehorse district. (a) The registration district of "Whitehorse" comprising that part of the Yukon Territory forming the district of the deputy clerk at Whitehorse.

Dawson district. (b) The registration district of "Dawson," comprising all of the Yukon Territory lying to the north of the Whitehorse registration district.

New districts. **2.** The Commissioner may from time to time constitute any other portion of the Territory a registration district and appoint a registration clerk therefor and designate at what place the office of such clerk shall be kept. C.O.Y.T. c. 39, s. 2.

REGISTRATION CLERKS.

Appointments by Commissioner. **3.** The Commissioner may appoint a registration clerk for each of said registration districts, who shall hold office during pleasure and their offices shall be kept at places to be designated by the Commissioner.

2. In the event of any vacancy occurring in the office of registration clerk by reason of death, resignation or otherwise, the vacancy shall be filled by the Commissioner. C.O.Y.T. c. 39, s. 3.

Office hours. **4.** The registration clerks under this Ordinance shall keep their respective offices open between the hours of ten in the forenoon and four in the afternoon on all days excepting Sundays and holidays, and except on Saturdays and during the period of vacation prescribed by *The Judicature Ordinance*, when the same shall be closed at one o'clock in the afternoon, and during office hours only shall registrations be made. C.O.Y.T. c. 39, s. 4.

5. No registration clerk shall draw or prepare any document or conveyance which may be filed or registered in his office under the provisions of this or any other Ordinance. C.O.Y.T. c. 39, s. 5.

MORTGAGES AND SALES OF CHATTELS. FORM AND REGISTRATION.

6. Every mortgage or conveyance intended to operate as a mortgage of goods and chattels which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged shall within thirty days from the execution thereof be registered as hereinafter provided together with the affidavit of a witness thereto of the due execution of such mortgage or conveyance and also with the affidavit of the mortgagee or one of several mortgagees or the agent of the mortgagee or mortgagees if such agent is aware of all the circumstances connected therewith and is properly authorized by power in writing to take such mortgage in which case a copy of such authority shall be attached thereto (save as hereinafter provided under section 21 hereof) such last mentioned affidavit stating that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that it was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor or of preventing the creditors of such mortgagor from obtaining payment of any claim against him; and every such mortgage or conveyance shall operate or take effect upon, from and after the day and time of the filing thereof. C.O.Y.T. c. 39, s. 6.

Mortgages unaccompanied by delivery and change of possession of goods.

7. Except as to cases provided in the next following section of this Ordinance a mortgage or conveyance intended to operate as a mortgage of goods and chattels may be made in accordance with form A in the schedule to this Ordinance. C.O.Y.T. c. 39 s. 7.

Mortgage may be in form appended.

8. In case of an agreement in writing for future advances for the purpose of enabling the borrower to enter into and carry on business with such advances and in case of a mortgage of goods and chattels for securing the mortgagee repayment of such advances or in case of a mortgagee of goods and chattels for securing the mortgagee against the indorsement of any bills or promissory notes or any other liability by him incurred for the mortgage not extending for a longer period than two years from the date of the mortgage and in case the mortgage is executed in good faith and sets forth fully by recital or otherwise the terms, nature and effect of the agreement and the amount of liability intended to be created and in case such mortgage is accompanied by the affidavit of a witness thereto of the due execution thereof and by the affidavit of the mortgagee or one of several mortgagees or in case the agreement has been entered into and the mortgage taken by an agent duly authorized by writing to make such agreement and take such mortgage, in which case a copy of such authority shall be attached thereto, and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such

Mortgage to secure future advances or to indemnify indorsers, etc.

affidavit whether of the mortgagee or his agents, stating that the mortgage truly sets forth the agreement entered into between the parties thereto and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage and that such mortgage is executed in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the payment of the amount of his liability for the mortgagor, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor nor to prevent such creditors from recovering any claims which they may have against such mortgagor and in case such mortgage is registered as hereinafter provided within thirty days from the execution thereof the same shall be as valid and binding as mortgages mentioned in the sixth section of this Ordinance. C.O.Y.T. c. 39, s. 8.

Sale of goods not attended by delivery and change of possession.

9. Every sale, assignment and transfer of goods and chattels not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold shall be in writing and such writing shall be a conveyance under the provisions of this Ordinance and shall be accompanied by an affidavit of a witness thereto of the due execution thereof and an affidavit of the bargainee or one of several bargainees or of the agent of the bargainee or bargainees duly authorized in writing to take such conveyance (a copy of which authority shall be attached to the conveyance) that the sale is *bona fide* and for good consideration as set forth in the said conveyance and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor; and such conveyance and affidavits shall be registered as hereinafter provided within thirty days from the execution thereof otherwise the sale shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. C.O.Y.T. c. 39, s. 9.

Affidavit to be filed.

10. In the case of a mortgage or conveyance of goods and chattels of any company incorporated by or under any Imperial Act or Charter or by or under any Act or Charter of the Dominion of Canada or by or under any Ordinance or Charter of the Yukon Territory made to a bondholder or bondholders, or to a trustee or trustees for the purpose of securing the bonds or debentures of such company, instead of the affidavit of *bona fides* required by sections 6, 8 and 9 of this Ordinance it shall be sufficient for the purposes of this Ordinance if an affidavit be filed too as thereby required, made by the mortgagee or one of the mortgagees, to the effect that the said mortgage or conveyance was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them.

2. Any such mortgage may be renewed in the manner and with the effect provided by section 16 and subsequent sections of this Ordinance upon the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the said mortgage, and showing the amount of the bond or debenture debt which the same was made to secure, and showing all payments on account thereof which, to the best of the information and belief of the person making such statement, have been made or of which he is aware or has been informed, together with an affidavit of the person making such statement, that the statement is true to the best of his knowledge, information and belief, and that the mortgage has not been kept on foot for any fraudulent purpose and such statement shall be filed instead of the statement required by said section 16 of this Ordinance.

Mortgage may be renewed.

3. If any mortgage as aforesaid be made to an incorporated company, the several affidavits and statements herein mentioned may be made by the president, vice-president, manager or assistant manager of such mortgagee company, or any other officer of the company authorized for such purpose.

President Vice-Pres. etc., etc., may make affidavits.

4. Where such mortgage or conveyance is made as a security for debentures and the by-law authorizing the issue of the debentures as a security for which the mortgage or conveyance was made, or a copy thereof, certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit of the secretary thereto attached or indorsed thereon, and having the corporate seal attached thereto, is registered with the mortgage or conveyance, it shall not be necessary to renew the said mortgage or conveyance, but the same shall in such case continue to be as valid as if the same had been duly renewed as in this Act provided.

Not necessary to renew mortgage under certain conditions.

5. The preceding subsection shall apply to every such mortgage or conveyance made and registered after the 5th day of August, 1909, but nothing herein contained shall affect any accrued rights or any litigation pending on the 5th day of August, 1909. No. 10, 1909, s. 1.

Accrued rights not affected.

11. Such registration shall only have effect in the registration district wherein such registration has been made. C.O.Y.T. c. 39, s. 10.

Registration only affects district where made.

12. In case such mortgage or conveyance and affidavits are not registered as hereinbefore provided or in case the consideration for which the same is made is not truly expressed therein the mortgage or conveyance shall be absolutely null and void as against creditors of the mortgagor and against subsequent purchasers or mortgagees in good faith for valuable consideration. C.O.Y.T. c. 39, s. 11.

Omission to register or false statement of consideration.

13. All the instruments mentioned in this Ordinance whether for the mortgage or sale, assignment or transfer of goods and chattels shall contain such sufficient and full description thereof that the same may be readily and easily known and distinguished

Description of property.

Assignment for benefit of creditors.

except in the case of assignments for the general benefit of creditors in which case the description shall be sufficient if it is in the following words: "All my personal property which may be seized and sold under execution," or words to that effect. C.O.Y.T. c. 39, s. 12.

Registration to be in district where property situate.

14. The proper registration officer for instruments being mortgages and transfers of personal property shall be the clerk of the registration district in which the property described in the mortgage or transfer is at the time of the execution of the instrument; such registration clerks shall file all such instruments presented to them respectively for that purpose and shall indorse thereon the time of receiving same in their respective offices and the same shall be kept there for the inspection of the public, subject to the payment of the proper fees. C.O.Y.T. c. 39, s. 13.

Clerk to enter instruments in a book.

15. Every such clerk shall number each instrument or copy filed in his office and shall enter in alphabetical order in a book to be provided by him the names of all the parties to such instrument with the number indorsed thereon opposite to each name; and such entry shall be repeated alphabetically under the name of every party thereto. C.O.Y.T. c. 39, s. 14.

PROCEDURE UNDER MORTGAGE ON DEFAULT.

Cause for seizure by mortgagee.

16. Unless it is otherwise specially provided therein goods and chattels assigned under a mortgage or conveyance intended to operate as a mortgage of goods and chattels shall be liable to be seized or taken possession of by the grantee for any of the following causes:

Default in payment or performance of agreements.

1. If the grantor makes default in payment of the sum or sums of money thereby secured at the time therein provided for payment or in the performance of any covenant or agreement contained in the mortgage or conveyance intended to operate as a mortgage and necessary for maintaining the security;

Removal of goods.

2. If the grantor without the written permission of the grantee either removes or suffers the goods or any of them to be removed from the registration district within which they are situate;

Rent or taxes.

3. If the grantor suffers the said goods or any of them to be distrained for rent, rates or taxes or suffers the said goods or any of them to be liable to seizure for rent by reason of default of the grantor in paying the same when due;

Execution.

4. If execution has been levied against the goods of the grantor under any judgment at law;

Attempt to dispose of goods.

5. If the grantor attempts to sell or dispose of or in any way part with the possession of the said goods. C.O.Y.T. c. 39, s. 15.

RENEWAL OF MORTGAGES.

Mortgage filed to cease to be valid

17. Every mortgage filed in pursuance of this Ordinance shall cease to be valid as against the creditors of the persons

making the same and against subsequent purchasers or mortgagees in good faith for valuable consideration after the expiration of two years from the filing thereof unless, within thirty days next preceding the expiration of the said term of two years, a statement exhibiting the interest of the mortgagee, his executors, administrators or assigns in the property claimed by virtue thereof and a full statement of the amount still due for principal and interest thereon and of all payments made on account thereof is again filed in the office of the registration clerk of the district where the property is then situate with an affidavit of the mortgagee or of one of several mortgagees or of the assignee or one of several assignees or of the agent of the mortgagee or assignee or mortgagees or assignees duly authorized for that purpose, as the case may be, stating that such statements are true and that the said mortgage has not been kept on foot for any fraudulent purpose, which statement and affidavit shall be deemed one instrument. C.O.Y.T. c. 39, s. 16.

after two years unless renewed.

18. Such statement and affidavit shall be in the following form or to the like effect:

Renewal of chattel mortgage.

STATEMENT exhibiting the interest of C.D. in the property mentioned in the chattel mortgage dated the _____ day of _____ A.D. 19____, made between A.B. of _____ of the one part and C.D. of _____ of the other part and filed in the office of the registration clerk of the registration district of _____ (as the case may be) on the _____ day of _____ 19____, and of the amount due for principal and interest thereon and of all payments made on account thereof.

The said C.D. is still the mortgagee of the said property and has not assigned the said mortgage (or the said E.F. is the assignee of the said mortgage by virtue of an assignment thereof from the said C.D. to him dated the _____ day of _____ 19____, (or as the case may be).

No payments have been made on account of the said mortgage (or the following payments and no other have been made on account of the said mortgage:

19____.—Jan. 1—Cash received _____ \$ _____)

The amount still due for principal and interest on the said mortgage is the sum of _____ dollars computed as follows:

(Here give the computation.)

C.D.

YUKON TERRITORY, } I _____ of Affidavit.
 To Wit: } _____ the mortgagee
 named in the chattel mortgage mentioned in the foregoing
 (or annexed) statement (or assignee of _____ the
 mortgagee named in the chattel mortgage mentioned in the
 foregoing or annexed statement, as the case may be) make
 oath and say:

- (1.) That the foregoing (or annexed statement) is true.
 (2.) That the chattel mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.

Sworn before me at
 in the Yukon Territory,
 this day of 19 . } C.O.Y.T. c. 39; s. 17.

Further
 renewal
 yearly
 after first
 renewal.

19. Another statement in accordance with the provisions of section 17 hereof duly verified as required by that section shall be filed in the office of the registration clerk of the district where the property is then situate within thirty days next preceding the expiration of the term of one year from the day of the filing of the statement required by the said section 16 and in default thereof such mortgage shall cease to be valid as against the creditors of the person making the same and as against purchasers and mortgagees in good faith for valuable consideration and so on from year to year; that is to say another statement as aforesaid duly verified shall be filed within thirty days next preceding the expiration of one year from the day of the filing of the former statement and in default thereof such mortgage shall cease to be valid as aforesaid. C.O.Y.T. c. 39, s. 18.

Affidavit by
 next of kin or
 personal
 representative
 of assignee.

20. The affidavit required by section 17 of this Ordinance may be made by any next of kin, executor or administrator of any deceased mortgagee or by an assignee claiming by or through any mortgagee or any next of kin, executor or administrator of any such assignee; but if the affidavit is made by any assignee, next of kin, executor or administrator of any such assignee the assignment or the several assignments through which such assignee claims shall be filed in the office in which the mortgage is originally filed at or before the time of such refiling by such assignee, next of kin, executor or administrator of such assignee. C.O.Y.T. c. 39, s. 19.

Filing
 assignments.

AGENTS' AUTHORITY TO TAKE CONVEYANCES.

Authority for
 taking
 instruments
 may be
 general.

21. An authority for the purpose of taking or renewing a mortgage or conveyance intended to operate as a mortgage or sale, assignment or transfer of goods and chattels under the provisions of this Ordinance may be a general one to take and renew all or any mortgages or conveyances to the mortgagee or bargainee; and provided such general authority is duly filed with the clerk it shall not be necessary to attach a copy thereof to any mortgage filed. C.O.Y.T. c. 39, s. 20.

"Mortgagee"
 to include
 agent or
 manager of
 company.

22. For the purpose of making the affidavit of *bona fides* required by sections 6, 8 and 9 of this Ordinance and the affidavit required by section 17 of this Ordinance the expressions "mortgagee," "bargainee," or "assignee" in addition to their primary meaning, means and includes the agent or manager of any mortgagee, bargainee or assignee being an incorporated company. C.O.Y.T. c. 39, s. 21.

OMISSIONS AND ERRORS.

23. Subject to the rights of third persons accrued by reason of such omissions as are hereinafter defined any judge of the Territorial Court of the Territory on being satisfied that the omission to register a mortgage or other transfer of personal property or any authority to take or renew the same or any statement and affidavit of renewal thereof within the time prescribed by this Ordinance or the omission or misstatement of the name, residence or occupation of any person was accidental or due to inadvertence or impossibility in fact, may in his discretion order such omission or misstatement to be rectified by the insertion in the register of the true name, residence or occupation or by extending the time for such registration on such terms and conditions if any as to security, notice by advertisement or otherwise or as to any other matter as he thinks fit to direct. C.O.Y.T. c. 39, s. 22.

Rectification
of omissions
and errors.

ASSIGNMENT OF MORTGAGES.

24. In case any registered chattel mortgage has been assigned such assignment may upon proof by the affidavit of a subscribing witness be numbered and entered in the book mentioned in section 15 hereof in the same manner as a chattel mortgage and the proceedings authorized by sections 26 and 27 of this Ordinance may and shall be had upon a certificate of the assignee proved in manner aforesaid. C.O.Y.T. c. 39, s. 23.

Filing
assignments
of mortgages.

DISCHARGE OF MORTGAGES.

25. Where any mortgage of goods and chattels is registered under the provisions of this Ordinance such mortgage may be discharged by the filing in the office in which the same is registered of a certificate signed by the mortgagee, his executors or administrators in form B in the schedule hereto or to the like effect. C.O.Y.T. c. 39, s. 24.

Discharge of
mortgage.

26. The officer with whom such chattel mortgage is filed upon receiving such certificate duly proved by the affidavit of a subscribing witness shall at each place where the number of such mortgage has been entered with the name of any of the parties thereto in the book kept under section 15 of this Ordinance or wherever otherwise in the said book the said mortgage has been entered, write the words "Discharged by certificate number (stating the number of certificate)"; and he shall also indorse the fact of such discharge upon the instrument discharged and shall affix his name to such indorsement. C.O.Y.T. c. 39, s. 25.

Entry and
indorsement
of discharge
of mortgage.

27. Any person filing a discharge of mortgage or a partial discharge of mortgage as aforesaid shall be entitled to ask for and receive from such clerk a certificate (other than the certificate which might be indorsed on a copy or duplicate

Certificate of
discharge.

of the mortgage as aforesaid) of such discharge or partial discharge in the form following or to the like effect:

Form of certificate.

Yukon Territory.
Registration District of }

This is to certify that an instrument purporting to be a discharge in full (or a partial discharge) of a certain chattel mortgage bearing date the day of and filed the day of following, made between A.B. of as mortgagor and C.D. of as mortgagee, has been filed in the office of the clerk of the registration district of on the day of (and in case of a partial discharge that the goods or property mentioned in such partial discharge consist of describing the chattel or property) E.M., Clerk.. C.O.Y.T. c. 39, s. 26.

REMOVAL OF CHATTELS MORTGAGED.

Mortgaged goods not to be removed without notice.

28. No goods or chattels under mortgage shall be removed into another registration district without a notice of the intention to remove be mailed post paid and registered to the mortgagee at his last known place of address not less than twenty days prior to such removal. C.O.Y.T. c. 39, s. 27.

Removal of goods to another district.

29. In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the registration district in which they were at the time of the execution of the mortgage, to another registration district before the payment and discharge of the mortgage a certified copy of such mortgage under the hand of the registration clerk in whose office it was first registered and of the affidavit and documents and instruments relating thereto filed in such office, shall be filed with the registration clerk of the district to which such goods and chattels are removed within three weeks from such removal otherwise the said goods and chattels shall be liable to seizure and sale under execution and in such case the mortgage shall be null and void as against subsequent purchasers and mortgagees in good faith for valuable consideration as if never executed. C.O.Y.T. c. 39, s. 28.

EVIDENCE, CERTIFIED COPIES.

Certified copies.

30. Copies of any instrument filed under this Ordinance, certified by the registration clerk, shall be received as prima facie evidence for all purposes as if the original instrument was produced and also as prima facie evidence of the execution of the original instrument according to the purport of such copy and the clerk's certificate shall also be prima facie evidence of the date and hour of registration and filing. C.O.Y.T. c. 39, s. 29.

AFFIDAVITS.

31. All affidavits and affirmations required by this Ordinance may be taken and administered by the registration clerk or any person whether in or out of the Territory authorized to administer oaths or take affidavits for use in the Territorial Court of the Territory and the sum of 25 cents shall be payable for every oath thus administered. C.O.Y.T. c. 39, s. 30. Officers for oaths.

EXPIRY ON HOLIDAY OF TIME FOR FILING.

32. Where under any provisions of this Ordinance the time for registering or filing any mortgage, bill of sale, instrument, document, affidavit or other paper expires on a Sunday or other day on which the office in which the registering or filing is to be made or done is closed and by reason thereof the filing or registering cannot be made or done on that day the registering or filing shall so far as regards the time of doing or making the same be held to be duly done or made if done or made on the day on which the office shall next be open. C.O.Y.T. c. 39, s. 31. Time for filing expiring on Sunday or holiday.

CLERK'S FEES.

33. For services under this Ordinance each clerk aforesaid shall be entitled to receive the following fees: Clerk's fees.

1. For filing each instrument and affidavit, including the certificate on a duplicate, if any, and for entering the same in a book as aforesaid, \$2;
 2. For filing assignment of each instrument and for making all proper indorsements in connection therewith, \$2;
 3. For filing certificate of discharge of each instrument and for making all proper entries and indorsements connected therewith, \$2;
 4. For searching for each paper, 25 cents;
 5. For copies of any document filed under this Ordinance with certificate thereof, 20 cents for every hundred words;
 6. For every certificate under section 26 of this Ordinance, \$2.
- C.O.Y.T. c. 39, s. 32.

SCHEDULE.

FORM A.

(Section 7.)

MORTGAGE OF CHATTELS.

This Indenture made the _____ day of _____ A.D. 19____
between *A.B.*, of _____ of the one part and *C.D.*, of _____
of the other part.

Witnesseth that in consideration of the sum of \$ _____
now paid to *A.B.* by *C.D.* the receipt of which the said *A.B.*
hereby acknowledges (or whatever else the consideration may be)

he the said *A.B.* doth hereby assign to the said *C.D.* his executors, administrators and assigns all and singular the several chattels and things specifically described as follows (or in the schedule hereto annexed) by way of security for the payment of the sum of \$ and interest thereon at the rate of per cent per annum (or whatever else may be the rate) and the said *A.B.* doth further agree and declare that he will duly pay to the said *C.D.* the principal sum aforesaid together with the interest then due on the day of

A.D. 19 (or whatever else may be the stipulated time or times for payment.) And the said *A.B.* doth agree with the said *C.D.* that he will (here insert terms as to insurance, payment of rent, collateral securities or otherwise which the parties may agree to for the maintenance or defeasance of the security):

Provided always that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said *C.D.* for any cause other than those specified in section 16 of *The Bills of Sale Ordinance* except as is otherwise specially provided herein.

In witness whereof the said *A.B.* has hereunto set his hand and seal.

Signed and sealed by the said <i>A.B.</i> in the presence of me <i>E.F.</i> (Add name, address and occupation of witness.)	} <i>A.B.</i>
---	---------------

FORM B.

(Section 25.)

DISCHARGE OF CHATTEL MORTGAGE.

To the registration clerk of the registration district of
I, *A.B.*, of do certify that has
satisfied all money due on or to grow due on a certain chattel
mortgage made by to which
mortgage bears date the day of *A.D.* 19
and was registered (or in case the mortgage has been renewed
was renewed) in the office of the registration clerk of the regis-
tration district of on
the day of *A.D.* 19 as
number (here mention the day and date
of registration of each assignment thereof and the names of the
parties or mention that such mortgage has not been assigned as
the fact may be) and that I am the person entitled by law to
receive the money; and that such mortgage is therefore dis-
charged.

Witness my hand this day of <i>A.D.</i> 19 Witness (stating residence and occupation.)	} <i>A.B.</i>
<i>E. F.</i>	

repealed

CHAP. 8.

An Ordinance respecting the Registration of Births, Marriages and Deaths.

SHORT TITLE.

1. This Ordinance may be cited as *The Vital Statistics Ordinance*. C.O.Y.T. c. 6, s. 1. Short title.

INTERPRETATION.

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

1. The expression "head of the department" means the head of the department administering this Ordinance; "Head of the department."

2. The expression "department" means the department administering this Ordinance; "Department."

3. The expression "occupier" where used in sections 8 and 12 of this Ordinance shall be construed to include the master, governor, keeper, warden or superintendent of a gaol, prison, penitentiary, lunatic asylum, poor asylum, hospital or other public or private charitable institution. C.O.Y.T. c. 6, s. 2. "Occupier."

ADMINISTRATION.

3. The Commissioner may direct this Ordinance to be administered by the head of any department; and in the absence of any such direction the Ordinance shall be administered by the Territorial Secretary. C.O.Y.T. c. 6, s. 3. Administration by Territorial Secretary.

REGISTRATION DIVISIONS—REGISTRARS.

4. For the purposes of this Ordinance the Commissioner shall establish divisions for the registration of births, marriages and deaths occurring within the limits of such divisions and shall appoint registrars therefor. C.O.Y.T. c. 6, s. 4. Registration divisions.
Registrars.

5. The department shall from time to time supply the registrars with the forms necessary for the discharge of the duties herein imposed on them; and it shall be the duty of such registrars to apply to the department for the issue of such forms whenever they require them. Forms.

2. The cost and expenses of such forms and the expenses attendant upon the distribution thereof shall be paid out of the general revenue fund of the Territory.

3. In case of the termination of the appointment of any registrar by death, resignation or otherwise, all such forms and other matters pertaining to his duties under this Ordinance in his possession or that of his representative shall be forthwith delivered to his successor. C.O.Y.T. c. 6, s. 5.

Monthly returns.

6. Each registrar shall within the first week of each month in every year transmit to the department duly certified under his hand the forms containing the original entries of all births, marriages or deaths reported to him during the previous month. C.O.Y.T. c. 6, s. 6.

Registrar's fees.

7. Each registrar shall receive a fee to be paid out of the general revenue fund of the Territory of twenty-five cents for each birth, marriage or death reported to him and duly returned to the department as herein provided. C.O.Y.T. c. 6, s. 7.

REGISTRATION OF BIRTHS.

Persons to register births.

8. The father of any child born in the Territory or (in case of his death or absence) the mother or (in case of the death or inability of both parents) any person standing in the place of the parents or if there is no such person then the occupier of the house or tenement in which to his knowledge the child was born or the nurse present at the birth shall within one month from the date of the birth give notice thereof to the registrar of the division in which the child was born, giving as far as possible the particulars required in form A in the schedule to this Ordinance with such additional information as is required by the head of the department from time to time. C.O.Y.T. c. 6, s. 8.

Registration of illegitimate children.

9. In registering the birth of an illegitimate child, it shall not be lawful for the name of any person to be entered as the father unless at the joint request of the mother and of the person acknowledging himself to be the father; and in all cases of the registration of the birth of illegitimate children the registrar shall write the word "Illegitimate" in the column set apart for the name of the child and immediately under the name if any. C.O.Y.T. c. 6, s. 9.

Alterations.

10. When the birth of any child has been registered and the name (if any) by which it was registered has been altered or (if it was registered without a name) when a name is given it, the parent or guardian of the child or other person procuring such name to be altered or given may within two years next after the date of the birth deliver to the department a certificate signed by the clergyman or person who performed the rite of baptism upon which the name was given or altered or (if the child is not baptised) signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered; and the necessary additions or alterations shall be made in the margin of the form containing the original entry without making any alteration in the original entry. C.O.Y.T. c. 6, s. 10.

REGISTRATION OF MARRIAGES.

Officiating clergyman to report.

11. Every clergyman, minister, or other person authorized by law to celebrate marriages shall be required to report every

marriage he celebrates to the registrar of the division within which the marriage is celebrated within one month from the date of the marriage with the particulars required by form B in the schedule to this Ordinance; and in order to better enable the clergyman, minister or other person to make the report as aforesaid he shall be furnished (on demand) by the registrar of the division in which he resides with blank forms containing the particulars required by said form B. C.O.Y.T. c. 6, s. 11.

REGISTRATION OF DEATHS.

12. The occupier of the house or tenement in which a death takes place or (if the occupier is the person who has died) then some one of the persons residing in the house in which the death took place or (if the death has not taken place within a house) then any person present at the death or having any knowledge of the circumstances attending the same or the coroner attending any inquest held on such person shall supply to the registrar of the division in which the death took place according to his or her knowledge or belief all the particulars required to be registered touching such death, according to form C in the schedule to this Ordinance. C.O.Y.T. c. 6, s. 12.

Who shall register deaths.

13. Every registrar shall (immediately upon registering any death or as soon thereafter as he is required so to do) without fee or reward deliver to any person requiring the same for the purpose of burial a certificate according to form D in the schedule to this Ordinance that the particulars of such death have been duly registered. C.O.Y.T. c. 6, s. 13.

Certificate of registration.

14. Every clergyman, minister or other person who buries or performs any funeral or religious service for the burial of any dead body (unless he has received a certificate under the hand of the registrar of the division in which the death took place according to form D in the schedule to this Ordinance that the particulars of the death have been duly registered) shall within one month make a return of such death according to form C in the schedule to this Ordinance to the registrar of the division in which the death took place. C.O.Y.T. c. 6, s. 14.

Clergyman to register deaths, if not registered before burial.

15. Every duly qualified medical practitioner who was last in attendance during the last illness of any person shall within one month after having notice or knowledge of the death of such person transmit to the registrar of the division in which the death took place a certificate under his signature of the cause of death according to form E in the schedule to this Ordinance; and it shall be the duty of every such medical practitioner to apply to the said registrar for blank forms for that purpose; and upon the receipt of the certificate from the medical practitioner by the registrar he shall attach the same to the form as provided in form C in the schedule hereto containing the particulars of such death. C.O.Y.T. c. 6, s. 15.

Doctor to report cause of death.

Cemetery caretakers to report burials unless previously registered.

16. Every superintendent, caretaker or owner of any cemetery or burial ground whether public or private permitting any dead body to be interred in the grounds over which he has charge (unless he receives a certificate under the hand of the registrar of the division in which the death took place that the particulars of the death have been duly registered) shall give to the registrar within seven days after the burial a written notice under his hand stating according to his knowledge, information and belief the name and residence of the deceased and the date and place at which the death and burial took place. C.O.Y.T. c. 6, s. 16.

PENALTY FOR DEFAULT OF REGISTERING.

Penalty for neglect of registration.

17. If any person required by this Ordinance to report births, marriages, deaths or burials, refuses or wilfully neglects to do so within the time named, such person shall be guilty of an offence and on summary conviction thereof forfeit and pay a sum not less than \$1 nor more than \$50; and it shall be the duty of registrars to prosecute all such persons so neglecting or refusing to make the required reports within the limits of their respective divisions; but nothing contained in this section shall prevent persons other than registrars from prosecuting defaulters. C.O.Y.T. c. 6, s. 17.

CORRECTION OF ERRORS—SUBSEQUENT REGISTRATION.

Correction of erroneous entry, etc.

18. If it is discovered that any error has been made in the entry of any birth, marriage or death then (upon the same being reported to the proper registrar) it shall be his duty to inquire into the same and if satisfied that an error has been committed it shall be lawful for him to make the necessary alteration in the margin of the form containing the original entry without any alteration in such original entry; and if the original entry of such birth, marriage or death has been transmitted to the department, he shall report to the department according to the facts of the case so as to secure the correction of such erroneous entry in the margin of the form containing the original entry. C.O.Y.T. c. 6, s. 18.

Registration after two years.

19. Every registration of a birth, marriage or death shall be made within the time specified; but nothing herein contained shall prevent the subsequent registration of such birth, marriage or death within the period of two years.

2. After the expiration of two years after the date of any birth, marriage or death, the particulars of such birth, marriage or death shall not be registered except with the written authority of the head of the department and the fact of such authority having been given shall be entered in the column set apart for remarks in the registration form. C.O.Y.T. c. 6, s. 19.

RETURNS.

Vital statistics returns to be kept in department.

20. The returns of births, marriages and deaths shall be transmitted by registrars to the department by registered

mail; and shall be arranged, indexed and kept in the archives of the department; and any person shall be entitled to have them searched during the regular business hours of the department on payment of twenty-five cents for each search and to require extracts duly certified by the head of the department on payment of fifty cents for each such certificate. Fees for search and certificate.

(2) In case such searches are required to be made and extracts to be furnished before the returns have been transmitted to the department as required by this Ordinance, any registrar shall as to the returns in his possession allow such searches to be made and shall furnish certified extracts on payment to him of the fee or fees as provided in this section; but any registrar who may not have transmitted his returns as required by this Ordinance shall not allow such searches to be made or give such certified extracts after the date when such returns should have been transmitted:

Provided that any coroner shall be entitled to have the returns of births, marriages and deaths searched free of charge by the registrar or other officer having charge of such returns in respect of any inquiry pending before him and to receive extracts duly certified therefrom free of charge. Proviso.

(3) Such certified extracts shall be evidence of the entry and *prima facie* evidence of the facts therein stated in any court. C.O.Y.T. c. 6, s. 20.

REGULATIONS.

21. The Commissioner may from time to time make such further rules, orders and regulations as are required for the purpose of effectually obtaining the information required by this Ordinance. C.O.Y.T. c. 6, s. 21. Commissioner may make rules.

PENALTIES AND PROSECUTIONS.

22. Any person who knowingly or wilfully makes or causes to be made a false statement touching any of the particulars required to be reported and entered under this Ordinance shall be guilty of an offence and liable on summary conviction thereof to a penalty of \$25. C.O.Y.T. c. 6, s. 22. Penalty for false statement.

23. For the purpose of proceedings under this Ordinance or any order or regulation made thereunder, every offence against this Ordinance or any such order or regulation shall be deemed to have been committed and every cause of complaint under this Ordinance or any such order or regulation shall be deemed to have arisen either in the place in which the same actually was committed or arose or in any place in which the person charged or complained against happens to be. C.O.Y.T. c. 6, s. 23. Place of offence hereunder.

SCHEDULE.

FORM A.—SECTION 8.

REGISTRATION OF BIRTH.

Registration Division of

When Born	
Name	
Sex (male or female.)	
Name and surname of father.	
Name and surname of mother.	
Rank or profession of father.	
Description and residence of informant.	
Name of doctor in attendance (if any).	
Remarks.	

I hereby certify the foregoing to be true and correct to the best of my knowledge and belief.

Given under my hand at _____ the _____ day of _____ 19
Informant.

I hereby certify the foregoing to be the true and correct original entry of birth returned to me on the above mentioned date.

Given under my hand at _____ the _____ day of _____ 19
Registrar.

FORM B,—SECTION 11.

REGISTRATION OF MARRIAGE.

Registration Division of

His name.	BRIDEGROOM.
Age.	
Residence when married.	
Place of birth.	
Bachelor or widower (B or W)	
Rank or profession.	
Religious denomination.	
Names of parents.	
Her name.	BRIDE.
Age.	
Residence when married.	
Place of birth.	
Spinster or widow. (S or W.)	
Religious denomination.	
Name of parents.	
Names and residences of witnesses.	
Date of marriage.	
By License or banns. (L or B.)	
Remarks.	

I hereby certify the foregoing to be true and correct to the best of my knowledge and belief.

Given under my hand at the day
of 19

Officiating Clergyman.

I hereby certify the foregoing to be the true and correct original entry of marriage returned to me on the above mentioned date.

Given under my hand at the day
of 19

Registrar.

FORM C,—SECTION 12.

REGISTRATION OF DEATH.

Registration Division of

Name and surname of deceased.	
When died.	
Sex (male or female.)	
Age.	
Rank or Profession.	
Where born.	
Certified cause of death and duration of illness.	
Name of physician (if any.)	
Religious denomination.	
Description and residence of informant.	
Remarks.	

I hereby certify the foregoing to be true and correct to the best of my knowledge and belief.

Given under my hand at the day of 19
Informant.

I hereby certify the foregoing to be the true and correct original entry of death returned to me on the above mentioned date.

Given under my hand at the day of 19
Registrar.

FORM D,—SECTION 13.

I, _____, Registrar of the Registration
 Division of _____, do hereby certify that the
 particulars of the death of _____
 have been duly registered.

Given under my hand at _____ this _____ day of
 19 _____

Registrar.

FORM E,—SECTION 15.

Registration Division of _____

Name and surname of deceased.	Sex.	Resi- dence.	Rank or profession.	Duration of illness.	Cause of death.

I hereby certify the foregoing to be a true and correct certi-
 ficate of the cause of the death of the person therein named.

Given under my hand at _____ this _____ day
 of _____, 19 _____

M.D.

repealed

CHAP. 9.

An Ordinance Respecting the Inspection of Steam Boilers and the Examination of Engineers.

SHORT TITLE.

1. This Ordinance may be cited as *The Steam Boiler Ordinance*. C.O.Y.T. c. 7, s. 1. Short title.

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires— Interpretation.

1. The expression "boiler" does not include boilers used for heating water for domestic purposes or low pressure steam heating boilers unless the pressure exceeds fifteen pounds per square inch or railway locomotive or steam-boat boilers but means and includes all other steam boilers and every part thereof or thing connected therewith and all apparatus and things attached to or used in connection with any such boiler; "Boiler."

2. The expression "owner" means and includes any person, firm or corporation, the owner or lessee of a boiler and the manager or other head officer in charge of the business of any such firm or corporation; "Owner."

3. The expression "engineer" means any person having charge of or operating a steam boiler under the provisions of this Ordinance; "Engineer."

4. The expression "inspector" means any inspector of steam boilers appointed by the Commissioner of the Yukon Territory under the provisions of this Ordinance. C.O.Y.T. c. 7, s. 2. "Inspector."
"Commissioner."

INSPECTION OF STEAM BOILERS.

3. The Commissioner of the Yukon Territory may appoint an inspector or inspectors of steam boilers for the Territory for the purpose of carrying out the provisions of this Ordinance and may fix the remuneration to be paid such inspector or inspectors. C.O.Y.T., c. 7, s. 3. Appointment of inspectors.

4. No person holding the office of inspector under the provisions of this Ordinance shall be either directly or indirectly interested in the sale of boilers or steam machinery. C.O.Y.T. c. 7, s. 4. Inspectors to have no interest in sale of boilers or steam machinery.

5. Every inspector appointed under the provisions of this Ordinance shall before entering upon the performance of his duties take and subscribe an oath that he will faithfully and impartially perform the duties of his office. C.O.Y.T. c. 7, s. 5. Oath of office to be taken.

Duties of
inspectors.

- 6.** The inspectors appointed under this Ordinance shall—
- (a) Inspect all new steam boilers within their respective districts before the same are used;
 - (b) Once at least in each year subject all boilers within their district to hydrostatic pressure test;
 - (c) Satisfy themselves by a thorough examination inside and out and by a hammer test after the hydrostatic pressure that the boilers are well made and of good and suitable material;
 - (d) See that the openings for the passage of water and steam respectively and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction;
 - (e) See that the flues are circular in form;
 - (f) Satisfy themselves that the friction (fire line) of the furnace is at least two inches below the prescribed minimum water line of the boiler;
 - (g) See that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby;
 - (h) Satisfy themselves that such boilers and their steam connections may be safely employed without peril to life;
 - (i) See that the safety valves are of suitable dimensions sufficient in number and properly arranged;
 - (j) See that the safety valve, weights or springs are properly adjusted so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate;
 - (k) See that the boiler is provided with a sufficient number of gauge cocks and a properly inserted fusible plug so placed as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limits;
 - (l) Satisfy themselves that adequate and certain provision has been made for an ample supply of water to feed the boiler at all times so that in high pressure boilers the water shall not be less than four inches above crown of flue sheet in upright boilers;
 - (m) Satisfy themselves that means for blowing out are provided so that mud, sediment or scale may be removed while the boiler is under steam. C.O.Y.T., c. 7, s. 6.

Certain
boilers
exempted
from
operation of
this ordinance.

7. The provisions of this Ordinance respecting the inspection of boilers shall not apply to any boiler insured and inspected by any duly incorporated boiler insurance company doing business in Canada if the owner or owners of such boilers shall when required by an inspector appointed under the provisions of this Ordinance produce the certificate of inspection from such company. C.O.Y.T. c. 7, s. 7.

Inspectors
may enter
premises.

8. For the purpose of seeing that the provisions of this Ordinance are complied with any of the inspectors appointed under this Ordinance may at any reasonable hour enter upon any lands or into any building where any steam boiler is operated.

2. Any person interfering with or obstructing any inspector in the performance of his duties under this Ordinance shall be guilty of an offence and liable on summary conviction to a penalty not exceeding \$100. C. O. Y. T. c. 7, s. 8.

9. Every owner of a boiler shall cause it to be inspected at least once in each and every year by an inspector appointed under the provisions of this Ordinance and shall pay to such inspector a fee of \$5 for such inspection, such fee to be forwarded by the Inspector to the Territorial Treasurer to be credited to the general revenue fund of the Territory. Boilers to be inspected annually.

2. Upon the completion of any inspection the inspector shall issue to such owner a certificate of such inspection in accordance with form "A" in the schedule hereto. Certificate to issue.

3. Such certificate shall be produced at any time by the owner upon the demand of an inspector appointed under the provisions of this Ordinance. Production thereof.

4. Any one who employs a person to operate a steam boiler who has not a certificate or permit under this Ordinance shall be guilty of an infraction of this Ordinance.

5. All boilers of fifteen nominal horse-power or under, used for mining or prospecting purposes shall be inspected by the boiler inspector free of charge, and the use of such boiler prior to such inspection shall not be deemed an infraction of this Ordinance. C.O.T.Y. c. 7, s. 9; No. 19, 1903, s. 7; No. 12, 1907, s. 7.

10. In subjecting to hydrostatic tests boilers usually designated as high pressure, inspectors shall assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches diameter, made in the best manner of plates one-fourth of an inch thick of good materials. C.O.Y.T. c. 7, s. 10. Hydrostatic tests.

11. Inspectors shall rate the working pressure of all boilers according to their strength as compared with the standard provided in the next preceding section, but the working pressure allowed in the operation of any boiler shall not exceed three-fourths of the hydrostatic test pressure to which such boiler has been subjected at the time of the inspection. C.O.Y.T. c. 7, s. 11. Working pressure of boiler.

12. In addition to the annual inspection of all boilers required by this Ordinance it shall be the duty of each inspector to examine and inspect at any time any boilers which may be reported to him to be in an unsafe condition and to notify in writing the owner or person using such boiler to make such repairs as he deems necessary in order to render such boiler serviceable and safe for use. C.O.Y.T. c. 7, s. 12. Owner to repair boiler when required.

13. Any boiler declared to be unsafe by an inspector shall not be used until such repairs as are ordered by the inspector have been made, and any person operating a boiler declared to be unsafe by an inspector before the repairs ordered by the Unsafe boiler not to be used.

Penalty. inspector are completed shall be guilty of an offence and upon summary conviction thereof liable to a penalty of \$100. C.O. Y.T. c. 7, s. 13.

Provision of fusible plug. **14.** Every steam boiler shall be provided with a fusible plug of good Banca tin inserted in the flues, crown sheet or other part of the boiler most exposed to the heat of the furnace when the water therein falls below the prescribed limit so that the plug will fuse and put the fire out. C.O.Y.T. c. 7, s. 14.

Steam gauge. **15.** Every steam boiler shall be provided with a reliable steam gauge of approved make. C.O.Y.T. c. 7, s. 15.

Inspector to have free access for inspection. **16.** The owner or operator of any steam boiler shall allow the inspector free access to the same and shall furnish water and fill the boiler to permit of the hydrostatic test being made, and when necessary shall remove any jacket or covering from the boiler as directed by the inspector. He shall also assist the inspector in making his inspection and shall point out any defect that he may know of or believe to exist in the boiler or machinery connected therewith. C.O.Y.T. c. 7, s. 16.

Boilers in course of construction or repair may be examined. **17.** Inspectors shall have the right at all reasonable hours to examine boilers in course of construction or undergoing repair and to refuse to grant a certificate of inspection for any boiler found to be improperly constructed or repaired or of which permission to make such inspection has been refused. C.O.Y.T. c. 7, s. 17.

Record to be kept. **18.** Every inspector shall keep a true record of all boilers inspected and all repairs ordered by him, of all boilers condemned by him as unsafe, of all accidents to boilers in his district whether by explosion or otherwise and of all casualties in connection with boilers in his district. C.O.Y.T. c. 7, s. 18.

Annual report. **19.** Every inspector shall render annually on or before the thirty-first day of January in each year a concise report to the Commissioner of all inspections made by him during the preceding year, and of all accidents and casualties that may have happened connected with the operation of steam boilers within his district. C.O.Y.T. c. 7, s. 19.

Only licensed engineers to operate boilers over 15 h. p. **20.** No person shall operate a steam engine or boiler of a greater capacity than fifteen horse-power nor shall any owner employ any person to operate any such engine or boiler unless he is of the full age of twenty-one years and has obtained a license as hereinafter provided. No. 19, 1903, s. 1.

Four classes of engineers. **21.** There shall be four classes of persons entitled to take charge of a steam engine or boiler.

(a) The first class shall be engineers qualified to take charge of any steam engine or boiler.

(b) The second class shall be engineers qualified to take charge of any steam engine or steam boiler not exceeding 100 nominal horse-power.

(c) The third class shall be engineers qualified to take charge of any steam engine or boiler not exceeding 50 nominal horse-power.

(d) The fourth class shall be firemen qualified to take charge of any boiler when under the general supervision of an engineer of the first, second or third class, according to the rating of the boiler. No. 12, 1907, s. 2.

22. Any candidate who considers he has been unfairly dealt with may appeal in writing to the Commissioner, who shall refer the appeal to a Board of three engineers holding first-class certificates, said Board to be appointed by the Commissioner and to hold office at his pleasure. Appeal from inspector.

(a) The Board shall, at once, cause such grievance to be investigated and shall give a decision in the matter which shall be final. Decision of Board to be final.

(b) The Board, with the inspector, shall also act as a Board of Inquiry in all boiler accidents occurring within its jurisdiction. Board of inquiry re boiler accidents.

(c) All engineers on taking or leaving a position must notify the inspector in writing. Engineers to notify inspectors.

(d) The rating of the horse-power of all boilers in use in the Yukon Territory shall be calculated by the inspector according to the following schedule: Rating of horse-power.

Twelve square feet of heating surface per nominal horse-power for internally fired boilers.

Fifteen square feet of heating surface per nominal horse-power for externally fired boilers. No. 12, 1907, s. 2.

23. The Territorial Secretary shall cause to be prepared a list of the engineers, entitled to operate an engine and boiler under this Ordinance, and shall specify therein the kind of engine and boiler such engineers may operate. Said list shall include the names of all persons who were on the seventeenth day of October, 1903 possessed of certificate of qualification under the Steam Boiler Ordinance. No. 19, 1903, ss. 3. and 4. List to be prepared.

24. In addition to the persons so entitled to be entered on said list, every person who is the holder of a certificate of qualification from any incorporated body authorized to grant such certificates of qualification for operating steam boilers and engines or from the Dominion or any Provincial Government, or from any other competent authority in any other portion of the British Empire or the United States of America, shall be entitled upon making application to the Territorial Secretary and upon payment of a fee of \$5, to obtain a certificate of qualification and to be registered under the provisions of this Ordinance. No. 19, 1903, s. 5. Other persons who may be entered on list.

25. Any other person who may desire to qualify for registration and to obtain a certificate entitling him to operate steam boilers and engines connected herewith in the Territory and who shall have served twelve months as engineer, fireman or oiler shall pass an examination before one of the inspectors Persons wishing to become engineers to serve twelve

months
and pass
examination.

appointed under this Ordinance to prove that he has the necessary knowledge of the construction, care and operation of stationary steam boilers and engines connected therewith; if the inspector conducting such examination is satisfied as to the knowledge and qualification of the candidate, and also as to his having served the term of twelve months as herein provided, he shall upon obtaining a fee of \$5 issue a certificate to that effect and stating the kind of boiler and engine said candidate may operate. No. 12, 1907, s. 3 and No. 9, 1908, s. 2.

Second-
class engi-
neer may
be assistant
to first-class
engineer.

26. On all steam plants of over 100 horse-power where two or more engineers are employed it shall only be obligatory that the engineer in charge shall hold a first-class certificate. In such cases the holder of a second-class certificate shall be considered duly qualified to act as assistant or second engineer.

Third-class
engineer
may be as-
sistant to
second-class
engineer.

2. On all steam plants of over 50 horse-power and not more than 100 horse-power, when two or more engineers are employed it shall only be obligatory that the engineer in charge shall hold a second-class certificate. In such cases the holder of a third-class certificate shall be considered duly qualified to act as assistant or second engineer.

3. Not more than one certificated engineer shall be required to be on duty in connection with any one plant. No. 12, 1907, s. 4.

Examination
to be in
writing, etc.

27. It shall be the duty of the boiler inspector to make all examinations of applicants for engineers' certificates in writing and in accordance with the schedule hereto annexed, questions and answers both to be placed on file and retained in the office of said inspector, such file to be open during office hours to the Board appointed by the Commissioner as provided for in section 22 of this Ordinance. No. 12, 1907, s. 5.

Additional
examination
required for
rating under
this Ord-
inance.

28. All engineers holding second- and third-class certificates under any former Ordinance shall be confined to the rating of boilers fixed by said Ordinance. Said engineers shall be required to pass an additional examination to become qualified under the rating of engineers fixed by this Ordinance. The applicant for such examination shall pay an examination fee of \$2.50. No. 12, 1907, s. 6.

Certificate to
be posted or
produced to
inspector.

29. Every person holding a certificate under this Ordinance shall expose it in some conspicuous place in the engine or boiler room in which he is employed or cause it to be attached to the engine or boiler of which he is in charge and in default shall be liable upon summary conviction to a penalty of not less than \$10 and not more than \$50.

2. If such person be employed in charge of a portable engine and boiler he shall produce his certificate for inspection on being required so to do by any inspector.

Absence or
non-produ-
ction of
certificate.

3. The absence of such certificate or its non-production on demand shall be *prima facie* evidence that the person operating the engine and boiler has no certificate. C.O.Y.T. c. 7, s. 23.

30. In case any owner of a steam boiler shows to the satisfaction of an inspector that he is unable by reason of some unforeseen occurrence to immediately secure the services of a duly qualified person to operate such boiler the inspector may grant a permit to any person producing satisfactory evidence of good conduct and sobriety and sufficient experience to operate such boiler for a period of six months from the date of such application and in such case no penalty shall be incurred by reason of operating such steam boiler during the period covered by such permit.

Persons acting in absence of certified engineer.

2. A fee of \$5 shall be paid to the inspector for every such permit issued by him. C.O.Y.T. c. 7, s. 25.

Fee for permit.

REGULATIONS AND FORMS.

31. The Commissioner of the Yukon Territory may from time to time make such regulations and prescribe such forms as may be deemed necessary for the proper carrying into effect of the provisions of this Ordinance. C.O.Y.T. c. 7, s. 26.

Regulations and forms.

32. The fees payable under this Ordinance shall be paid into the general revenue fund. C.O.Y.T. c. 7, s. 27.

Fees.

PENALTIES.

33. Any person guilty of a breach of any of the provisions of this Ordinance for which no provision is herein made shall on summary conviction thereof be liable to a penalty not exceeding \$100. C.O.Y.T. c. 7, s. 33.

Penalties.

34. Notwithstanding anything contained in this Ordinance no male person above the age of eighteen years shall be obliged to obtain a certificate entitling him to operate any steam boiler or engine outside of the towns of Dawson, Whitehorse and Klondike City. No. 9, 1908, s. 1.

No license required outside Dawson, etc.

SCHEDULE.

FORM A,—SECTION 9.

CERTIFICATE OF INSPECTION OF STEAM BOILER.

I hereby certify that I have this day inspected the steam boiler and steam connections owned by

of _____ in the _____
district of _____ and
described as follows:

and having applied hydrostatic pressure, hammer test and carefully examined the said boiler and connections have found the same in _____ condition

and therefore authorize a steam pressure of _____
pounds as a working pressure for the said boiler and no more.

Dated this _____ day of _____

A.D., 19

This certificate expires on the _____ day of _____

19

Inspector.

RULES TO BE OBSERVED IN THE EXAMINATION OF ENGINEERS.

*Section 29.***Fireman.**

Examination
for fireman.

The fireman will be required (1) to possess some elementary knowledge of boiler management under working steam pressure; (2) to know the use to which the different fittings are put; (3) to be able to ascertain when they are working properly and how to act should they get out of good working order so as to secure complete safety; (4) to know the manner of firing economically and skilfully and the methods for keeping boilers clean internally, and (5) how to act in case of low water and hot plates, etc.

Third-Class Engineer.

Examination
for third-
class engi-
neer.

The third-class engineer will be required (1) to possess, in addition to the requirements of a fireman, a general elementary knowledge of how boilers are constructed, set in brick work and fitted up complete with all connections; (2) to be able to keep pipes and fittings in good tight condition; (3) to understand foaming, priming, incrustation, corrosion, and their remedies; (4) to be able to detect anything going wrong or weakness developing; (5) to have had at least one year's experience as fireman in this Territory or elsewhere, and, (6) generally to understand the working of a steam engine, and to be able to handle and attend to the same in case the establishment be not large enough to warrant the employment of two engineers. He shall be able to read and write a legible hand and understand the first five rules of arithmetic.

Second-Class Engineer.

Examination
for second-
class engi-
neer.

The engineer of the second class will be required (1) to have had at least two years' experience in the handling of a steam engine as per third class; (2) to understand the design and construction of steam boilers and engines, and the principle that regulates the strength and design of the various parts and details of same; (3) to be conversant with the setting of engine valves; (4) to be able efficiently to supervise the working of said boilers and to keep in good safe condition; (5) to know how to read and write a legible hand, and (6) to be conversant with the first five rules of arithmetic and decimals.

FIRST-CLASS ENGINEER.

Examination
for first-
class engi-
neer.

The engineer of the first class must be able, (1) to take charge of any boiler; (2) calculate the thickness of plates required for a boiler of given dimensions and construction to carry a fixed pressure of steam, and also the dimensions and construction of the boiler and thickness of plates; (3) being given the pressure that the boiler may carry he must be able to

calculate the strength of its stays, connections, joints and other parts, the tensile and crushing strength of the material used in its construction; (4) to calculate the required capacity of the feedpump, the area of the safety valve for a boiler of given size or dimensions, and the power of the engine from a diagram of its workings; (5) to define the position of the crank and eccentric as indicated by a diagram; (6) know the relative volume of steam and water at given temperatures and pressures, the chemical constituents of coal, its heating and mechanical equivalents and the quantity of air required for its combustion; (7) to be competent to make a working drawing of any part of an engine, and explain the operation of the engine or any of its parts in connection with the whole; (8) to be conversant with surface condensation and the working of steam expansively, and, (9) he must understand the construction of and be able to maintain in a working condition dynamos of ordinary types; (10) his knowledge of arithmetic must include the extraction of the square and cube root. The examination will be made *viva voce*, but may be in writing in certain cases, at the discretion of the inspector, who may, at any time, if he deems it necessary, re-examine the applicant.

repealed

CHAP. 10.

An Ordinance to Provide for the Weight and Sale of Bread.

Bread vendor to keep scales.

1. Every vendor of bread shall keep scales and weights suitable for the weighing of bread in a conspicuous place in his shop, and every vendor of bread shall weigh the bread offered for sale if requested. No. 2, 1907, s. 1.

No deleterious material to be used.

2. No person shall use any deleterious material in making any bread for sale. No. 2, 1907, s. 2.

Duties and powers of Medical Health Officer.

3. It shall be lawful for the medical health officer at all reasonable hours to enter into, inspect and examine every bakery and baker's shop and other buildings or premises in the Yukon Territory where any bread is or shall be baked, stored or deposited or offered for sale, and to inspect and examine all flour and materials therein intended to be used in the making of bread for sale, and also to examine all bread found therein, and to weigh the same, and also to examine every vehicle and sleigh on which bread may be placed or stored in the said Territory for the purpose of delivery before and after the sale thereof, and to examine all bread found therein, and to weigh the same and to seize and carry away any bread found under weight or any bread made contrary to the provisions of this Ordinance and to prosecute all breaches of this Ordinance, and all such bread as shall be found deficient in weight or made contrary to the provisions of this Ordinance shall be seized and forfeited to the Territory in such manner as may be directed by the Commissioner, and if any unwholesome flour or any deleterious material intended to be used in the making of bread for sale shall be found in any bakery or shop or on the premises thereof, the medical health officer shall take away a small sample thereof for the purpose of evidence. No. 2, 1907, s. 3.

Bread vendors to assist Medical Health Officer in his duties.

4. Every person making or selling any bread or having or offering any bread for sale or for delivery upon or after sale or in supply of contract or being in possession or in charge of any bread for sale or delivery within the said Yukon Territory or of any bakery or shop within the said Territory, for the making of bread, or of any vehicle or sleigh for the delivery of bread before or after sale thereof shall, upon the request of the medical health officer, submit to and permit and assist the inspection, weighing and examination of such bread under this Ordinance and also the inspection of his vehicle or sleigh for the delivery of bread, and also his bakery or shop and all bread therein, and also all flour, meal and materials found therein intended to be used in the making of bread for sale, and for that purpose shall open all ways, doors, locks, and fastenings

in and about the same and in and about all cupboards, boxes and compartments therein, and no such person or persons as aforesaid shall, nor shall any other person whomsoever in any way thwart, refuse, impede, hinder, or prevent any such inspection, weighing and examination of bread or the inspection of any vehicle or sleigh for the delivery of bread, or any bakery or shop or any flour, meal or other materials therein intended for use or to be used in the making of bread for sale. No. 2, 1907, s. 4.

5. The inspection and weighing provided for in the third section of this Ordinance shall be made not less than once in each month, and upon any such weighing the following allowances shall be made, that is to say: for bread made twelve hours and under twenty-four hours previously, one ounce light weight to be allowed for each loaf of two pounds weight, and two ounces for each loaf of four pounds weight; for any period over twenty-four hours double the allowance in each case respectively shall be made. No. 2, 1907, s. 5.

Allowances
on weight
of bread.

6. Any person or persons found guilty of an infraction of any of the provisions of this Ordinance shall be liable, on summary conviction, to a fine of not less than \$10 and not exceeding \$100, and in default of payment to imprisonment with or without hard labour for a term not exceeding one month. No. 2, 1907, s. 6.

Penalty.

7. This Ordinance shall only apply to the city of Dawson. No. 2, 1907, s. 7.

In force in
Dawson
only.

repealed

CHAP. 11.

An Ordinance for the protection of Bridges.

Penalty for driving across bridge faster than at a walk.

1. Every person who rides or drives any animal or vehicle over any bridge or causeway at a pace greater than a walking pace shall be liable to a penalty not exceeding fifty dollars, and in default of payment, to imprisonment for a term not exceeding thirty days. C.O.Y.T. c. 15, s. 1.

Penalty for mooring boats, etc., to bridges.

2. Every person who moors, makes fast, or in any way attaches any raft, steamboat, vessel, boat, barge or other floating body to any bridge or to any pier, pile, trestle or abutment of the same shall be liable to a penalty not exceeding one hundred dollars, and in default of payment, to imprisonment for a term not exceeding sixty days. C.O.Y.T. c. 15, s. 2.

CHAP. 12.

An Ordinance respecting Cemeteries.

SHORT TITLE.

1. This Ordinance may be cited as *The Cemetery Ordinance*. Short title. C.O.Y.T. c. 63, s. 1.

INCORPORATION OF COMPANIES.

2. Any number of persons not less than ten may form themselves into a company for the purpose of establishing one or more public cemeteries outside the limits of any city or town or within such limits if permission be given by by-law of such city or town for such establishment within its limits, who have—

- (a) Subscribed-stock to an amount adequate to the purchase of the ground required for such cemetery; and
- (b) Executed an instrument according to the form in the fifth section of this Ordinance contained; and
- (c) Paid to the treasurer of the proposed company twenty-five per cent of the capital stock intended to be raised; and
- (d) Deposited such instrument, or a duplicate thereof, together with a receipt from the treasurer for the first instalment of twenty-five per cent in the office of the Territorial Secretary. C.O.Y.T. c. 63, s. 2.

3. Notice of the formation of the proposed company shall be forthwith given by the Territorial Secretary in the *Yukon Official Gazette*, setting forth the name of the said company and the persons constituting the same and from and after the date of the publication of such notice the persons therein named and their successors shall be a body corporate and politic under the name mentioned therein, and as such body corporate and politic shall have all rights and be subject to all the liabilities of a corporation and shall have full power to acquire, hold and alienate both real and personal estate for all the purposes of the company. C.O.Y.T. c. 63, s. 3.

4. The instrument referred to in section 2 of this Ordinance may be in the form following:—

“ Be it remembered that on this _____ day of _____ in the year of Our Lord one thousand nine hundred and _____ we the undersigned shareholders met at _____ in _____ the Yukon Territory and resolved to form ourselves into a cemetery company to be called The Cemetery Company under the provisions of *The Cemetery Ordinance*, and we do hereby agree that the capital stock of the said
70263—6½

company shall be _____ dollars to be divided into
 shares of _____ dollars each entitling the holder to
 one hundred superficial feet; and we the undersigned share-
 holders do hereby agree to accept and take the number of shares
 set by us opposite our respective signatures; and we do hereby
 agree to pay the calls thereon according to the provisions of the
 said Ordinance and the rules and regulations and by-laws of
 the company to be made in that behalf.

NAME.	NO. OF SHARES.	AMOUNT.

C.O.Y.T. c. 63, s. 4.

TRUSTEES OF RELIGIOUS BODIES.

Organization of board of trustees.

5. When any one or more religious societies or congregations in the Territory desire to take a conveyance or transfer of land for the purpose of establishing a cemetery for the use of such society or congregation or for the use in common of such societies or congregations such society or congregation or societies or congregations as the case may be, may appoint trustees to whom and their successors to be appointed in such manner and subject to such regulations as may be specified in the deed of conveyance or transfer, the land requisite for the purpose aforesaid may be conveyed and such trustees and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land and maintain and defend all actions or suits for the protection thereof or of their property therein:

Land to be outside town.

Provided that such land shall not be within the limits of a town unless permission be given by by-laws of the said town for such establishment within the limits. C.O.Y.T. c. 63, s. 5.

Appointment of successors to trustees.

6. If the deed of conveyance or transfer of such land does not specify the manner in which the successors to the trustees therein named are to be appointed the society or congregation or societies or congregations for whose use such land is held may enter into an agreement with each other in writing in such manner as seems to them best and such agreement shall specify the manner in which the successors of the trustees for

the term then being are to be appointed and such agreement indorsed on or annexed to a certified copy of the transfer or deed of conveyance under which the land is held for the use of the said society or congregation or societies or congregations and signed by the accredited agents of such society or congregation or societies or congregations shall govern and regulate the manner in which the successors of the trustees named in the original grant, conveyance or transfer shall be appointed and the regulations to which they shall be subject. C.O.Y.T. c. 63, s. 6.

7. Such trustees shall within twelve months after the execution of the deed of conveyance or transfer cause the deed or transfer to be registered in the land titles office of the Yukon land registration district, otherwise the said deed shall be void. C.O.Y.T. c. 63, s. 7. Transfer of land to be registered.

8. The trustees and their successors shall thenceforth hold and convey the land for the purpose exclusively of a cemetery or place for the burial of the dead. C. O. Y.T., c. 63, s. 8. Purposes of land.

PROVISIONS AFFECTING COMPANIES.

9. From and out of the proceeds of the sales of burial sites made by the company the company may pay to its shareholders who may not desire to take land in the cemetery to the full extent of the stock subscribed and paid for by them interest on their paid-up stock not represented by land in the cemetery at such rate as may be agreed on not exceeding eight per centum per annum and may also repay to such shareholders the amount of paid-up stock held by them not represented by land in the cemetery. Interest on paid-up stock.

2. Every such shareholder of the said company shall be taken to be a shareholder and shall be entitled to all the rights of shareholders in respect of the shares of the capital stock of the company held by him and fully paid up and which are not represented by land in the cemetery until such shares are repaid to him by the company; and upon the repayment to him of any share he shall cease to be a shareholder in respect of such share. Rights of shareholders.

3. Except as aforesaid no dividend or profit of any kind shall be paid by the company to any member thereof. C.O. Y.T. c. 63, s. 9. When no dividend payable.

10. Subject to the provisions in the next preceding section contained one half of the proceeds of all sales of burial sites made by the company shall be first applied to the payment of the purchase money of the land acquired by the company and the residue to preserving, improving and embellishing the land as a cemetery and to the incidental expenses of the company; and after payment of the purchase money the proceeds of all future sales shall be applied to the preservation, improvement and embellishment of the cemetery and to the incidental expenses thereof, and to no other purpose whatever. C.O.Y.T. c. 63, s. 10. Application of proceeds of sale.

- 11.** Every proprietor of a lot in the cemetery containing not less than one hundred superficial feet and who has paid twenty-five per cent or more of the price of the lot shall be deemed a shareholder in the company and every such lot shall be deemed a share in the company. C.O.Y.T. c. 63, s. 11.
- 12.** Every shareholder who has paid to the company not less than \$5 in all on his share or shares shall be eligible as a director. C.O.Y.T. c. 63, s. 12.
- 13.** The company may sell a lot of any size, but no proprietor of a lot containing less than one hundred superficial feet shall thereby become a member of the company or have any vote in the management of the affairs thereof. C.O.Y.T. c. 63, s. 13.
- 14.** The affairs and property of the company shall be managed by three directors, a majority of whom shall form a quorum. C.O.Y.T. c. 63, s. 14.
- 15.** The first directors, shall be chosen by ballot from among the subscribers to the instrument creating the company; and thereafter the directors shall be annually elected by the shareholders on the first Monday in June in every year. C.O.Y.T. c. 63, s. 15.
- 16.** Upon every election of directors, including the first, every shareholder shall be entitled to one vote for every share he holds or is possessed of up to ten and one vote for every five shares above ten; but no shareholder shall vote unless he has paid at least \$2 upon each share upon which he votes. C.O.Y.T. c. 63, s. 16.
- 17.** The directors or a majority of them shall at their first meeting elect one of their number to be president of the company and the president if present or, if he is not present, then some director chosen for the occasion shall preside at every meeting of the directors and shall not vote except in case of an equality of votes when he shall have a casting vote. C.O.Y.T. c. 63, s. 17.
- 18.** The directors may also call for instalments on the sums subscribed for and may appoint a time for the payment thereof, and if the same are not then paid the right of the subscriber and every instalment formerly paid shall be forfeited and he shall be held not to have subscribed unless the directors think it expedient to remit the forfeiture which they may do if the instalments are paid with interest within one year after the day when they ought to have been paid. C.O.Y.T. c. 63, s. 18.
- 19.** The directors shall record in a book kept for the purpose, all their by-laws and proceedings, and every shareholder shall

have access to such book for the purpose of searching and making extracts therefrom, without payment of any fee. C.O.Y.T. c. 63, s. 19.

20. The directors may reserve for the exclusive use of any religious society or congregation such part of the cemetery upon such terms and conditions as are agreed upon. C.O.Y.T. c. 63, s. 20. Exclusive reservation.

21. The company shall furnish graves for strangers and for the poor of all denominations free of charge on the certificate, in the latter case of a minister or clergyman of the denomination to which the deceased belonged, that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. C.O.Y.T. c. 63, s. 21. Graves for strangers and poor.

GENERAL PROVISIONS.

22. The company shall within two years from its incorporation and the trustees shall within two years from their appointment by walls or other fences inclose every part of the cemetery held by them. C.O.Y.T. c. 63, s. 22. Walls and fences.

23. The company or trustees as the case may be shall keep the cemetery and the buildings and fences thereof in complete repair and in good order and condition. C.O.Y.T. c. 63, s. 23. Repair of property.

24. The company or trustees as the case may be shall make all proper and necessary sewers and drains in and about the cemetery for draining it and keeping it dry; and they may, from time to time as occasion requires, cause any such sewer or drain to open into an existing sewer with the consent in writing of the person having the management of the street or road, and with the like consent of the owner or occupier of the land through which or part of which the opening is intended to be made doing as little damage as possible to the street, road or land within which the same is made and restoring it to the same or as good condition as it was in before being disturbed. C.O.Y.T. c. 63, s. 24. Drains and sewers.

25. If the company or trustees as the case may be at any time cause or suffer to be brought to or to flow in any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place any offensive matter from the cemetery whereby the water is fouled the company or trustees as the case may be shall forfeit for every such offence \$500. C.O.Y.T. c. 63, s. 25. Penalty for fouling water.

26. The said penalty with full costs of suit may by a civil action in any court of competent jurisdiction, be recovered by any person having a right to use the water; but the penalty and costs shall not be recoverable unless sued for during the continuance of the offence or within six months after it has ceased. C.O.Y.T. c. 63, s. 26. Suit for penalty.
Limitation of action.

Further
penalty.

27. In addition to the penalty of \$500 (and whether the same has been recovered or not) any person having a right to use the water may sue the company or trustees as the case may be in a civil action for any damages specially sustained by him by reason of the water being fouled, or if no special damage is alleged then for the sum of \$10 for every day during which the offensive matter has continued to be brought or to flow after the expiration of twenty-four hours from the time when the notice of the offence was by such person served upon the company or trustees as the case may be. C.O.Y.T. c. 63, s. 27.

No grave
near
buildings.

28. No body shall be buried in a vault or other space under any chapel or other building in the cemetery nor within fifteen feet of the outer wall of any such chapel or building. C.O.Y.T. c. 63, s. 28.

Proper
conduct of
funerals.

29. The company or trustees as the case may be shall make all regulations to ensure all burials within the cemetery being conducted in a decent and solemn manner. C.O.Y.T. c. 63, s. 29.

Exemption
from taxes
and seizure.

30. The real estate of the company or trustees and the lots or plots when conveyed by the company or trustees to individual proprietors for burial sites shall be exempt from taxation of any kind and shall not be liable to be seized or sold under execution. C.O.Y.T. c. 63, s. 30.

By-laws.

31. The directors of the company may pass by-laws and the trustees may frame regulations for the laying out, selling and management of the cemetery and for regulating the erection of tombs, monuments and gravestones therein; and the directors of the company may pass by-laws empowering the president to execute conveyances of plots to shareholders. C.O.Y.T. c. 63, s. 31.

Record of
regulations
and burials.

32. The directors shall keep a record of the by-laws and the trustees shall keep a record of the regulations referred to in the next preceding section and the directors and trustees respectively shall also keep a separate record of all burials showing name, age, occupation and date of burial of all persons buried within the cemetery, and in case they cannot get all the particulars a note of such must be made in the margin and every person shall have access to such last mentioned record for the purpose of searching and making extracts therefrom without payment of any fee. C.O.Y.T. c. 63, s. 32.

Penalties.

33. Any person who in a cemetery established under this Ordinance:

- (a) Plays any game or sport; or
- (b) Discharges fire-arms (save at a military funeral) or who
- (c) Commits a nuisance therein;

shall on summary conviction thereof be liable to a fine not exceeding \$100 and costs of prosecution. C.O.Y.T. c. 63, s. 33.

34. The trustees shall be personally liable for any judgment recovered against them as trustees. C.O.Y.T. c. 63, s. 34. Liability of trustees.

repealed

CHAP. 13.

An Ordinance respecting the Clerk and Deputy Clerk of the Court.

DEPUTY CLERK.

Clerk of court to appoint deputy.

1. The clerk of the Territorial Court shall appoint a deputy at Whitehorse and such deputy clerk shall have and perform the powers, duties and obligations hereinafter mentioned. C.O.Y.T: c. 18, s. 1.

DEPUTY CLERK'S DISTRICTS.

District of deputy.

2. For the purposes hereinafter mentioned the district of the said deputy clerk shall consist of all the Yukon Territory lying south of the 62nd degree of latitude. C.O.Y.T. c. 18, s. 2.

DEPUTY CLERK'S POWERS AND DUTIES.

Where action may be commenced.

Powers and duties of deputy. Seal and books.

Probate.

Guardianship of persons.

Guardianship of estates.

Proceedings commencing without writ.

3. All actions and other proceedings commenced in the office of the said deputy clerk shall be carried on in the same office and in respect thereof such deputy clerk shall in all respects have and perform all the powers, duties and obligations of the clerk of the court; and such deputy clerk shall have and use a duplicate of the seal of the court used by the clerk and keep such books as are kept by the clerk.

2. And in respect of the following matters:

- (a) Applications for letters probate or letters of administration where the deceased died within the deputy clerk's district or where the whole of the estate in respect whereof letters probate or letters of administration are applied for lies within the deputy clerk's district;
- (b) Applications for the appointment of a guardian of the estate of an infant or a lunatic where the infant or the lunatic resides within the deputy clerk's district;
- (c) Applications for the appointment of a guardian of the estate of an infant or a lunatic where the infant or the lunatic resides within the deputy clerk's district; or where the whole of the estate to be affected lies within the deputy clerk's district;
- (d) Proceedings commenced by originating summons and proceedings originating by petition, notice of motion, or judge's summons where the solicitor for the applicant resides in a deputy clerk's district;

such deputy clerk shall and in applications of the character of those marked (a) and (c) where a part only of the property to be affected lies within the deputy clerk's district such deputy

clerk may have and perform all the powers, duties and obligations of the clerk. C.O.Y.T. c. 18, s. 3.

4. In any action, suit or other proceeding wherever commenced if it is desired to examine a person for discovery and such person resides within the district of the said deputy clerk such deputy clerk shall for the purposes of such examination have and perform all the powers, duties and obligations of the clerk. C.O.Y.T. c. 18, s. 4. Examination for discovery.

5. In respect of appeals from convictions or orders made by a justice of the peace under the authority of any Ordinance relating to matters within the legislative authority of the Yukon Council or under the authority of a municipal by-law where the conviction or order is made within the district of the said deputy clerk the office of such deputy clerk shall be the office of the court in which all proceedings relating to such appeal shall be carried on and in respect thereof such deputy clerk shall have and perform all the powers, duties and obligations of the clerk. C.O.Y.T. c. 18, s. 5. Appeals from convictions.

PROCESS ISSUERS.

6. In any section of the Territory where the convenience of the public may be the better served the clerk with the approval of the judge may also appoint a process issuer who being supplied with blank forms original and *mesne* processes signed by the clerk may issue the same under his direction from time to time, such process issuer countersigning each one so issued and making returns of all processes so issued to the clerk as required by the clerk or as directed by the judge and in such cases the clerk and his sureties shall be responsible for all the acts and omissions of such issuer. C.O.Y.T. c. 18, s. 6. Process issuers.

SECURITIES AND OATHS OF OFFICE OF CLERK.

7. The clerk before entering upon the duties of his office and if after entering upon his duties a new security is substituted for any previously given shall file in the office of the Territorial Secretary a copy, certified as such by the Secretary of State for Canada, of the security required by and given under *The North-West Territories Act* or of such substituted security. C.O.Y.T. c. 18, s. 7. Clerk to file copy of security of office.

8. Such security shall be available to and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such clerk. C.O.Y.T. c. 18, s. 8. Security may be sued upon.

9. A copy of such security purporting to be such, certified by the Territorial Secretary, shall be received in all courts as *prima facie* evidence of the due execution and contents thereof without further proof. C.O.Y.T. c. 18, s. 9. Certified copy evidence.

Deputy clerk
to give
security.

10. The deputy clerk before entering upon the duties of his office shall give security to the Commissioner to the satisfaction of the Commissioner in the sum of one thousand dollars for the due performance of the duties and obligations of his said office and for the due payment over to the persons entitled thereto of all moneys received by him by virtue of his said office and any person sustaining damage by reason of non-performance or improper or undue performance of any such duties or obligations or by reason of the non-payment over of any such moneys shall have and possess a right of action against such deputy clerk and his sureties upon such security for the amount of such damages. C.O.Y.T. c. 18, s. 10.

Right of
action on
security.

Clerk not
responsible
for deputy.

11. The clerk shall not after the giving of such security by his said deputy be answerable or accountable for the acts or non-performance or improper performance of the duties and obligations of his said deputy. C.O.Y.T. c. 18, s. 11.

Deputy clerk
to take oath
of office.

12. Every deputy clerk appointed under the provisions of any Ordinance of the Territory in that behalf shall upon appointment and before entering upon the duties of his office take the oath of office in the form in the schedule to this Ordinance and also the oath of allegiance.

2. All such oaths shall be filed in the office of the Territorial Secretary immediately after being taken. C.O.Y.T. c. 18, s. 12.

VACANCY.

Disposition of
books, etc.,
when
vacancy
occurs.

13. Whenever a vacancy occurs in the office of clerk and until the same is filled by the proper authority the books, records, moneys and other matters and things the property of the Government of the Territory shall be handed over by the person in whose possession or control they are to such person as the court appoints to receive the same and such appointee during such vacancy is authorized to perform the duties of the clerk of the court.

Forcible
recovery of
office books,
etc.

2. Without prejudice to any other powers of the court or judge by way of attachment, committal or otherwise, the judge may on summary application make an order directing the sheriff or other person named by him to take and seize such books, records, moneys and other things wheresoever found and for such purpose may authorize such sheriff or other person to break and open any doors and windows, buildings or inclosures and such order shall be full justification to such sheriff or other person for any action taken in pursuance thereof. C.O.Y.T. c. 18, s. 13.

PROHIBITION FROM PRACTICE AS SOLICITOR.

Clerk or
deputy not to
act as
solicitor.

14. No clerk or deputy clerk while holding office shall practise as a barrister or solicitor of the Territory or be a member of any firm of barristers or solicitors practising in the Territory. C.O.Y.T. c. 18, s. 14.

2. This section shall not apply to such clerk while acting as Legal Adviser for the Commissioner of the Yukon Territory and for the Yukon Council, and only when the matter in litigation affects any interest or property of the Yukon Territory, or any Department or interest of the public service, or property of the Dominion of Canada and for such legal services the Legal Adviser shall not be entitled to any fees. No. 4, 1911, s. 1.

Shall not apply to clerk acting as Legal Adviser acting for Commissioner of Territory or Dominion Government.

BOOKS AND FORMS.

15. All necessary books and forms required for use in the clerk's or deputy clerk's offices may be provided by and shall be the property of the Yukon Government. C.O.Y.T. c. 18, s. 15.

Books and forms.

SCHEDULE.

DEPUTY CLERK'S OATH OF OFFICE.

I, _____ do swear that I will truly and faithfully perform the several duties of deputy clerk of the Territorial Court of the Yukon Territory _____ to which I have been appointed without fear, favour or malice. So help me God.

Sworn before me at
 in the Yukon Territory,
 this _____ day of _____ 19 _____ }

CHAP 14.

An Ordinance respecting Chemists and Druggists.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as the *Pharmaceutical Chemists' Ordinance*. C.O.Y.T. c. 50, s. 1.

REGISTERED QUALIFICATIONS.

Pharmaceutical register. **2.** The Territorial Secretary shall cause to be prepared a register to be called a "Pharmaceutical Register" for the Yukon Territory. C.O.Y.T. c. 50, s. 2.

Names to be entered in register. **3.** He shall forthwith cause to be entered in such register the date of entry and name of:—

Persons who have practised. **1.** Any person who shall produce satisfactory evidence that he has been engaged in the actual practice of the profession or business of a chemist and druggist or dispensing chemist or apothecary in the Yukon Territory on or before the 12th day of September, 1902, and who was then a resident of the Yukon Territory.

Persons having certificates from British college. **2.** Any person possessing a diploma or certificate of permission to practise as a pharmaceutical chemist in any part of His Majesty's Dominions by any Pharmaceutical Association or College of Pharmacy empowered by law to grant such diplomas or certificate.

Persons having served five years. **3.** Any person on the 10th of July, 1903, serving or acting as clerk or manager in any drug store in the Yukon Territory who has served at least five years with a pharmaceutical chemist who has passed any examination prescribed by or under the provisions of the Pharmaceutical Chemists Ordinance, Chapter 50 of the Consolidated Ordinances, 1902, or of this Ordinance, and in all other respects complied with the provisions of said Chapter 50 or of this Ordinance and produces from such pharmaceutical chemist with whom he has served a certificate of service and of good character. C.O.Y.T. c. 50, s. 3; No. 4, 1903, s. 1.

Fee of \$25 to be paid. **4.** The Territorial Secretary shall enter in such register no person until he has paid to the Territorial Treasurer a fee of \$25. C.O.Y.T. c. 50, s. 4.

No person to carry on business unless registered. **5.** No person shall carry on business in the Yukon Territory as a pharmaceutical chemist unless his name has been entered in such register under the provisions of this Ordinance. C.O.Y.T. c. 50, s. 5.

6. No name shall be entered in the register except the Territorial Secretary is satisfied by proper evidence that the person claiming is entitled to be registered, and any entry fraudulently or incorrectly made may be erased by the Territorial Secretary. C.O.Y.T. c. 50, s. 6.

Name not be entered on register unless entitled.

7. Upon any person being registered as aforesaid he shall be entitled to receive a certificate in Form B, in schedule 1 hereto or to like effect, signed by the Territorial Secretary and shall be entitled to a similar certificate annually upon payment of the annual fee as provided in section 14 of this Ordinance. C.O.Y.T. c. 50, s. 7.

Person registered to receive certificate.

EXAMINATION OF STUDENT CLERKS.

8. The Commissioner may from time to time appoint a board of two or more examiners in pharmacy who shall prepare all examination papers and make rules to govern the qualification, service and registration of clerks as qualified pharmaceutical chemists, subject however to the approval of the Commissioner. C.O.Y.T. c. 50, s. 8.

Commissioner to appoint board of examiners.

9. Every candidate for examination shall produce evidence that he has served at least two years in a drug store in the Yukon Territory and shall pass an examination which shall embrace chemistry, pharmacy, botany, materia medica, reading and translating prescriptions and practical dispensing and such other subjects as may be prescribed under the provisions of this Ordinance, and upon producing the required certificates shall be registered as a pharmaceutical chemist. C.O.Y.T. c. 50, s. 9.

Candidates to produce evidence of having served two years and passed examinations.

10. The examination referred to shall take place and be regulated by such rules and regulations as may be in force at the time such examination is held, and all candidates for the same shall pay such fees as may be imposed by such rules or regulations. C.O.Y.T. c. 50, s. 10.

Examinations how regulated.

11. The board of examiners shall have authority notwithstanding anything contained in this Ordinance to prescribe the subjects which candidates for competency shall be examined in, and to establish a scale of fees to be paid by persons applying for examination, subject, however, to the approval of the Commissioner. C.O.Y.T. c. 50, s. 11.

Board to prescribe subjects.

Fix fees.

12. A certificate of the examiners recommending the registration of any clerk as qualified and entitled to be registered as a qualified pharmaceutical chemist shall entitle such clerk to be registered on payment of the registration fee.

Certificate of examiners.

2. "Clerk" under this Ordinance shall mean any person who has given notice in accordance with section 13 of this Ordinance. C.O.Y.T. c. 50, s. 12.

"Clerk."

SERVICE OF CLERKS—NOTICE.

Clerks to
give notice.

13. Every person who proposes to become entitled to be entered on the register by reason of services rendered as a clerk in the Yukon Territory, to be performed after the passing of this Ordinance shall give notice to the Territorial Secretary within two months after the passing hereof or the commencement of such service as a clerk and such notice shall state:

- (a) The name and place of business of the registered chemist or druggist with whom he is serving;
- (b) The date of commencement of his service;
- (c) The full name and age of the person giving such notice; and
- (d) Similar particulars of any previous service claimed.

What service
to be allowed.

2. Any person having before the passing of this Ordinance served as a clerk in the drug store of any registered druggist or chemist carrying on business as such in the Yukon Territory for a period of two years or under shall be allowed such service as if the same had been rendered after the passing of this Act, upon making satisfactory proof of such service.

Record of
notices.

3. The Territorial Secretary shall keep a record of all such notices and of the particulars required to be set forth as provided in the next preceding section. C.O.Y.T. c. 50, s. 13.

ANNUAL FEE.

Annual fee.

14. Every person whose name is entered on the chemists' or druggists' register shall on or before the 30th day of June in each year pay the Territorial Treasurer a fee of \$10 and be entitled to a receipt therefor. C.O.Y.T. c. 50, s. 14.

PHARMACEUTICAL CHEMISTS—PRESCRIPTIONS.

Only
registered
person to be
pharmaceu-
tical chemist.

15. Any person registered and no other shall be entitled a "Pharmaceutical Chemist," and no other except a pharmaceutical chemist as aforesaid or his clerk shall be authorized to compound as aforesaid prescriptions of medical practitioners or other persons. C.O.Y.T. c. 50, s. 15.

REMOVAL OF NAME FROM REGISTER.

Names of
persons not
paying fee
to be erased.

16. The Territorial Secretary shall erase from such register the name of every person who does not on or before the 30th day of June in any year produce such receipt signed by the Treasurer, or other satisfactory evidence showing payment of such annual fee and the name of any such person may be re-entered on the register upon payment to the Treasurer of a fee of \$25 on the production of the receipt of the Treasurer therefor or giving other satisfactory proof of such payment to the Territorial Secretary. C.O.Y.T. c. 50, s. 16.

Name of
person
making false

17. Any person who makes any false representation for the purpose of securing the entry in the register of his name or in the course of applying to have his name entered in the

register shall forfeit the right to have his name entered in the register and if the same has been entered in the register it shall be erased therefrom and a note made by the Territorial Secretary of the cause of such erasure. C.O.Y.T. c. 50, s. 17. representa-
tion to be
erased.

18. Every registered pharmaceutical chemist who has after due inquiry been adjudged or found by the board of examiners appointed by the Commissioner to be guilty of infamous conduct in any professional respect, or, If guilty of
unprofes-
sional
conduct to
be erased.

2. To have made any material misrepresentation to the Territorial Secretary in order to secure his name on the register, or, Or of misre-
presentation.

3. To have been convicted of any crime punishable by imprisonment in the penitentiary, shall forfeit the right to have his name entered on the register and his name if entered shall be erased from the register and a note made therein by the Territorial Secretary stating the reasons for such erasure and thereupon his name shall be published in the *Yukon Official Gazette* as having been so erased. C.O.Y.T. c. 50, s. 18. Or if con-
victed of
crime.

PUBLICATION OF LIST.

19. The Territorial Secretary shall on or before the 10th day of July in each year publish in the *Yukon Official Gazette* a list of the persons whose names are entered in the chemists' and druggists' register and who are entitled to carry on business as pharmaceutical chemists. C.O.Y.T. c. 50, s. 19. List to be
published.

SALE OF POISONS.

20. It shall be unlawful to keep open any shop for dispensing, retailing or compounding poisons other than those contained in schedule 3 hereto, or to assume the title "chemist and druggist" or "pharmaceutical chemist" or "druggist" or "pharmacist" or "apothecary" or "dispensing chemist" or "dispensing druggist" in any part of the Yukon Territory unless such person is registered under provisions of this Ordinance. C.O.Y.T. c. 50, s. 20. No person to
sell poisons
unless
registered.

21. No person selling any article or articles in violation of the provisions of this Ordinance shall recover any charges in respect thereof in any court of law or equity nor shall any branch drug business be carried on by a pharmaceutical chemist unless he employs in it a duly registered pharmaceutical chemist. C.O.Y.T. c. 50, s. 21. Cannot
recover price.

22. Any person transgressing any other of the provisions herein contained or selling any poison in violation thereof shall, except as otherwise provided, on the first offence incur a penalty of \$50 and costs of prosecution and for each offence subsequent to such conviction a penalty of \$100 and costs of prosecution, to be recovered in a summary manner before any justice of the peace. C.O.Y.T. c. 50, s. 22. Penalty.

PENALTIES—ONUS OF PROOF.

- Penalty for. **23.** Every person whose name is not registered under the provisions of this Ordinance who,—
- Keeping shop. 1. Keeps open shop for the sale of any drugs or compounds any prescription for gain or hope of reward, or
- Pretending to be a chemist. 2. Wilfully or falsely pretends to be a pharmaceutical chemist or to be registered under the provisions of this Ordinance; or,
- Taking name. 3. Takes or uses any name, title, addition or description implying or calculated to lead people to infer that his name is registered under this Ordinance; or,
- Advertising. 4. Professés by public advertisement, card, sign or otherwise to be entitled to carry on business as a pharmaceutical chemist or to lead people to infer that he is so qualified in the Yukon Territory,
- shall be liable to a penalty of \$50 and every day on which such offence occurs shall be deemed a separate offence. C.O.Y.T. c. 50, s. 23.

What deemed poisons. **24.** The several articles named and described in schedules 2 and 3 hereof shall be deemed poisons within the meaning of the provisions of this Ordinance, and the board of examiners may from time to time by resolution signed by at least two declare that any other articles in such resolution named ought to be deemed a poison within the meaning hereof, subject to the approval of the Commissioner and if such approval is given then the Territorial Secretary shall give notice of such resolution and approval in the *Yukon Official Gazette*, and on the expiration of two months after publication the article or articles named in the resolution shall be deemed to be a "poison" within the meaning hereof and the same shall be subject to the provisions herein contained. C.O.Y.T. c. 50, s. 24.

Unlawful to sell poisons unless marked **25.** It shall be unlawful to sell any poison named in the first part of the said schedule 2 either by wholesale or retail, unless the bottle, vessel, wrapper or cover in which such poison is contained is distinctly labelled with the name of the article and the word "Poison;" and if sold by retail then also with the name and address of the establishment in which such poison is sold; and it shall be unlawful to sell any poison mentioned in the first part of schedule 2, to any person unknown to the seller, unless introduced by some person known to the seller; and on every sale of such article the person actually selling shall before delivery make an entry in a book for that purpose in form C in schedule 1 hereof, stating the date of such sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is stated by the purchaser to be required, and the name of the person, if any, who introduced him, to which entry the name of the purchaser shall be affixed.

2. Any person selling the drugs mentioned in schedule 3 hereof shall also comply with the provisions of this section. C.O.Y.T. c. 50, s. 25.

26. Every person who wilfully procures or attempts to procure his name to be registered under this Ordinance by making or producing or causing to be made or produced any false representation or declaration, either verbally or in writing and every person knowingly aiding or assisting him therein shall be liable to a penalty of \$200. C.O.Y.T. c. 50, s. 26.

Penalty for procuring name to be registered by false representation.

27. Every penalty under this Ordinance shall be recoverable with costs and may be sued for and recovered in the Territorial Court in the same manner as a private debt by any person whose name is registered under this Ordinance, and any sum so recovered shall belong to the person instituting such action or the same may be recovered in a summary manner before any justice of the peace. C.O.Y.T. c. 50, s. 27.

Penalty may be sued for.

28. Upon the trial of any action or on any prosecution hereunder it shall be incumbent on the defendant or person charged to prove that he is entitled to sell or keep open shop for compounding medicines or retailing poisons and to assume the title of chemist and druggist or other title to the like effect; and the production of a certificate purporting to be under the hand of the Territorial Secretary showing that he is so entitled shall be *prima facie* evidence that he is so entitled. C.O.Y.T. c. 50, s. 28.

Defendant must produce right to sell.

29. No action or prosecution shall be commenced after one year from the date of the offence or commencement of the cause of action. C.O.Y.T. c. 50, s. 29.

Limitation of action.

EXCEPTIONS FROM OPERATION OF ORDINANCE.

30. Nothing herein contained shall extend to interfere with the privileges conferred upon physicians and surgeons by any Ordinance relating to the practice of medicine and surgery in the Yukon Territory, and they may be registered as pharmaceutical chemists without undergoing any examination; nor shall it prevent any person whatever from selling goods of any kind to any person legally authorized to carry on business as an apothecary or chemist or druggist, or the profession of a doctor of medicine, physician or surgeon, nor to any veterinary surgeons, nor to prevent the members of such professions supplying their patients such medicines as they may require; and upon the decease of any person legally authorized and actually carrying on the business of chemist and druggist at the time of his death it shall be lawful for the executors, administrators or trustees of the estate of such person to continue such business so long only as such business shall be bona fide conducted by a pharmaceutical chemist. C.O.Y.T. c. 50, s. 30.

Not to interfere with physicians.

SCHEDULE 1, FORM A.

NOTICE OF SERVICE BY CLERK.

Take notice that I (A.B.) intend serving as a clerk in the drug store of....., a registered pharmaceutical chemist carrying on business at..... in the Yukon Territory, that I commenced service on the....day of..... A.D..... and that previously I served as clerk with..... a duly registered chemist carrying on business at..... in the Yukon Territory from the....day of..... A.D., 19 ..

Dated at..... in the Yukon Territory this....day of A.D., 19 ..
 (Signed)

Clerk.

To the Territorial Secretary,
 Yukon Territory.

FORM B.—Sec. 7.

CERTIFICATE OF REGISTRATION.

I hereby certify that C. D. being entitled to registration by having..... was on the....day of....A.D. 19 .., duly registered as a pharmaceutical chemist and is authorized to carry on business as a chemist and druggist in the Yukon Territory from the....day.....A.D., 19..... to the....day of.....A.D. 19 ..

(Signed.)
Territorial Secretary.

(Seal.)

SCHEDULE 1.—FORM C.—Secs. 25.

POISONS SALES REGISTER.

Date.	Name and Address of Purchaser.	Name and Quantity of Poison Sold.	Purposes for which Poison Sold.	Signature of Purchaser.	Signature of person Introducing Purchaser.	Signature of Seller.

SCHEDULE 2.—Sec. 24 and 25.

LIST OF POISONS—PART 1.

Aconite and its preparations.
Arsenic and its preparations.
Belladonna and its preparations.
Cantharides.
Corrosive sublimate.
Cyanide of potassium and all metallic cyanides.
Ergot of rye and its preparations.
Essential oil of almonds unless deprived of prussic acid.
Euphorbium.
Opium and its preparations.
Prussic acid.
Savin and its oil.
St. Ignatius bean.
Strychnine and its preparations.
Tartar emetic.
Oxalic acid.
Chloral hydrate.
Chloroform and ether.
Croton oil and seeds.

PART 2.

Acetate of lead.
Calabar beans.
Carbolic acid.
Elaterium.
Goulard's extract.
Hellebore.
Henbane and its preparations.
Iodine.
Phosphorus.
Red and white precipitate.
Verdigris.
Sulphate of zinc.

SCHEDULE 3.—Secs. 20 and 21.

Cantharides blister.
Paregoric in original packages.
Acetate of lead.
Carbolic acid.
Hellebore.
Paris green.
Red precipitate.
Sulphate of zinc.

repealed

CHAP. 15.

An Ordinance respecting Choses in Action.

Assignment of debts and choses in action.

1. Every debt and any chose in action arising out of contract shall be assignable at law by any form of writing which shall contain apt words in that behalf but subject to such conditions and restrictions in respect to the right of transfer as may appertain to the original debt or as may be connected with or be contained in the original contract and the assignee thereof may bring an action thereon in his own name as the party might to whom the debt was originally owing or to whom the right of action originally arose or he may proceed in respect of the same as though this Ordinance had not been passed. C.O.Y.T. c. 37, s. 1.

"Assignee."

2. The term "assignee" in the next preceding section includes any person now being or hereafter becoming entitled to any first or subsequent assignment or transfer or any derivative title to a debt or chose in action and possessing, at the time of the suit or action being instituted, the whole and entire beneficial interest therein and the right to receive the subject or proceeds thereof and to give effectual discharge therefor. C.O.Y.T. c. 37, s. 2.

Action for debt on assignment.

3. The plaintiff in any action or suit for the recovery of the subject of any assignment made in conformity with the two next preceding sections shall in his statement of claim set forth briefly the chain of assignments showing how he claims title but in all other respects the proceedings may be the same as if the action was brought in the name of the original creditor or of the person to whom the cause of action accrued. C.O.Y.T. c. 37, s. 3.

Equities of debtor against assignor before notice.

4. In case of any assignment of a debt or chose in action arising out of contract and not assignable by delivery such assignment shall be subject to any defence or set-off in respect of the whole or any part of such debt or chose in action arising out of contract existing at the time of the notice of assignment to the debtor or person sought to be made liable in the same manner and to the same extent as such defence or set-off would be effectual in case there had been no assignment thereof and such defence or set-off shall apply as between the debtor and any assignee of such debt or chose in action arising out of contract. C.O.Y.T. c. 37, s. 4.

Assignee's rights after notice to debtor.

5. In case of any assignment made in conformity with the provisions hereof and notice thereof given to the debtor or person liable in respect of the subject of such assignment the

assignee shall have, hold and enjoy the same free of any claims, defences or equities which may have arisen subsequent to such notice by any act of the assignor or otherwise. C.O.Y.T. c. 37, s. 5.

6. The bonds or debentures of corporations made payable to bearer or any person named therein or bearer may be transferred by delivery alone and such transfer shall vest the property in such bonds or debentures in the transferee or in the holder thereof, and any such holder may bring any action or suit on or in respect of any such bonds or debentures in his own name. C.O.Y.T. c. 37, s. 6. Securities transferable by delivery.

7. The provisions of the preceding sections shall not be construed to apply to bills of exchange or promissory notes or instruments which are negotiable or in respect of which the property therein passes by mere delivery. C.O.Y.T. c. 37, s. 7. Negotiable instruments.

CHAP. 16.

An Ordinance respecting the Collection of Debts.

Title. **1.** This Ordinance may be cited as *The Collection Ordinance*. No. 6, 1904, s. 1.

Interpretation **2.** In this Ordinance, unless the context otherwise requires,
 "Judge." (a) The expression "Judge" means a judge of the Territorial Court of the Yukon Territory;

"Clerk." (b) The expression "clerk" means the clerk of the said Court and includes any deputy of said clerk;

"Judgment." (c) The expression "judgment" means any adjudication or order directing the payment of money, whether debt, damages or costs, and includes judgments obtained in any court in the Territory, or order of the Gold Commissioner in any protest tried before him, or before any police magistrate or justice of the peace;

omitted "Amount due on the judgment." (d) The expression "amount due on the judgment" includes the costs incurred subsequently to those forming part of the judgment, and which may be recovered by an execution issued upon the judgment;

"Creditor." (e) The expression "creditor" means the person or corporation entitled to receive the amount due on the judgment;

"Debtor." (f) The expression "debtor" means the person liable to pay the amount due on the judgment;

"Debt." (g) The expression "debt" includes any item or part of the debt forming the subject of the judgment;

omitted "Liability." (h) The expression "liability" includes part of a liability forming the subject of the judgment. No. 6, 1904, s. 2.

Judgment summons. **3.** Any party having an unsatisfied judgment may procure from the clerk a judgment summons in the Form No. 1 in the schedule to this Ordinance or to the like effect requiring the debtor to appear at the time and place therein expressed to be examined upon oath touching his estate and effects and the manner and circumstances under which he contracted the debt or incurred the damages or liability forming the subject of the judgment and as to the means and expectations he then had and as to the property and means he still has of discharging the said debt, damages or liability and as to the disposal he has made of any property; and such judgment summons shall be served in the same manner as a writ of summons. Provided that in case the judgment is against two or more debtors such debtors may be examined touching their joint or partnership property, estate and effects as well as the separate property, estate and effect of each of them. And provided that if upon such examination it appears to the satisfaction of the Judge that the debt upon which the judgment was obtained was incurred elsewhere than

Two or more debtors may be examined as to joint or partnership property.

If debt incurred outside Yukon Territory no order to be made.

in the Yukon Territory, no order shall be made against the judgment debtor. No. 6, 1904, s. 3.

4. Any party having an unsatisfied judgment, as set forth in paragraph 3 hereof, may procure from the clerk a second judgment summons, and any further or subsequent judgment summons, upon filing with the clerk of the Court an affidavit that the judgment is unsatisfied, in whole or in part, and that the debtor was not examined on the judgment summons that issued immediately previous to the one applied for, or that 90 days have elapsed since the debtor was examined under a judgment summons in the case in which the judgment summons is being applied for. No. 3., 1910, s. 1.

Second judgment summons may issue if debtor not examined under previous one, or 90 days elapsed. Affidavit to be filed.

5. The person obtaining any such summons and all witnesses whom the Judge thinks requisite may be examined upon oath touching the inquiries authorized to be made as aforesaid. No. 6, 1904, s. 4; No. 3, 1910, s. 2.

All witnesses required may be examined.

6. The examination shall be held in the Judge's Chambers, unless the Judge otherwise orders. No. 6, 1904, s. 5.

Examination in Judge's Chambers.

7. The Judge may adjourn the examination from time to time.

Judge may adjourn examination.

2. The Judge may commit the debtor to jail until the time fixed for the adjourned hearing, unless the debtor enters into a bond in favour of the creditor with securities to the satisfaction of the Judge to attend at the time and place to which such examination is adjourned. No. 6, 1904, s. 6.

May commit debtor to jail.

8. The costs of and incidental to such judgment summons shall be costs in the cause, unless the Judge otherwise directs. No. 6, 1904, s. 7.

Costs in cause unless otherwise directed.

9. If the party so summoned

(a) Does not attend as required by the summons or show a sufficient reason for not attending; or

(b) If he attends and refuses to be sworn, or to declare any of the things aforesaid; or

(c) If it appears to the Judge either by examination of the party or other evidence

If party summoned does not attend, etc.

(i) That the debt which forms the subject of the judgment was fraudulently contracted; or

(ii) That the credit was obtained under false pretences; or

(iii) That the debtor contracted such debt without having at the time any reasonable expectation of being able to pay the same; or

(iv) That any other fraudulent circumstances have occurred in connection with the contracting of such debt; or

(v) That the debtor has made any fraudulent gift, delivery, transfer or disposition of his property real and personal or mixed, or any portion thereof; or

(vi) In cases of tort, including libel, slander;

Judge may
commit to
jail.

The Judge may, if he thinks fit, order such party to be committed to a common jail for any period not exceeding one year. No. 6, 1904, s. 8.

Judge may
order pay-
ment by in-
stalments.

10. If upon such examination it appears to the satisfaction of the Judge that the debtor is possessed of means or income sufficient, therefor he may make an order requiring the debtor to pay the amount due on the judgment by instalments.

Order to state
amount of in-
stalments and
time and place
of payment.
Judge may
order pay-
ment of
costs of
judgment
summons.

2. Such order shall state the amount of such instalments and the time when and the place where the same shall be paid.

If debtor
fails to pay
instalment
Judge may
order com-
mitment.

3. The Judge may also, in his discretion, direct that the debtor shall pay the costs of and incidental to the judgment summons and proceedings thereon with the first or any other instalment, and it shall be sufficient to indicate the amount of such costs upon the order without further taxation.

4. If the debtor fails to pay any of the instalments so ordered the creditor may, upon his own affidavit or the affidavit of his solicitor, agent or some other person on his behalf having a full knowledge of the matter proving such default, obtain *ex parte* from a Judge an order committing the debtor to a common jail for a period not exceeding one year.

Order for
commitment
to be de-
livered to
the sheriff,
who shall
arrest
debtor and
convey him
to common
jail.

5. Whenever any order for commitment as aforesaid has been made, such order shall be delivered to the Sheriff of the Yukon Territory, and such Sheriff or the Deputy of such Sheriff or any bailiff, constable or peace officer to whom the said Sheriff may hand the said order for execution shall arrest the person against whom such order has issued and convey him to a common jail and every jailer or keeper of such jail shall receive and keep the person so arrested until discharged under the provisions of this Ordinance or otherwise by due course of law.

Person
imprisoned
who satis-
fies debt to
be dis-
charged from
custody.

6. Any person imprisoned under this Ordinance who has satisfied the debt, demand and liability and the amount due on the judgment, shall upon the certificate of such satisfaction signed by the clerk, be discharged from custody.

Judge may
order dis-
charge of
debtor from
custody.

7. A Judge may upon any ground arising subsequent to the order of commitment that appears to him sufficient, direct that the debtor be discharged from custody. No. 6, 1904, s. 9.

Imprison-
ment not to
extinguish
debt.

11. No imprisonment under this Ordinance shall impair the judgment or extinguish the debt or cause of action on which a judgment has been obtained or deprive the creditor of any right to take out execution against the debtor. No. 6, 1904, s. 10.

No judg-
ment sum-
mons to issue
until writ of
execution
against
goods is
returned
nulla bona.

12. Notwithstanding the provisions of this Ordinance in the case of a judgment obtained in the Territorial Court of the Yukon Territory for a sum exceeding \$100 no judgment summons shall issue before an execution against the goods and chattels of the debtor has been returned *nulla bona*. No. 6, 1904, s. 11.

Upon the
issuing of
judgment
summons
the action
or proceed-
ing shall be

13. Upon the issuing of a judgment summons the action or proceeding in which the judgment was obtained shall for the purposes of this Ordinance become a cause, action or matter in the Territorial Court of the Yukon Territory, and subject to the provisions of this Ordinance the practice and procedure and the costs and fees payable in connection therewith shall

be those now in force in the said Territorial Court under the lowest scale of costs and fees. No. 6, 1904, s. 12.

14. No counsel fee shall be allowed on any judgment summons or on any proceedings thereon. No. 6, 1904, s. 13.

15. The Police Magistrate at Whitehorse may in respect to judgments entered at Whitehorse perform all the duties and exercise all the powers and jurisdiction of a Judge under this Ordinance. No. 6, 1904, s. 14.

16. The cost of the maintenance of any such debtor, not to exceed \$1.50 per day, who may be committed to a common jail by the Judge, under the provisions of this Ordinance, shall be borne by the creditor, who shall deposit the amount thereof with the Sheriff of the Yukon Territory before the order for such commitment is executed, and the cost of such maintenance shall be added to the judgment debt. No. 2, 1911, s. 1.

17. No order of commitment shall have any force or effect after the expiration of three months from the date thereof, unless the same shall have been duly executed within such period: Provided, this section shall not apply in cases where the Order cannot be executed owing to the absence of the debtor from the Yukon Territory. No. 2, 1911, s. 1.

proceeding in Territorial Court.

No counsel fee allowed.

Police Magistrate at Whitehorse to have jurisdiction of Judge.

Cost of maintenance of debtor to be paid by creditor.

Maintenance added to debt.

Order of commitment to be in force only 3 months, unless executed, unless debtor absent from Territory.

SCHEDULE.

FORM NO. 1.—JUDGMENT SUMMONS.

(Style of cause)
To (name of debtor)

WHEREAS it has been made to appear that (creditor's name) is entitled to receive from you \$ in respect to a certain judgment (or order) of the Court, of which he has been unable to obtain satisfaction:

THEREFORE you are hereby summoned to attend an examination before at the Court House at in the Yukon Territory on day the day of A. D. 19 at the hour of o'clock in the noon there to be dealt with as in "The Collection Ordinance" is provided:

AND TAKE NOTICE that in the event of your failing to attend at such time and place, you may be arrested and committed to the common jail.

Dated at in the Yukon Territory this day of A. D. 19
Clerk of the Territorial Court.

CHAP. 17.

An Ordinance respecting Commissioners to administer Oaths.

Barristers
to be
com-
mis-
sioners.

1. All barristers entitled to practise in the Yukon Territory and all justices of the peace, are hereby empowered to administer oaths and take and receive affidavits, declarations and affirmations in the said Territory. C.O.Y.T. c. 22, s. 1.

Commis-
sioner may
appoint
com-
mission-
ers.

2. The Commissioner of the Yukon Territory may, by commission under his hand and seal from time to time, empower such and so many other persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations within the said Territory, and may revoke the commission or commissions of any such persons and such revocation shall operate as a revocation for all purposes. C. O. Y.T. c. 22, s. 2.

Commis-
sioner may
appoint
com-
mis-
sioners out-
side the
Territory.

3. The Commissioner may, by a commission under his hand and the seal of the Yukon Territory, from time to time empower such and so many persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations without the Yukon Territory, in or concerning any cause, matter or thing depending or in any wise concerning any of the proceedings in the Territorial Court of the Yukon Territory, and every oath, affidavit, declaration, or affirmation taken or made as aforesaid shall be as valid and effectual and shall be of the like force and effect to all intents and purposes as if such oath, affidavit, declaration or affirmation had been administered, taken, sworn, made or affirmed before a commissioner for taking affidavits within the Yukon Territory, or other competent authority of the like nature. C.O.Y.T. c. 22, s. 3.

Style of com-
missioners.

4. The commissioners so appointed shall be styled "Commissioners for taking affidavits in and for the Yukon Territory." C.O.Y.T. c. 22, s. 4.

CHAP. 18.

An Ordinance Relating to Joint-Stock Companies.

SHORT TITLE.

1. This Ordinance may be known and cited as *The Companies Ordinance*. No. 15 of 1914, s. 1. Short title.

INTERPRETATION, ETC.

2. In this Ordinance and in all letters patent and supplementary letters patent issued under it, unless the context otherwise requires, the following expressions shall have the meanings hereby assigned to them, that is to say:— Interpre-
tation.

“Existing company” means a company formed and registered under some former public Ordinance of this Territory; “Existing
company.”

“Company” means a company formed and registered under this Ordinance or an existing company; “Company.”

“Extra-territorial company” means any duly incorporated company other than a company incorporated under the laws of the Yukon Territory or the Parliament of Canada; “Extra-
territorial
company.” 1913

“Articles” means the articles of association of a company as originally framed or as altered by special resolution, including so far as they apply to the company, the regulations contained (as the case may be) in Table A in the First Schedule to this Ordinance, or in such table as altered in pursuance of the provisions of this Ordinance, and shall include the by-laws of any existing company except by-laws made by directors; “Articles.”

“Memorandum” means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Ordinance; “Memoran-
dum.”

“Charter” of a company means the Statute, Ordinance, or other provision of law by or under which the company is incorporated, and any amendments thereto applying to such company, whether of this Territory or of any Province, or of the Dominion, or of the United Kingdom, or of any colony or dependency thereof, or of any foreign State or country, the memorandum of association or agreement or deed of settlement of the company, and the letters patent or charter of incorporation, and the license or certificate of registration of the company, as the case may be; “Charter.”

“Charter and regulations” of a company means the charter of the company and the articles of association, and all by-laws, rules, and regulations of the company, and all resolutions and contracts relating to or affecting the capital and assets of the company; “Charter
and re-
gulations.”

"Council."	"Council" means the Council of the Yukon Territory;
"Document."	"Document" includes summons, notice, order, and other legal process and registers;
"Share."	"Share" means share in the share capital of the company, and includes stock except where a distinction between stock and shares is expressed or implied;
"Debenture."	"Debenture" includes debenture stock;
"Books and papers."	"Books and papers" and "books or papers" include accounts, deeds, writings, and documents;
"The Registrar."	"The Registrar" means the Registrar of Joint-Stock Companies or other officer performing under this Ordinance the duty of registration of companies;
"The Court."	"The Court," used in relation to a company, means the Territorial Court of the Yukon Territory;
"General rules."	"General rules" means general rules made under this Ordinance, and includes forms;
"Prescribed."	"Prescribed" means prescribed by general rules or by the Commissioner of the Yukon Territory or other lawful authority;
"Director."	"Director" includes any person occupying the position of director by whatever name called;
"Prospectus."	"Prospectus" means any prospectus, notice, circular, advertisement, or other document offering to the public for subscription or purchase any shares or debentures of a company;
"Real estate" or "land."	"Real estate" or "land" shall include all messuages, lands, tenements, hereditaments of any tenure, leaseholds, and all immovable property of every kind;
"Shareholder."	"Shareholder" means every subscriber to or holder of shares in a company, and shall extend to and include the personal representatives of such shareholder;
"Subscriber."	"Subscriber" means any person who subscribes for shares in the memorandum of association of a company;
"Company limited by shares."	"Company limited by shares" shall include a company incorporated under Part V. of this Ordinance.

In addition to the above, the following words are defined in this Ordinance:—

"Company"—Secs. 110A, 129 (3), 170.

"A company limited by shares," "a company limited by guarantee," "an unlimited company"—Sec. 12.

"Contributory"—Sec. 210.

"Deed of settlement"—Sec. 314 (4).

"Expert"—Sec. 93 (5).

"Joint-Stock company"—Sec. 302.

"Member"—Sec. 32.

"Minimum subscription"—Sec. 94 (2).

"Private company"—Sec. 130.

"Promoter"—Sec. 93 (5).

"Registered office"—Sec. 70.

"Resolution for reducing share capital"—Sec. 53 (2).

"Share warrant"—Sec. 45.

"Special and extraordinary resolution"—Sec. 77 (1), (2).

"Statutory meeting"—Sec. 73 (1).

"Statutory report"—Sec. 73 (2).

No. 15 of 1914, s. 2.

DIVISION OF ORDINANCE.

3. This Ordinance is divided into thirteen parts, relating to the following subjects:—

Division of Ordinance.

PART.	PAGE.
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II.—Constitution and Incorporation.....	112
III.—Distribution and Reduction of Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors	119
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No. 15 of 1914, s. 3.

PART I.

PRELIMINARY.

4. The Commissioner of the Yukon Territory, from time to time, may, by Order,—
- (a) Appoint such person or persons as he shall think proper to act as Registrar or Deputy Registrar of Joint-stock Companies: Powers of Commissioner.
Appointment of Registrar and Deputy Registrar of Companies.
 - (b) Make and establish such general rules and orders, not inconsistent with this Ordinance, as may appear necessary or expedient for the purpose of giving full effect to the provisions of this Ordinance, or any of them, and for prescribing the course to be adopted in the course of official business under this Ordinance: Rules.
 - (c) Make such alterations in the tables and forms contained in the First Schedule hereto (so that it does not increase the amount of fees payable to the Registrar in the said Schedule mentioned) and in the forms in the Second Schedule, or make such additions to the last-mentioned forms as may be requisite; but no alteration made by the Commissioner in the Table A in the First Schedule shall affect any company registered prior to the date of such alteration, or repeal, as respects such company, any portion of that table. Alterations in forms. No. 15 of 1914, s. 4.

Registrar's
duty to
enforce
compliance.

5. It shall be the duty of the Registrar to enforce compliance with the several provisions, regulations, and stipulations contained in this Ordinance or in any regulations made thereunder, but such duty shall not affect the right of any other person to compel compliance with the provisions hereof. No. 15 of 1914, s. 5.

Forms to
be used.

6. The forms set forth in the Second Schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer. No. 15 of 1914, s. 6.

Railway and
insurance
companies
not to be
incorporated.

7. No company shall be incorporated under this Ordinance for the construction and working of railways, or for carrying on the business of banking or insurance, or steamboat, canal, telegraph, or irrigation companies. No. 15 of 1914, s. 7.

Definition of
insurance
company.

8. For the purposes of this Ordinance, a company that carries on the business of fire, life, marine, or other insurance in common with any other business shall be deemed to be an insurance company. No. 15 of 1914, s. 8.

Prohibition
of partner-
ship exceed-
ing a certain
number.

9. No company, association, or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof unless it is registered as a company under this Ordinance, or is formed in pursuance of some other Ordinance, or of letters patent. No. 15 of 1914, s. 9.

Issue of
bank-notes
prohibited.

10. Nothing in this Ordinance shall be construed to authorize a company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money, or as the note of a bank, or to engage in the business of banking. No. 15 of 1914, s. 10.

Ordinance
does not
apply to
certain
companies.

11. This Ordinance shall not apply to—
 (a) Companies incorporated under the provisions of any Act of the Parliament of Canada;
 (b) A company that carries on the business of insurance only. No. 15 of 1914, s. 11.

PART II.

CONSTITUTION AND INCORPORATION.

Memorandum of Association.

Mode of
forming
incorporated
company.

12. Any five or more persons (or, where the company to be formed will be a private company within the meaning of this Ordinance, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of

this Ordinance in respect of registration, form an incorporated company, with or without limited liability, that is to say, either—

- (a) A company having the liability of its members limited by the memorandum to the amount (if any) unpaid on the shares respectively held by them (in this Ordinance termed " a company limited by shares "); or
- (b) A company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Ordinance termed " a company limited by guarantee "); or
- (c) A company not having any limit on the liability of its members (in this Ordinance termed " an unlimited company "); or
- (d) A company having the liability of its members specially limited under section 131.

13. In the case of a company limited by shares,—

Memorandum
of company
limited by
shares.

- (1) The memorandum must state—
 - (a) The name of the company, with " limited " as the last word in its name;
 - (b) The city or town in the Territory in which the registered office of the company will be situate;
 - (c) The objects of the company;
 - (d) That the liability of the members is limited;
 - (e) The amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount:
- (2) No subscriber of the memorandum may take less than one share:
- (3) Each subscriber must write opposite to his name the number of shares he takes. No. 15 of 1914, s. 13.

14. In the case of a company limited by guarantee,—

Memorandum
company
limited by
guarantee.

- (1) The memorandum must state—
 - (a) The name of the company, with " limited " as the last word in its name;
 - (b) The city or town in the Territory in which the registered office of the company will be situate;
 - (c) The objects of the company;
 - (d) That the liability of the members is limited;
 - (e) That each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding-up, and for adjustment of the rights of the contributaries among themselves, such amount as may be required, not exceeding a specified amount:

- (2) If the company has a share capital,—
- (a) The memorandum must also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;
 - (b) No subscriber of the memorandum may take less than one share;
 - (c) Each subscriber must write opposite to his name the number of shares he takes.

Memorandum
of unlimited
company.

15. In the case of an unlimited company,—

- (1) The memorandum must state—
 - (a) The name of the company;
 - (b) The city or town in the Territory in which the registered office of the company will be situate;
 - (c) The objects of the company;
- (2) If the company has a share capital,—
 - (a) No subscriber of the memorandum may take less than one share;
 - (b) Each subscriber must write opposite to his name the number of shares he takes. No. 15 of 1914, s. 14.

Execution of
memo-
randum.

16. The memorandum must be signed by each subscriber in the presence of at least one witness, who must attest the signature. No. 15 of 1914, s. 16.

Restriction
on alteration
of memo-
randum.

17. A company may not alter the conditions contained in its memorandum, except in the cases and in the mode and to the extent for which express provision is made in this Ordinance. No. 15 of 1914, s. 17.

Name of
company
and change
of name.

18. 1. A company or society may not be incorporated nor may an extra-territorial company be licensed or registered by a name identical with that by which a company or society or firm in existence is carrying on business or has been incorporated, licensed, or registered, or so nearly resembling that name as in the opinion of the Registrar to be calculated to deceive, or by a name of which the Registrar shall for any other reason disapprove, except where such company or society or firm in existence is in the course of being dissolved or has ceased to carry on business, and signifies its consent by resolution duly passed and filed by the Registrar.

2. Any company or society that has, through inadvertence or otherwise, become incorporated, licensed, or registered by a name identical with that by which a company or society or firm has been incorporated, licensed, or registered, or has been carrying on business prior to the incorporation, licensing, or registration of such first-mentioned company or society, or so nearly resembling that name as to be calculated to deceive, shall change its name in manner provided by this section: Provided that this amendment shall not affect litigation now pending in regard to the name of any company.

3. Any company may also at any time, by special resolution and with the approval of the Registrar signified in writing, change its name.

4. The company shall, in the last-mentioned case, ^{publish a notice once} ~~give at least one month's previous continuous notice~~, in the *Gazette* and in some newspaper or newspapers published or circulated in the locality in which the registered office of the company is situate, and in the locality in which the operations of the company are carried on, of the intention to apply for the change of name, and shall state the name proposed to be adopted.

5. Where a company changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate that such company has changed its name; and in such certificate the Registrar shall state the name by which such company shall as from the date of such certificate be known.

6. The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

7. The registrar may, on request, reserve any name which may be taken by an intended company, or by a company as a change of name, or the name of any extra-territorial company intending to apply for a license or registration, for a period of fourteen days or any extended period he may allow, not exceeding in the whole thirty days. No. 15 of 1914, s. 18.

19. Subject to the provisions of this section, a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as ^{Alteration of objects of company.} may be required to enable it—

- (a) To carry on its business more economically or more efficiently; or
- (b) To attain its main purpose by new or improved means; or
- (c) To enlarge or change the local area of its operations; or
- (d) To carry on some business which, under existing circumstances, may conveniently or advantageously be combined with the business of the company; or
- (e) To restrict or abandon any of the objects specified in the memorandum.

2. The alteration shall not take effect until and except in so far as it is confirmed on petition by the Court.

3. Before confirming the alteration the Court must be satisfied—

- (a) That sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and
- (b) That, with respect to every creditor who, in the opinion of the Court, is entitled to object, and who signifies his objection in manner directed by the Court, either his

consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

4. The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

5. The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement: Provided that no part of the capital of the company may be expended in any such purchase.

6. An office copy of the order confirming the alteration, together with a copy of the memorandum as altered, shall, within fifteen days from the date of the order, be delivered by the company to the Registrar, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

The Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

7. The Registrar shall cause the certificate, together with a statement of the objects of the company, as altered, to be published at the expense of the company for four weeks in the *Gazette*.

8. If a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company shall be liable to a fine not exceeding fifty dollars for every day during which it is in default. No. 15 of 1914, s. 19.

Articles of Association.

Registration
of articles.

20. There may, in the case of a company limited by shares, and there shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

2. A company may by its articles of association adopt all or any of the regulations contained in Table A in the First Schedule to this Ordinance.

3. In the case of an unlimited company or a company limited by guarantee, the articles, if the company has a share capital, must state the amount of share capital with which the company proposes to be registered.

4. In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles must state the number of members with which the company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration. No. 15 of 1914, s. 20.

21. In the case of a company limited by shares and registered after the first day of May, 1914, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in the First Schedule to this Ordinance, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles. No. 15 of 1914, s. 21. Application of Table A.

22. Articles must—

- (a) Be printed or typewritten:
- (b) Be divided into paragraphs numbered consecutively:
- (c) If registered with the memorandum, be signed by each subscriber of the memorandum of association in the presence of at least one witness, who must attest the signature. No. 15 of 1914, s. 22.

Form and signature of articles.

23. Subject to the provisions of this Ordinance and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution. Alteration of articles by special resolution.

2. The power of altering articles under this section shall, in the case of an unlimited company, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that those regulations are contained in the memorandum. No. 15 of 1914, s. 23.

General Provisions.

24. The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member, and contained covenants on the part of each member, his heirs, executors, and administrators, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Ordinance. Effect of memorandum and articles.

2. All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company of the nature of a specialty debt. No. 15 of 1914, s. 24.

Registration of memorandum and articles.

25. The memorandum and the articles (if any) shall be delivered to the Registrar, and he shall retain and register them. No. 15 of 1914, s. 25.

Contents of certificate of registration.

26. On the registration of the memorandum of a company the Registrar shall issue a certificate under his seal of office, showing—

- (a) That the company is incorporated:
- (b) The amount of its capital (if any):
- (c) The number of shares into which it is divided:
- (d) In the case of a limited company, that the company is limited:
- (e) In the case of a mining company incorporated with non-personal liability, that the liability of the company and the shareholders therein is specially limited under Part V.:
- (f) The place where the registered office of the company is to be situate.

2. From the date of incorporation mentioned in the certificate of incorporation the subscribers of the memorandum together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, with power to hold lands, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Ordinance.

Publication of certificate.

3. The Registrar shall, at the cost of the parties applying for registration of a memorandum of association, publish the certificate of incorporation and a statement showing the objects for which the company named in the certificate has been incorporated, ~~in the Gazette~~ ^{in the Gazette or} No. 15 of 1914, s. 26. *in the Gazette or newspaper published, etc.*

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Conclusiveness of certificate of incorporation.

27. A certificate of incorporation given by the Registrar in respect of any company shall be conclusive evidence that all the requirements of this Ordinance in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorized to be registered and duly registered under this Ordinance.

2. A statutory declaration by a solicitor of the Territorial Court engaged in the formation of the company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, and the Registrar may accept such a declaration as sufficient evidence of compliance. No. 15 of 1914, s. 27.

Copies of memorandum and articles to be given to members.

28. Every company shall send to every member, at his request, and on payment of two dollars or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).

2. If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding five dollars. No. 15 of 1914, s. 28.

Companies limited by Guarantee.

29. In the case of a company limited by guarantee and not having a share capital, and registered after the first day of May, 1914, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void. Provisions as to companies limited by guarantee.

2. For the purpose of the provisions of this Ordinance relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of any company limited by guarantee and registered on or after the first day of May, 1914, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby. No. 15 of 1914, s. 29.

PART III.

DISTRIBUTION AND REDUCTION OF SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.

Distribution of Share Capital.

30. The shares or other interest of any member in a company shall be personal estate, transferable in manner provided by the articles of the company, and shall not be of the nature of real estate. Nature of shares.

2. Each share in a company having a share capital shall be distinguished by its appropriate number. No. 15 of 1914, s. 30. Numbering shares.

31. A certificate, under the common seal of the company, specifying any shares or stock held by any member, shall be *prima facie* evidence of the title of the member to the shares or stock. No. 15 of 1914, s. 31. Certificate of shares or stock as evidence of title.

32. The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members. Definition of member.

2. Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company. No. 15 of 1914, s. 32.

33. Every company shall keep in one or more books a register of its members, and enter therein the following particulars:— Register of members.

- (a) The names and addresses and the occupations (if any) of the members, and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member:
- (b) The date at which each person was entered in the register as a member:
- (c) The date at which any person ceased to be a member.

2. If a company fails to comply with this section it shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty No. 15 of 1914, s. 33.

Annual list
of members
and sum-
mary.

see subsection

34. Every company having a share capital shall once at least in every year make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or (in the case of the first return) of the incorporation of the company.

2. The list must state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return, or (in the case of the first return) of the incorporation of the company, by persons who are still members and have ceased to be members respectively, and the dates of registration of the transfers, and must contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars:—

- (a) The amount of the share capital of the company, and the number of the shares into which it is divided:
- (b) The number of shares taken from the commencement of the company up to the date of the return:
- (c) The amount called up on each share:
- (d) The total amount of calls received:
- (e) The total amount of calls unpaid:
- (f) The total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return:
- (g) The total number of shares forfeited:
- (h) The total amount of shares or stock for which share warrants are outstanding at the date of the return:
- (i) The total amount of share warrants issued and surrendered respectively since the date of the last return:
- (j) The number of shares or amount of stock comprised in each share warrant:

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(k) The names and addresses of the persons who at the date of the return are the directors of the company, or occupy the position of directors, by whatever name called; and

(l) The total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the Registrar under this Ordinance:

3. The summary must also (except where the company is a private company) include a statement, made up to such date as may be specified in the statement, in the form of a balance-sheet, audited and signed by the company's auditors, and containing a summary of its share capital, its liabilities and its assets, giving such particulars as will disclose the general nature of those liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance-sheet need not include a statement of profit and loss.

4. The above list and summary must be contained in a separate part of the register of members, and must be completed within seven days after the fourteenth day aforesaid, and the company must forthwith forward to the Registrar a copy signed by the manager, the secretary, or by some other officer of the company.

5. If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues, and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

6. Every extra-territorial registered company shall, within the time hereinbefore mentioned, file with the Registrar a statement setting forth all the information with reference to such company required by subclauses (k) and (l) of subsection (2) hereof and by subsection (3) hereof, and such statement shall be certified by the auditors and by the president, vice-president, secretary, or other officer of such company; but, save as aforesaid, this section shall not apply to an extra-territorial company. No. 15 of 1914, s. 34.

35. No notice of any trust, expressed, implied, or constructive, shall be entered on the register, or be receivable, by the Registrar, in the case of companies registered pursuant to this Ordinance. No. 15 of 1914, s. 35.

Trusts not to be entered on register.

36. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee. No. 15 of 1914, s. 36.

Registration of transfer at request of transferor.

37. A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member, be as valid as if he had been a member at the time of

Transfer by personal representative.

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the execution of the instrument of transfer. No. 15 of 1914, s. 37.

Executors
and pledgors
voting.

38. Every executor, administrator, guardian, or trustee shall represent the shares or stock in his hands at all meetings of the company, and may vote accordingly as a shareholder; and every person who pledges his stock may nevertheless represent the same at all such meetings, and may vote accordingly as a shareholder. No. 15 of 1914, s. 38.

Trustees, etc.

39. No person holding shares, stock, or other interest in the company as executor, administrator, guardian, or trustee shall be personally subject to liability as a shareholder; but the estates and funds in the hands of such person shall be liable in like manner and to the same extent as the testator or intestate or the minor, ward, or person interested in the trust fund would be if living and competent to act and holding such shares, stock, or other interest in his own name. No. 15 of 1914, s. 39.

Non-personal
liability of
mortgagee or
pledgee of
shares.

40. No person holding shares, stock or other interest as collateral security shall be personally subject to liability as a shareholder; but the person pledging such shares, stock, or other interest as such collateral security shall be considered as holding the same, and shall be liable as a shareholder in respect thereof. No. 15 of 1914, s. 40.

Inspection
of register
of members.

41. The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Ordinance, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member gratis, and to the inspection of any other person on payment of twenty-five cents, or such less sum as the company may prescribe, for each inspection.

2. Any member or other person may require a copy of the register, or of any part thereof, or of the list and summary required by this Ordinance, or any part thereof, on payment of twenty-five cents, or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied.

3. If any inspection or copy required under this section is refused, the company shall be liable for each refusal to a fine not exceeding ten dollars, and to a further fine not exceeding ten dollars for every day during which the refusal continues, and every director and manager of the company who knowingly authorizes or permits the refusal shall be liable to the like penalty; and any Judge of the Territorial Court may by order compel an immediate inspection of the register. No. 15 of 1914, s. 41.

Power to
close
register.

42. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the

registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year. No. 15 of 1914, s. 42.

43. If—

- (a) The name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or
- (b) Default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,—

Power of Court to rectify register.

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

2. The application may be made to a Judge of the Territorial Court sitting in Chambers; and the Court may either refuse the application, or may direct rectification of the register, and payment by the company of any damages sustained by any party aggrieved.

3. On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for rectification of the register.

4. In the case of a company required by this Ordinance to send a list of its members to the Registrar, the Court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar. No. 15 of 1914, s. 43.

44. The register of members shall be *prima facie* evidence of any matter by this Ordinance directed or authorized to be inserted therein. No. 15 of 1914, s. 44.

Register to be evidence.

SHARE WARRANTS.

45. A company limited by shares, if so authorized by its articles, may, with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant (in this Ordinance termed "a share warrant").

Issue and effect of share warrants to bearer.

2. A share warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

3. The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by

any person by reason of the company entering in its register the name of a bearer of a share warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

4. The bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Ordinance, either to the full extent or for any purposes defined in the articles; except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

5. On the issue of a share warrant the company shall strike out of the register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:—

- (a) The fact of the issue of the warrant;
- (b) A statement of the shares or stock included in the warrant, distinguishing each share by its number; and
- (c) The date of the issue of the warrant.

6. Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Ordinance to be entered in the register of members; and, on the surrender, the date of the surrender must be entered as if it were the date at which a person ceased to be a member No. 15 of 1914, s. 45.

Differential Shares.

Power of company to arrange for different amounts being paid on shares.

46. A company, if so authorized by its articles, may do any one or more of the following things, namely:—

- (1.) Make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares:
- (2.) Accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up:
- (3.) Pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others. No. 15 of 1914, s. 46.

Reduction of Paid-up Capital out of Profits.

Power to return accumulated profits in reduction of paid-up share capital.

47. When a company has accumulated a sum of undivided profits, which with the sanction of the shareholders may be distributed among the shareholders in the form of a dividend or bonus, it may, by special resolution, return the same, or any part thereof, to the shareholders in reduction of the paid-up capital of the company, the unpaid capital being thereby increased by a similar amount.

2. The resolution shall not take effect until a memorandum, showing the particulars required by this Ordinance in the case of a reduction of share capital, has been produced

to and registered by the Registrar, but the other provisions of this Ordinance with respect to reduction of share capital shall not apply to a reduction of paid-up share capital under this section.

3. On a reduction of paid-up capital in pursuance of this section, any shareholder, or any one or more of several joint shareholders, may, within one month after the passing of the resolution for the reduction, require the company to retain, and the company shall retain accordingly, the whole of the money actually paid on the shares held by him either alone or jointly with any other person, which, in consequence of the reduction, would otherwise be returned to him or them, and thereupon those shares shall, as regards the payment of dividend, be deemed to be paid up to the same extent only as the shares on which payment has been accepted by the shareholders in reduction of paid-up capital; and the company shall invest and keep invested the money so retained in such securities authorized for investment by trustees as the company may determine, and on the money so invested, or on so much thereof as from time to time exceeds the amount of calls subsequently made on the shares in respect of which it has been retained, the company shall pay the interest received from time to time on the securities.

4. The amount retained and invested shall be held to represent the future calls which may be made to replace the share capital so reduced on those shares, whether the amount obtained on sale of the whole or such proportion thereof as represents the amount of any call when made produces more or less than the amount of the call.

5. On a reduction of paid-up share capital in pursuance of this section, the powers vested in the directors of making calls on shareholders in respect of the amount unpaid on their shares shall extend to the amount of the unpaid share capital as augmented by the reduction.

6. After any reduction of share capital under this section the company shall specify in the annual list of members required by this Ordinance the amounts retained at the request of any of the shareholders in pursuance of this section, and shall specify in the statements of account laid before any general meeting of the company the amount of undivided profits returned in reduction of paid-up share capital under this section. No. 15 of 1914, s. 47.

Alteration of Share Capital.

48. A company limited by shares, if so authorized by its articles, may alter the conditions of its memorandum as follows; that is to say, it may—

(a) Increase its share capital by the issue of new shares of such amount as it thinks expedient:

(b) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares:

(c) Convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination:

Power of company limited by shares to alter its share capital.

(d) Subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount (if any) unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived:

(e) Cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

2. The powers conferred by this section with respect to subdivision of shares must be exercised by special resolution.

3. Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

If a company makes default in complying with this provision it shall be liable to a fine not exceeding five dollars for each copy in respect of which default is made; and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

4. A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Ordinance. No. 15 of 1914, s. 48.

Notice to Registrar of consolidation of share capital, conversion of shares into stock, etc.

49. Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares, or converted any of its shares into stock, or reconverted stock into shares, it shall give notice to the Registrar of the consolidation, division, conversion, or reconversion, specifying the shares consolidated, divided, or converted, or the stock reconverted. No. 15 of 1914, s. 49.

Effect of conversion of shares into stock.

50. Where a company having a share capital has converted any of its shares into stock, and given notice of the conversion to the Registrar, all the provisions of this Ordinance which are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of members of the company, and the list of members to be forwarded to the Registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinbefore required by this Ordinance. No. 15 of 1914, s. 50.

Notice of increase share capital or of members.

51. Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of its members beyond the registered number, it shall give to the Registrar, in the case of an increase of share

capital, within fifteen days after the passing, or in the case of a special resolution the confirmation, of the resolution authorizing the increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place, notice of the increase of capital or members, and the Registrar shall record the increase.

2. If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty. No. 15 of 1914, s. 51.

52. A company limited by shares may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to reorganize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes: Reorganiza-
tion of share
capital.

Provided that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by a resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of the class.

2. Where an order is made under this section a copy thereof, certified by the clerk of the Court, shall be filed with the Registrar within seven days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such a copy has been so filed. No. 15 of 1914, s. 52.

Reduction of Share Capital.

53. Subject to confirmation by the Court, a company limited by shares, if so authorized by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the foregoing power) Special reso-
lution for
reduction of
share
capital. may—

- (a) Extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or
- (b) Either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or
- (c) Either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company; and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

2. A special resolution under this section is in this Ordinance called "a resolution for reducing share capital". No. 15 of 1914, s. 53.

Application to Court for confirming order.

54. Where a company has passed and confirmed a resolution for reducing share capital it may apply to the Court for an order confirming the reduction. No. 15 of 1914, s. 54.

Addition to name of company of "and reduced."

55. On and from the confirmation by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital, or the payment to any shareholder of any paid-up share capital, then on and from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words "and reduced," as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company:

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced." No. 15 of 1914, s. 55.

Objections by creditors and settlement of list of objecting creditors.

56. Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

2. The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objection to the reduction.

3. Where a creditor entered on the list whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount, that is to say:—

(a) If the company admits the full amount of his debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim:

(b) If the company does not admit or is not willing to provide for the full amount of the debt or claim, or if

the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court. No. 15 of 1914, s. 56.

57. The Court, if satisfied, with respect to every creditor of the company who under this Ordinance is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit. No. 15 of 1914, s. 57.

58. 1. The Registrar, on production to him of an order of the Court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

2. On the registration, and not before, the resolution for reducing the share capital as confirmed by the order so registered shall take effect.

3. Notice of the registration shall be published in such manner as the Court may direct.

4. The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute. No. 15 of 1914, s. 58.

59. (1.) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein, and must be embodied in every copy of the memorandum issued after its registration.

2. If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding five dollars for each copy in respect of which default is made; and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty. No. 15 of 1914, s. 59.

60. A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount (if any) which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute:

Provided that if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason

of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Ordinance with respect to winding-up by the Court, to pay the amount of his debt or claim, then—

(a) Every person who was a member of the company at the date of the registration of the order for reduction and minute shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration; and

(b) If the company is wound up, the Court, on the application of any such creditor, and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories among themselves. No. 15 of 1914, s. 60.

Concealing name of creditor entitled to object.

61. If any director, manager, or officer of the company wilfully conceals the name of any creditor of the company entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any director or manager of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid, every such director, manager or officer shall, for every such violation of this Ordinance, upon summary conviction, be liable to a fine not exceeding five hundred dollars. No. 15 of 1914, s. 61.

Publication of reasons for reduction.

62. In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to give proper information to the public, and, if the Court thinks fit the causes which led to the reduction. No. 15 of 1914, s. 62.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

63. A company limited by guarantee and registered after the first day of May, 1914, may, if it has a share capital and is so authorized by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Ordinance. No. 15 of 1914, s. 63.

Reduction of Capital by certain Limited Companies.

Certain land companies empowered to pay dividends out of the net proceeds

64. 1. In addition to the aforesaid power of reducing its share capital, it shall be lawful for companies incorporated under this or any former Ordinance of the Territory, whose principal and main business is to acquire tracts of land with the object of subdividing the same into lots and selling such

lots when so sub-divided as aforesaid, to declare and pay dividends out of the moneys being the net proceeds of the sale of their lands so subdivided as aforesaid; and all such dividends and payments shall be taken and considered as a reduction of the capital of such company: of sales of
land.

Provided such companies have paid all debts legally owing by them, or have made ample provision for the payment of the same, testified by a statutory declaration made by the secretary of the company, who shall also exhibit and file with the Registrar a full, true and correct account of the liabilities and assets of the company.

2. A resolution passed by the shareholders holding at least two-thirds in value of the paid-up capital stock of the company, at any general meeting of shareholders, shall be necessary for the declaration and payment of such dividends; and such resolution shall only be passed after the expiration of ten days from the filing of the statutory declaration hereinbefore required to be filed with the Registrar.

3. A copy of every such resolution, under the seal of the company, and certified to by the secretary of the company, shall be filed in the office of the Registrar within ten days after the passing of the resolution, and ten days shall elapse after the filing thereof before payment out of any such dividends to the shareholders shall be made.

4. After the filing of every such resolution with the Registrar, the said Registrar shall, by a notice published in four issues of the *Gazette*, declare to what sum the capital of any such company, by such payment of dividends, stands reduced; and the company shall pay the Registrar the costs of such publication. No. 15 of 1914, s. 64.

Registration of Unlimited Company as Limited.

65. 1. Subject to the provisions of this section, any company registered as unlimited may register under this Ordinance, as limited, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations, or contracts incurred or entered into by, to, with, or on behalf of the company before the registration, and those debts, liabilities, obligations, and contracts may be enforced in manner provided by Part XII of this Ordinance in the case of a company registered in pursuance of that Part. Registration
of unlimited
company
as limited.

2. On registration in pursuance of this section the Registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company, but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Ordinance, and as if the provisions of the Ordinance under which the company was previously registered and regulated had been contained in different Ordinances from those under which the company is registered as a limited company. No. 15 of 1914, s. 65.

Power of unlimited company to provide for reserve share capital on registration.

66. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Ordinance, do either or both of the following things, namely:—

- (a) Increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up:
- (b) Provided that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Reserve Liability of Limited Company.

Reserve liability of limited company.

67. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid. No. 15 of 1914, s. 67.

Unlimited Liability of Directors.

Limited company may have directors with unlimited liability.

68. 1. In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

2. In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company (if any), and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary (if any) of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

3. If any director, manager, or proposer makes default in adding such a statement, or if any promoter, director, manager, or secretary makes default in giving such a notice, he shall be liable to a fine not exceeding five hundred dollars, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default. No. 15 of 1914, s. 68.

Special resolution of limited company making liability of directors unlimited.

69. 1. A limited company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

2. Upon the confirmation of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum; and a copy thereof shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.

3. If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding five dollars for each copy in respect of which default is made and every director or manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty. No. 15 of 1914, s. 69.

PART IV.

MANAGEMENT AND ADMINISTRATION.

Office and Name.

70. 1. Every company shall have a registered office in the Yukon Territory to which all communications and notices may be addressed, and may from time to time change the location of its registered office. Registered office of company.

2. Notice of the situation of the registered office of such company shall be delivered to the Registrar with the memorandum of association, and notice of any change therein shall be given to the Registrar, who shall record the same respectively.

3. If a company carries on business without complying with the requirements of this section it shall be liable to a fine not exceeding twenty-five dollars for every day during which it so carries on business. No. 15 of 1914, s. 70.

71. 1. Every limited company—

(a) Shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible: Publication of name by a limited company.

(b) Shall have its name engraven in legible characters on its seal:

(c) Shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of the company, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

2. If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Ordinance, it shall be liable to a fine not exceeding twenty-five dollars for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed; and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

3. If any director, manager, or officer of a limited company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of the company, or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company wherein its name is not mentioned in manner aforesaid, he shall be liable, upon summary conviction, to a fine not exceeding two hundred and fifty dollars, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods for the amount thereof, unless the same is duly paid by the company. No. 15 of 1914, s. 71.

Meetings and Proceedings.

Annual
general
meeting.

72. 1. A general meeting of every company shall be held once at the least in every calendar year, and not more than eighteen months after the holding of the last preceding general meeting, and, if not so held, the company and every director, manager, secretary, and other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding two hundred and fifty dollars.

2. When default has been made in holding a meeting of the company in accordance with the provisions of this section, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

3. Every general meeting of the company shall be held within the Territory.

4. This section shall not apply to an extra-territorial company. No. 15 of 1914, s. 72.

First
statutory
meeting
of the com-
pany.

73. 1. Every company limited by shares registered after the first day of May, 1914, shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called "the statutory meeting."

2. The directors shall, at least seven days before the day on which the meeting is held, forward a report (in this Ordinance called "the statutory report") to every member of the company and to every other person entitled under this Ordinance to receive it.

3. The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state—

(a) The total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted:

- (b) The total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid:
- (c) An abstract of the receipts of the company on account of its capital, whether from shares or debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company:
- (d) The names, addresses, and descriptions of the directors, auditors (if any), managers (if any), and secretary of the company; and
- (e) The particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

4. The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors (if any) of the company.

5. The directors shall cause a copy of the statutory report, certified as by this section required, to be filed with the Registrar forthwith after the sending thereof to the members of the company.

6. The directors shall cause a list showing the names, descriptions, and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

7. The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

8. The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

9. If a petition is presented to the Court in manner provided by Part IX. of this Ordinance for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the Court, may, instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.

10. The provisions of this section as to the forwarding and filing of the statutory report shall not apply in the case of a private company.

11. If a company limited by shares makes default in complying with the requirements of this section which apply to it, such company shall be liable, on summary conviction, to a fine not exceeding twenty-five dollars for each day during which such default continues; and every director, manager, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like fine: Provided that where default has been made in holding the statutory meeting or filing the statutory report in this section mentioned, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that such default was accidental or due to inadvertence, or that it is just and equitable to grant relief, may make an order extending the time for compliance with this section for such period as the Court may think proper. No. 15 of 1914, s. 73.

Convening
of extraor-
dinary
general
meeting on
requisition.

74. 1. Notwithstanding anything in the articles of a company, the directors of a company shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to convene an extraordinary general meeting of the company.

2. The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

3. If the directors do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or a majority of them in value, may themselves convene the meeting, but any meeting so convened shall not be held after three months from the date of the deposit.

4. If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution and, if thought fit, of confirming it as a special resolution; and, if the directors do not convene the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves convene the meeting.

5. Any meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors. No. 15 of 1914, s. 74.

Provisions
as to
meetings
and votes.

75. In default of and subject to any regulations in the articles,—

(a) A meeting of a company may be called by seven days' notice in writing, served on every member in manner in which notices are required to be served by Table A in the First Schedule to this Ordinance:

- (b) Five members may call a meeting:
- (c) Any person elected by the members present at a meeting may be chairman thereof:
- (d) Every member shall have one vote in respect of each share held by him. No. 15 of 1914, s. 75.

76. A company which is a member of another company may, by resolution of the directors, authorize any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorized shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company. No. 15 of 1914, s. 76.

Representation of companies at meetings of other companies of which they are members.

77. 1. A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

Definitions of extraordinary and special resolution.

2. A resolution shall be a special resolution when it has been—

- (a) Passed in manner required for the passing of an extraordinary resolution; and
- (b) Confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting, of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

3. At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

4. At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed a poll may be demanded, if demanded by three persons for the time being entitled according to the articles to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceed five, as may be specified in the articles.

5. When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member is entitled by the articles of the company.

6. For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles. No. 15 of 1914, s. 77.

Registration and copies of special resolutions.

78. 1. A copy of every special and extraordinary resolution duly authenticated as in section 124 of this Ordinance provided, shall, within fifteen days from the confirmation of the special resolution or from the passing of an extraordinary resolution, as the case may be, be filed with the Registrar of Companies.

2. Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the confirmation of the resolution.

3. Where articles have not been registered, a copy of every special resolution shall be forwarded to any member at his request, on payment of twenty-five cents, or such less sum as the company may direct.

4. If a company makes default in forwarding a copy of a special or extraordinary resolution to the Registrar, it shall be liable to a fine not exceeding ten dollars for every day during which the default continues.

5. If a company makes default in embodying in or annexing to a copy of its articles or in forwarding to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding five dollars for each copy in respect of which default is made.

6. Every director and manager of a company who knowingly and wilfully authorizes or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default. No. 15 of 1914, s. 78.

Minutes of proceedings of meetings and directors.

79. 1. Every company shall cause minutes of all proceedings of general meetings and (where there are directors or managers) of its directors or managers to be entered in books kept for that purpose.

2. Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

3. Until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators shall be deemed to be valid. No. 15 of 1914, s. 79.

Appointment, Qualification, etc., of Directors.

Restrictions on appointment or advertisement of director.

80. 1. A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company, unless, before the registration of the articles or the publication of the prospectus, as the case may be, he has, by himself or by his agent authorized in writing,—

- (a) Signed and filed with the Registrar a consent in writing to act as such director; and
- (b) Either signed the memorandum for a number of shares not less than his qualification (if any), or signed and filed with the Registrar a contract in writing to take from the company and pay for his qualification shares (if any).

2. On the application for registration of the memorandum and articles of a company the applicant shall deliver to the Registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding two hundred and fifty dollars.

3. This section shall not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business. No. 15 of 1914, s. 80.

§1. 1. Without prejudice to the restrictions imposed by the last preceding section, it shall be the duty of every director who is by the regulations of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the regulations of the company. Qualification of director.

2. The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the regulations of the company, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

3. If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding twenty-five dollars for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director. No. 15 of 1914, s. 81.

§2. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification. Validity of acts of directors. No. 15 of 1914, s. 82.

§3. 1. Every company shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and send to the Registrar a copy thereof, and from time to time notify to the Registrar any change among its directors or managers. List of directors to be sent to Registrar.

2. If default is made in compliance with this section, the company shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly

and wilfully authorizes or permits the default shall be liable to the like penalty. No. 15 of 1914, s. 83.

Contracts, etc.

Form of contracts.

84. 1. Contracts on behalf of a company may be made as follows, that is to say:—

- (a) Any contract which if made between private persons would be by law required to be in writing, and if made according to the law of the Territory or of the Dominion to be under seal, may be made on behalf of the company in writing under the common seal of the company, and may in the same manner be varied or discharged:
- (b) Any contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged:
- (c) Any contract which if made between private persons would by law be valid although made by parole only, and not reduced into writing, may be made by parole on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

2. All contracts made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their heirs, executors, or administrators, as the case may be. No. 15 of 1914, s. 84.

Bills of exchange and promissory notes.

85. A bill of exchange or promissory note shall be deemed to have been made, accepted, or indorsed on behalf of a company if made, accepted, or indorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority. No. 15 of 1914, s. 85.

Contracts generally when made by company, etc.

86. Every contract, agreement, engagement, or bargain made, and every bill of exchange drawn, accepted, or indorsed, and every promissory note and cheque made, drawn, or indorsed on behalf of the company by any agent, officer, or servant of the company, in general accordance with his powers as such under the regulations of the company, shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note, or cheque, or to prove that the same was made, drawn, accepted, or indorsed, as the case may be, in pursuance of any regulations or special resolution or order; nor shall the party so acting as agent, officer, or servant of the company be thereby subjected individually to any liability whatsoever to any third party therefor. No. 15 of 1914, s. 86.

Power of attorney by company.

87. A company may, by writing under its common seal, empower any person, either generally or in respect of any specified

matters as its attorney, to execute deeds on its behalf in any place situate within or without the limits of the Territory; and every deed signed by such attorney, on behalf of the company and under his seal, shall bind the company and have the same effect as if it were under the common seal of the company. No. 15 of 1914, s. 87.

88. 1. A company whose objects require or comprise the transaction of business in foreign countries may, if authorized by its articles, have for use in any territory, district or place not situate in the Territory an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district, or place where it is to be used. Power for company to have official seal for use abroad.

2. A company having such an official seal may, by writing under its common seal, authorize any person appointed for the purpose in any territory, district, or place not situate in the Territory to affix the same to any deed or other document to which the company is party in that territory, district, or place.

3. The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period (if any) mentioned in the instrument conferring the authority; or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

4. The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same.

5. A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company. No. 15 of 1914, s. 88.

Prospectus.

89. 1. Every prospectus which relates to any company or intended company, and is issued by or on behalf of any such company or intended company or by or on behalf of any person interested in any such company or intended company, shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus. Filing of prospectus.

2. A copy of every such prospectus, signed by every person who is a director or proposed director of the company on the date mentioned in the last preceding subsection hereof, or where such prospectus is issued by or on behalf of any person interested as aforesaid, signed by such person, or in any case signed by an agent of such director or proposed director or person, duly authorized in writing, shall be filed with the Registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed and registered.

3. The Registrar shall not file any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

4. Every prospectus shall state on the face of it that a copy has been filed as required by this section.

5. If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding twenty-five dollars for every day from the date of the issue of the prospectus until a copy thereof is so filed. No. 15 of 1914, s. 89.

Specific requirements as to particulars of prospectus.

99. (1.) Every prospectus issued as mentioned in the last preceding section hereof must state—

- (a) The contents of the memorandum, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of founders or management or deferred shares (if any), and the nature and extent of the interest of the holders in the property and profits of the company;
- (b) The number of shares (if any) fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors;
- (c) The names, descriptions and addresses of the directors or proposed directors;
- (d) The minimum subscription on which the directors may proceed to allotment, and the amount payable on the application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount (if any) paid on shares so allotted;
- (e) The number and amount of shares and debentures which within the two preceding years have been issued; or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued;
- (f) The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor: Provided that where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors;
- (g) The amount (if any) paid or payable as purchase money in cash, shares, or debentures for any such property as aforesaid, specifying the amount (if any) payable for goodwill;

- (h) The amount (if any) paid within the last two preceding years, or payable, as commission for subscribing or agreeing to subscribe, or procuring, or agreeing to procure subscriptions, for any shares in or debentures of the company, or the rate of any such commission: Provided that it shall not be necessary to state the commission payable to sub-underwriters;
- (i) The amount or estimated amount of preliminary expenses;
- (j) The amount paid within the last two preceding years or intended to be paid to any promoter, and the consideration for any such payment;
- (k) The dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected: Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus;
- (l.) The names and addresses of the auditors (if any) of the company;
- (m) Full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company; and
- (n) Where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively.

2. For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

- (a) The purchase money is not fully paid at the date of issue of the prospectus; or
- (b) The purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
- (c) The contract depends for its validity or fulfilment on the result of that issue.

3. Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

4. Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

5. Where such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

6. In the event of non-compliance with any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that—

(a) As regards any matter not disclosed, he was not cognizant thereof; or

(b) The non-compliance arose from an honest mistake of fact on his part:

Provided that, in the event of non-compliance with the requirements contained in paragraph (m) of subsection (1) of this section, no director or other person shall incur any liability in respect of the non-compliance unless it is proved that he had knowledge of the matters not disclosed.

7. This section shall not apply to a circular or notice inviting existing members or debenture-holders of a company to subscribe either for shares or for the debentures of the company, whether with or without the right to renounce in favour of other persons; but, subject as aforesaid, this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently.

8. The requirements of this section as to the memorandum and the qualification, remuneration, and interest of directors, the names, descriptions, and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

9. Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Ordinance apart from this section. No. 15 of 1914, s. 90.

Obligations
of companies
where no
prospectus
is issued.

DI. 1. A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the Registrar a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set out in the Second Schedule to this Ordinance.

2. This section shall not apply to a private company or to a company which has allotted any shares or debentures before the first day of May, 1914. No. 15 of 1914, s. 91.

92. A company shall not, previously to the statutory meeting, vary the terms of a contract referred to in the prospectus, except subject to the approval of the statutory meeting. No. 15 of 1914, s. 92.

Restriction on alteration of terms of contract mentioned in prospectus.

93. (1.) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

Liability for statements in prospectus.

(a) With respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true; and

(b) With respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation: Provided that the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report, or valuation was competent to make it; and

(c) With respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document;

or unless it is proved—

(d) That having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(e) That the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(f) That after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue

statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

2. Where an existing company has issued shares or debentures, and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director shall not be liable in respect of any statement therein, unless he has authorized the issue of the prospectus, or has adopted or ratified it.

3. Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

4. Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

5. For the purposes of this section—

The expression “promoter” means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company:

The expression “expert” includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him. No. 15 of 1914, s. 93.

Allotment.

Restriction
as to
allotment.

94. No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely:—

(a) The amount (if any) fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment; or

(b) If no amount is so fixed and named, then the whole amount of the share capital so offered for subscription,—

has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received by the company.

2. The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Ordinance referred to as "the minimum subscription."

3. The amount payable on application on each share shall not be less than five per cent of the nominal amount of the share.

4. If the conditions aforesaid have not been complied with on the expiration of sixty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest; and if any such money is not so repaid within seventy-five days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the seventy-fifth day:

Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

5. Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

6. This section, except subsection (3) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

7. In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription, that is to say,—

(a) The amount (if any) fixed by the memorandum or articles as the minimum subscription upon which the directors may proceed to allotment; or

(b) If no amount is so fixed and named, then the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash,—

has been subscribed, and an amount not less than five per cent of the nominal amount of each share payable in cash has been paid to and received by the company.

This subsection shall not apply to a private company or to a company which has allotted any shares or debentures before the first day of May, 1914. No. 15 of 1914, s. 94.

95. An allotment made by a company to an applicant in contravention of the provisions of the last preceding section shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

Effect of
irregular
allotment.

2. If any director of a company knowingly contravenes or permits or authorizes the contravention of any of the pro-

visions of the last preceding section with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby: Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment. No. 15 of 1914, s. 95.

Restrictions
on com-
mencement
of business.

96. A company shall not commence any business or exercise any borrowing powers unless—

- (a) Shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
- (b) Every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription, or in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash; and
- (c) There has been filed with the Registrar a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with; and
- (d) In the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the Registrar a statement in lieu of prospectus.

2. The Registrar shall, on the filing of this statutory declaration, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

3. Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

4. Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

5. If any company commences business or exercises borrowing-powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding two hundred and fifty dollars for every day during which the contravention continues.

6. Nothing in this section shall apply to a private company or to a company registered before the first day of May, 1914, or to a company which does not issue a prospectus inviting the public to subscribe for its shares, or to a company incorporated under the Consolidated Ordinances of the Yukon Territory,

1902, Chapter 57, or hereafter incorporated under Part V of this Ordinance. No. 15 of 1914, s. 96.

97. Whenever a company limited by shares makes any allotment of its shares, the company shall within one month thereafter file with the Registrar— Return as to allotments.

(a) A return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees, and the amount (if any) paid or due and payable on each share; and

(b) In the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment, together with any contract of sale, or for services or other consideration in respect of which that allotment was made, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

2. Where such a contract as above mentioned is not reduced to writing, the company shall within one month after the allotment file with the Registrar the prescribed particulars of the contract.

3. If default is made in complying with the requirements of this section, every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding two hundred and fifty dollars for every day during which the default continues:

Provided that, in case of default in filing with the Registrar within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such period as the Court may think proper. No. 15 of 1914, s. 97.

Commissions and Discounts.

98. It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorized by the memorandum or articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized, and if the amount or rate per cent of the commission paid or agreed to be paid is, in the case of shares offered to the public for subscription, disclosed in the prospectus. Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.

2. Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment

of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

3. Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section. No. 15 of 1914, s. 98.

Statement in balance-sheet as to commissions and discounts.

99. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off. No. 15 of 1914, s. 99.

Payment of Interest out of Capital.

Power of company to pay interest out of capital in certain cases.

100. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant:

Provided that—

- (1.) No such payment shall be made unless the same is authorized by the articles or by special resolution:
- (2.) No such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Commissioner:
- (3.) Before sanctioning any such payment the Commissioner may, at the expense of the company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry:
- (4.) The payment shall be made only for such period as may be determined by the Commissioner, and such

period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided:

- (5.) The rate of interest shall be that agreed upon, and if there shall be no such agreement, shall be the rate provided by Statute in cases where interest is by law payable and the rate is not agreed upon:
- (6.) The payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid:
- (7.) The accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate. No. 15 of 1914, s. 100.

Certificates of Shares, etc.

101. Every company shall within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the registration of the transfer of any such shares, debentures, or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

Limitation of time for issue of certificates.

2. If default is made in complying with the requirements of this section, the company, and every director, manager, secretary, and other officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues. No. 15 of 1914, s. 101.

Information as to Mortgages, Charges, Etc.

102. Every mortgage or charge created by a company after the first day of May, 1914, and being either—

Registration of mortgages and charges.

- (a) A mortgage or charge for the purpose of securing any issue of debentures; or
- (b) A mortgage or charge on uncalled share capital of the company; or
- (c) A mortgage or charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale; or
- (d) A mortgage or charge on any land, wherever situate, or any interest therein; or
- (e) A mortgage or charge on any book debts of the company; or
- (f) A floating charge on the undertaking or property of the company,—

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against *bona fide* purchasers and mortgagees for valuable consideration, and the liquidator and any creditor of the company, unless the

instrument, or a true copy thereof, by which the mortgage or charge is created or evidenced, is registered by filing the same with the Registrar for registration within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured; and when a mortgage or charge becomes void under this section the money secured thereby shall immediately become payable:

Provided that—

- (g) The time for registration of a mortgage or charge created outside the Territory, and requiring registration under this Ordinance, shall be thirty days from the creation of such mortgage or charge;
- (h) Where the mortgage or charge is created in the Territory, but comprises property outside the Territory, the instrument creating or purporting to create the mortgage or charge may be registered notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situate; and
- (i) Where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not, for the purposes of this section be treated as a mortgage or charge on those book debts; and
- (j) The holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.

2. The Registrar shall keep a register of all mortgages and charges requiring registration under this section, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of the same, the amount secured by it, short particulars of the property mortgaged or charged, the names of the mortgagors, and the names of the mortgagees or other persons entitled to the charge.

3. Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture-holders of that series are entitled *pari passu* is created by a company, it shall be sufficient if there are delivered to and filed with the Registrar within twenty-one days after the execution of the deed containing the charge, or, if there is no such deed, after the execution of any debentures of the series, the following particulars:—

- (a) The total amount secured by the whole series; and
- (b) The dates of the resolutions authorizing the issue of the series and the date of the covering deed (if any) by which the security is created or defined; and
- (c) A general description of the property charged; and
- (d) The names of the trustees (if any) for the debenture holders,—

together with the deed containing the charge, or, if there is no such deed, one of the debentures of the series, or a true

copy of such deed or debenture, and the Registrar shall, on payment of the prescribed fee, enter those particulars in the register:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

4. Where any commission, allowance, or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent of the commission, discount, or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

5. The Registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of this section, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this section as to registration have been complied with.

6. The company shall cause a copy of every certificate of registration given under this section to be indorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered:

Provided that nothing in this subsection shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge so given to be indorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

7. It shall be the duty of the company to register every mortgage or charge and every series of debentures created or issued by it requiring registration under this section, but registration of any such mortgage or charge may be effected on the application of any person interested therein. Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the Registrar on the registration.

8. The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding twenty-five cents for each inspection.

9. Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under this section to be kept at the registered office of the company: Provided that, in the case of a series of uniform debentures,

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a copy of one such debenture shall be sufficient. No. 15 of 1914, s. 102.

Registration of enforcement of security.

103. If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within ten days from the date of the order or of the appointment under the powers contained in the instrument, give notice of the fact to the Registrar, and the Registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

2. If any person makes default in complying with the requirements of this section he shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues. No. 15 of 1914, s. 103.

Filing of accounts of receivers and managers.

104. Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall, once in every half-year while he remains in possession, and also on ceasing to act as receiver or manager, file with the Registrar an abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall also on ceasing to act as receiver or manager file with the Registrar notice to that effect, and the Registrar shall enter the notice in the register of mortgages and charges.

2. Every receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine not exceeding two hundred and fifty dollars. No. 15 of 1914, s. 104.

Rectification of register of mortgages.

105. A Judge of the Territorial Court, on being satisfied that the omission to register a mortgage or charge within the time hereinbefore required, or that the omission or misstatement of any particular with respect to any such mortgage or charge, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the judge just and expedient, order that the time for registration be extended, without prejudice to the rights of parties acquired prior to the actual date of registration, or, as the case may be, that the omission or misstatement be rectified. No. 15 of 1914, s. 105.

Entry of satisfaction.

106. The Registrar may, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the company with a copy thereof. No. 15 of 1914, s. 106.

107. If default be made in the registration of any mortgage or charge or of the issues of debentures of a series requiring registration under this Ordinance, then every company, and every director, manager, or secretary of a company, and every person knowingly a party to the default shall, on conviction, be liable to a fine not exceeding two hundred and fifty dollars for every day during which the default continues. Penalties.

2. If any person knowingly and wilfully authorizes or permits the delivery of any debenture or certificate of debenture stock requiring registration with the Registrar under the foregoing provisions of this Ordinance without a copy of the certificate of registration being indorsed upon it, he shall, without prejudice to any other liability, be liable to a fine not exceeding five hundred dollars. No. 15 of 1914, s. 107.

108. Every limited company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge, and (except in the case of securities to bearer) the names of the mortgagees or persons entitled thereto. Company's register of mortgages.

2. If any director, manager, or other officer of the company knowingly and wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding two hundred and fifty dollars. No. 15 of 1914, s. 108.

109. The copies of instruments creating any mortgage or charge requiring registration under this Ordinance with the Registrar, and the register of mortgages kept in pursuance of the last preceding section, shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding twenty-five cents for each inspection as the company may prescribe. Right to inspect copies of instruments creating mortgages and charges and company's register of mortgages.

2. If inspection of the said copies or register is refused, any officer of the company refusing inspection, and every director and manager of the company authorizing or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding twenty-five dollars, and a further fine not exceeding ten dollars for every day during which the refusal continues; and, in addition to the above penalty, any Judge of the Territorial Court sitting in chambers may by order compel an immediate inspection of the copies or register. No. 15 of 1914, s. 109.

110. Every register of holders of debentures of a company shall, except when closed in accordance with the articles during such period or periods (not exceeding in the whole thirty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such Right of debenture-holders to inspect the register of debenture-holders and

to have copies of trust deed.

reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the register or any part thereof on payment of ten cents for every one hundred words required to be copied.

2. A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of twenty-five cents or such less sum as may be prescribed by the company, or, where the trust deed had not been printed, on payment of ten cents for every one hundred words required to be copied.

3. If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding twenty-five dollars, and to a further fine not exceeding ten dollars for every day during which the refusal continues; and every director, manager, secretary, or other officer of the company who knowingly authorizes or permits the refusal shall incur the like penalty. No. 15 of 1914, s. 110.

Company includes society, etc.

110A. The word "company" in sections 102 to 110 (both inclusive) of this Ordinance shall mean and include any company, society or association incorporated by or under any public Ordinance of the Territory. No. 15 of 1914, s. 110A.

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Case. since 1936
of also see notes by Apt of Part 110s 1 July 1933. See remark
before this date in which says "shall be deemed" for reg. of floating charges.
Debentures and Floating Charges!

Conditions in debentures not invalid.

111. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Ordinance, shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding. No. 15 of 1914, s. 111.

Power to reissue redeemed debentures in certain cases.

112. Where either before or after the commencement of this Ordinance a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns), shall have power, and shall be deemed to always have had power, to keep the debentures alive for the purpose of reissue; and where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power, to reissue the debentures either by reissuing the same debentures or by issuing other debentures in their place, and upon such a reissue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

2. Wherewith the object of keeping debentures alive for the purpose of reissue they have either before or after the commencement of this ordinance been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a reissue for the purposes of this section.

3. Where a company has either before or after the commencement of this Ordinance deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

4. The reissue of a debenture or the issue of another debenture in its place under the power of this section given to or deemed to have been possessed by a company, whether the reissue or issue was made before or after the commencement of this Ordinance, shall not be treated as the issue of a new debenture for the purposes of any provision limiting the amount or number of debentures to be issued.

5. Nothing in this section shall prejudice—

(a) The operation of any judgment or order of a court of competent jurisdiction pronounced or made before the first day of May, 1914, as between the parties to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this Ordinance had not been passed; or

(b) Any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a company by its debentures or the securities for the same. No. 15 of 1914, s. 112.

113. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance. No. 15 of 1914, s. 113.

Specific performance of contract to subscribe for debentures.

114. Where in the case of a company registered under this Ordinance, either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding-up are, under the provisions of Part IX of this Ordinance relating to preferential payments, to be paid in priority to all other debts shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

Payments of certain debts out of assets subject floating charge in priority to claims under the charge.

2. The periods of time mentioned in the said provisions of Part IX of this Ordinance shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

3. Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors. No. 15 of 1914, s. 114.

Statement to be published by certain Companies.

Certain companies to publish statement in Schedule.

115. Every association or society formed under any of the Ordinances of the Territory shall, before it commences business, and also on the first Monday in February in every year during which it carries on business, make a statement in the form F in the second schedule to this Ordinance, or as near thereto as circumstances will admit.

2. A copy of the statement shall be put up in a conspicuous place in the registered or head office of the company or society, and in every branch office where the business of the company or society is carried on.

3. Every member and every creditor of the company or society shall be entitled to a copy of the statement on payment of a sum not exceeding twenty-five cents.

4. If default is made in compliance with this section, the company, association, or society shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty. No. 15 of 1914, s. 115.

Inspection and Audit.

Investigation of affairs of company by Government inspectors.

116. The Commissioner may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as he directs—

(a) In the case of a company having a share capital, on the application of members holding not less than one-tenth of the shares issued;

(b) In the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

2. The application shall be supported by such evidence as the Commissioner may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in requiring the investigation; and the Commissioner may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

3. It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

4. An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

5. If any officer or agent refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine not exceeding twenty-five dollars in respect of each such refusal.

6. On the conclusion of the investigation the inspectors shall report their opinion to the Commissioner, and a copy of

the report shall be forwarded by the Territorial Secretary to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

7. The report shall be written or printed, as the Commissioner may direct.

8. The Commissioner may make such order as to the costs and expenses incidental to such investigation as may be deemed proper. No. 15 of 1914, s. 116.

117. A company may by special resolution appoint inspectors to investigate its affairs. Power of company to appoint inspectors.

2. Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Commissioner, except that, instead of reporting to the Commissioner, they shall report in such manner and to such persons as the company in general meeting may direct.

3. Officers and agents of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Commissioner. No. 15 of 1914, s. 117.

118. A copy of the report of any inspectors appointed under this Ordinance, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report. No. 15 of 1914, s. 118. Report of inspectors to be evidence.

119. Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting. Appointment and remuneration of auditors

2. If an appointment of auditors is not made at an annual general meeting, the Commissioner may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

3. A director or officer of the company shall not be capable of being appointed auditor of the company.

4. A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting; and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting:

Provided that if, after notice of the intention to nominate an auditor has been so given, an annual general meeting is called

for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this provision, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this provision, be sent or given at the same time as the notice of the annual general meeting.

5. The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting, in which case the shareholders at that meeting may appoint auditors.

6. The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors (if any) may act.

7. The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors. No. 15 of 1914, s. 119.

Powers and
duties of
auditors.

120. Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

2. The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office, and the report shall state—

- (a) Whether or not they have obtained all the information and explanations they have required; and
- (b) Whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

3. The balance-sheet shall be signed on behalf of the board by two of the directors of the company, or if there is only one director, by that director, and the auditors' report shall be attached to the balance-sheet, or there shall be inserted at the foot of the balance-sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder.

Any shareholder shall be entitled to be furnished with a copy of the balance-sheet and auditors' report at a charge not exceeding ten cents for every hundred words.

4. If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated, or published, or if any copy of a balance-sheet is issued, circulated, or pub-

lished without either having a copy of the auditors' report attached thereto or containing such reference to that report as is required by this section, the company, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding two hundred and fifty dollars. No. 15 of 1914, s. 120.

121. Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company. Rights of preference shareholders etc., as to receipt and inspection of reports, etc.

2. This section shall not apply to a private company nor to a company registered before the first day of May, 1914. No. 15 of 1914, s. 121.

Carrying on Business with less than the Legal Minimum of Members.

122. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below five, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months, and is cognizant of the fact that it is carrying on business with fewer than two members, or five members, as the case may be, shall be severally liable for the payment of the whole of the debts of the company contracted during that time, and may be sued for the same, without joinder in action of any other member. Prohibition of carrying on business with fewer than five or, in the case of a private company, two members. No. 15 of 1914, s. 122.

Service and Authentication of Documents.

123. A document may be served on a company by leaving it at or sending it by post to the registered office of the company, or by serving the president, chairman, secretary, or any director of the company, or by leaving the same at the residence of either of them, or with any adult person of his family or in his employ; or, if the company has no registered office, and has no known president, chairman, secretary, or director, the Court may order such publication as it deems requisite to be made in the premises, and such publication shall be held to be due service upon the company. No. 15 of 1914, s. 123. Service of documents on company.

124. A document or proceeding requiring authentication by a company may be signed by a director, secretary, or other authorized officer of the company, and need not be under its common seal. No. 15 of 1914, s. 124. Authentication of documents.

Tables and Forms.

Application and alteration of tables and forms.

125. The forms in the second schedule to this Ordinance, or forms as near thereto as circumstances admit, shall be used in all matters to which those forms refer. No. 15 of 1914, s. 125.

Commissioner may alter tables and forms.

126. The Commissioner may alter any of the tables and forms in the first schedule to this Ordinance, so that it does not increase the amount of fees payable to the Registrar in the said schedule mentioned, and may alter or add to the forms in the said Second Schedule. No. 15 of 1914, s. 126.

Alterations to be published in Gazette.

127. Any such table or form, when altered, shall be published in the *Gazette*, and thenceforth shall have the same force as if it were included in one of the schedules to this Ordinance; but no alteration made by the Commissioner in Table A in the said first schedule shall affect any company registered before the alteration, or repeal, as respects that company, any portion of such table. No. 15 of 1914, s. 127.

Arbitrations.

Arbitration between companies and others.

128. A company may, by writing under its common seal, agree to refer and may refer to arbitration, in accordance with *The Arbitration Ordinance*, any existing or future difference between itself and any other company or person.

2. Companies, parties to the arbitration, may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

3. Subject to any express provisions on the subject, all the provisions of *The Arbitration Ordinance* shall apply to arbitrations between companies and persons in pursuance of this Ordinance. No. 15 of 1914, s. 128.

Power to Compromise.

Power to compromise with creditors and members.

129. Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the Court directs.

2. If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of

directors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributors of the company.

3. In this section the expression "company" means any company liable to be wound up under this Ordinance. No. 15 of 1914, s. 129.

Meaning of "Private Company."

130. For the purposes of this Ordinance the expression "private company" means a company which by its memorandum or articles—

Meaning of "private company."

- (a) Restricts the right to transfer its shares; and
- (b) Limits the number of its members (exclusive of persons who are in the employment of the company) to fifty; and
- (c) Prohibits any invitation to the public to subscribe for any shares or debentures of the company.

2. A private company may, subject to anything contained in the memorandum or articles, by passing a special resolution and by filing with the Registrar such a statutory declaration as the company, if a public company, would have had to file before commencing business, turn itself into a public company.

3. Where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this section, be treated as a single member. No. 15 of 1914, s. 130.

PART V.

INCORPORATION OF MINING COMPANIES WITHOUT ANY PERSONAL LIABILITY.

131. The memorandum of a company incorporated or reincorporated under this Ordinance, the objects whereof are restricted to acquiring, managing, developing, working, and selling mines (including coal mines), mineral claims, placer mining claims, mining properties, and petroleum claims, and the winning, getting, treating, refining, and marketing of mineral, coal or oil therefrom, may contain a provision that no personal liability shall attach to any subscriber or holder of shares in a company so incorporated, and the certificate of incorporation issued under section 26 of this Ordinance shall state that the company is specially limited under this section.

Mining companies with specially limited liability on shares.

2. Every company, the objects whereof are restricted as aforesaid, shall be deemed to have the following, but, except as in this Ordinance otherwise expressed, no greater powers, that is to say:—

Powers of non-personal liability mining companies.

- (a) To obtain by purchase, lease, hire, discovery, location or otherwise, and hold, within the Territory, mines,

mineral claims, mineral leases, prospects, mining land and mining rights of every description, and to work, develop, operate, and turn the same to account, and to sell or otherwise dispose of the same or any of them, or any interest therein:

- (b) To dig for, raise, crush, wash, smelt, assay, analyse, reduce, amalgamate, and otherwise treat gold, silver, coal, copper, lead ores or deposits, and other minerals and metallic substances and compounds of all kinds, whether belonging to the company or not, and to render the same merchantable, and to buy, sell, and deal in the same or any of them:
- (c) To carry on the business of a mining, smelting, milling, and refining company in all or any of its branches:
- (d) To acquire by purchase, lease, hire, exchange, or otherwise, such timber lands or leases, timber claims, licenses to cut timber, surface rights, and rights-of-way, water rights and privileges, mills, factories, furnaces for smelting and treating ores and refining metals, buildings, machinery, plant, or other real or personal property as may be necessary for or conducive to the proper carrying out of any of the objects of the company:
- (e) To construct, maintain, alter, make, work and operate on the property of the company, or on property controlled by the company, any canals, trails, roads, ways, tramways, bridges and reservoirs, dams, flumes, race and other ways, water-courses, aqueducts, wells, wharves, piers, furnaces, sawmills, crushing-works, smelting works, concentrating works, hydraulic works, coke ovens, electrical works and appliances, warehouses, buildings, machinery, plant, stores and other works and conveniences which may seem conducive to any of the objects of the company, and, with the consent of the shareholders in general meeting, to contribute to, subsidize, or otherwise aid or take part in any such operation, though constructed and maintained by any other company or persons outside of the property of the company; and to buy, sell, manufacture and deal in all kinds of goods, stores, implements, provisions, chattels and effects required by the company or its workmen and servants:
- (f) To build, acquire, own, charter, navigate and use steam and other vessels for the purposes of the company:
- (g) To take, acquire and hold as the consideration for ores, metals or minerals sold or otherwise disposed of, or for goods supplied or for work done by contract or otherwise, shares, debentures, bonds or other securities of or in any other company the objects of which are restricted as herein aforesaid, and to sell or otherwise dispose of the same:
- (h) To enter into any arrangement for sharing profits, union of interests, or co-operation with any other person or company carrying on, or about to carry on, any business or transaction which a company specially limited under this section is authorized to carry on:

- (i) To purchase, or otherwise acquire and undertake all or any of the assets, business, property, privileges, contracts, rights, obligations and liabilities of any person or company carrying on any part of the business which a company specially limited under this section is authorized to carry on, or possessed of property suitable for the purposes thereof:
- (j) To borrow or raise money for the purposes of the company, but so that the amount so borrowed or raised shall not, without the sanction of a general meeting of the company, exceed one-quarter of the amount of the paid up capital for the time being, and for the purpose of securing such money and interest, or for any other purpose, to mortgage or charge the undertaking or all or any part of the property of the company, present or after acquired; and to create, issue, make, draw, accept and negotiate perpetual or redeemable debentures or debenture stock, promissory notes, bills of exchange, bills of lading, warrants, obligations, and other negotiable and transferable instruments: Provided, however, that the restriction in this subsection contained as to borrowing without the sanction of a general meeting shall not be deemed to be imperative, and shall in no wise limit, control, or affect any power of borrowing vested in the board of directors of the company or of the company under the memorandum, articles or by-laws of the company:
- (k) To distribute any of the property of the company among the members in specie:
- (l) To sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account, or otherwise deal with the undertaking or the whole or any part of the property and rights of the company, with power to accept as the consideration any shares, stocks, or obligations of any company: Provided, however, that in case of a sale for shares in a company other than a non-personal liability company, such shares shall be fully paid up:
- (m) To do all such other things as are incidental or conducive to the attainment of the foregoing objects.
No. 15 of 1914, s. 131.

132. Where a certificate of incorporation incorporating any such company, or a license or certificate of registration to any extra-territorial company, has been issued containing the provisions mentioned in section 131 of this Ordinance, every certificate of shares or stock issued by the company shall bear upon the face thereof, distinctly written or printed in red ink, after the name of the company, the words "issued under section 131, respecting mining companies, of *The Companies Ordinance*," and where such shares or stock are issued subject to further assessments the word "assessable," or if not subject to further assessment the word "non-assessable," as the case may be. No. 15 of 1914, s. 132.

Shares to
be specially
marked.

Charter, prospectuses, and other documents of such company to be specially marked.

Penalty.

133. Every company, the objects whereof are restricted as aforesaid, shall have written or printed on its charter, prospectuses, stock certificates, bonds, contracts, agreements, notices, advertisements, and other official publications, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letter heads of the company, immediately after or under the name of such company, and shall have engraved upon its seal the words "Non-Personal Liability," and such words shall be the last words of its name; and every such company which refuses, or knowingly neglects, to comply with this section shall incur a penalty of twenty dollars for every day during which such name is not so kept written or printed, recoverable upon summary conviction; and every director and manager, secretary, and officer of the company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty. No. 15 of 1914, s. 133.

Enforcement of payment of assessment on such shares.

134. In the event of any call or calls on assessable shares in a company, the objects whereof are restricted as aforesaid, remaining unpaid by the subscriber thereto, or holder thereof, for a period of sixty days after notice and demand of payment, such shares may be declared by the directors to be in default, and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash, by giving notice of such sale in some newspaper published or circulating in the city or district where the principal office of the company is situated, for a period of one month; and said notice shall contain the number of the certificate or certificates of such shares, and the number of shares, the amount of the assessment due and unpaid, and the time and place of sale; and in addition to the publication of the notice aforesaid, notice shall be personally served upon such subscriber or holder by registered letter mailed to his last known address; and if the subscriber or holder of such shares shall fail to pay the amount due upon such shares, with interest upon the same at the rate provided by the articles, by-laws, or regulations of the company, or where no rate is so fixed, at the same rate as is provided by Statute in other cases where interest is by law payable and the rate is not agreed upon, and cost of advertising, before the time fixed for such sale, the secretary shall proceed to sell the same or such portion thereof as shall suffice to pay such assessment, together with such interest and cost of advertising: Provided that if the price of the share so sold exceeds the amount due with said interest and cost thereon, the excess thereof shall be paid to the defaulting subscriber or holder. No. 15 of 1914, s. 134.

Liability of shareholder on such shares.

135. No shareholder or subscriber for shares in any company, the objects whereof are restricted as aforesaid, shall be personally liable for non-payment of any calls made upon his shares, nor shall such shareholder or subscriber be personally

liable for any debt contracted by the company, or for any sum payable by the company. No. 15 of 1914, s. 135.

136. Wherever any shares have been, prior to the first day of May, 1914, issued by any company duly incorporated under any Ordinance as fully paid-up shares, either at a discount or in payment for any mine, mineral claim, or mining property purchased or acquired by such company, or for the acquiring whereof such company has been incorporated, all such shares shall, except as to any debts contracted by the company before the first day of May, 1914 (in regard to which the liability in such shares shall be the same as if this Ordinance had not been passed), be deemed and held to be fully paid up, and the holder thereof shall be subject to no personal liability thereon, in the same manner as if the memorandum of association of the company had contained the provision aforesaid. No. 15 of 1914, s. 136.

Existing companies before revision of 1914.

137. Any company with specially limited liability on shares heretofore incorporated under an Ordinance respecting mining companies, being Chapter 60 of the Consolidated Ordinances of the Yukon Territory, 1902, and the powers, rights, and liabilities of any such company and of its shareholders, shall be and remain specially limited as provided in those sections and all shares of any such company heretofore issued, or that may hereafter be issued, as full paid and non-assessable, as therein provided, shall at all times be deemed to be full-paid and non-assessable. No. 15 of 1914, s. 137.

Shares in companies incorporated under Chapter 60 of Consolidated Ordinances, 1902, to be at all times full paid and non-assessable.

138. In case a resolution authorizing reincorporation and registration under the provisions of this Ordinance, and authorizing the execution by the directors on behalf of the shareholders of the company of a memorandum of association for the objects specified in such resolution, is passed at a general meeting of the shareholders of the company duly called specially for the purpose, at which meeting at least two-thirds in value of all the shares of the company are represented by the holders thereof in person or by proxy and vote in favour of such resolution, any company heretofore incorporated, or hereafter incorporated, subject to the provisions contained in section 131 of this Ordinance, or to the like provisions of any former Ordinance, and being at the time of registration a subsisting and valid company, and upon payment to the Registrar of a fee of ten dollars, and no more (except where the capital is increased), shall be entitled to receive from the Registrar a certificate of the reincorporation and registration of the company under this Ordinance as an unlimited company, or as a company limited by shares, or as a company limited by guarantee, for the objects and purposes to be set out in the memorandum of association executed in pursuance of such resolution, and thereupon the old company shall, as such company, cease to exist, and all the rights, property, and obligations of the former company shall thereby be and be deemed *ipso facto*

Reincorporation as an ordinary limited company.

to have been transferred to the new company, and all proceedings may be continued or commenced by or against the new company that might have been continued or commenced by or against the old company, and it shall not be necessary in the certificate of reincorporation or registration to set out the names of the shareholders, and after such reincorporation and registration the company shall be governed in all respects by the provisions of this Ordinance, except that the liabilities of the shareholders to creditors of the old company shall remain as at the time of reincorporation; and of such reincorporation the certificate aforesaid shall be conclusive evidence, as well as conclusive evidence of the due registration and observance of all statutory requirements with respect to registration or incorporation in force prior to the passing of this Ordinance:

- (a) Where an existing company applies for registration under this section, the directors may, in and by the memorandum of association executed pursuant to and conforming to the resolution of the company authorizing the execution thereof, extend, vary, or limit the powers and objects of the company, and the certificate of registration under this section shall be to the new company by a different name than that of the old company:
- (b) Where the existing company is registered under this section, the capital of the company may be increased or decreased to any amount which may be fixed by the resolution of the company authorizing such registration; but where increased the fees for increase of capital mentioned in Table B to this Ordinance shall be paid to the Registrar:
- (c) The said resolution shall prescribe the manner in which the shares in the new company are to be allotted to holders of shares in the old company, and shall prescribe to what amount (if any) the shares in the new company shall be assessable, and generally the terms upon which the new shares shall be deliverable to the allottees: Provided, however, that no shareholder in the old company shall be liable upon any shares in the new company unless he accepts the allotment to him of the same:
- (d) The memorandum of association may be accompanied by articles of association, in accordance with section 20 of this Ordinance, and such articles of association must be authorized by the resolution authorizing registration under the provisions of this section:
- (e) Whenever the Registrar considers that public notice of an intended application for reincorporation and registration under this section should be given, he shall require notice to be published in the *Gazette*, or otherwise, as he thinks proper:
- (f) The Registrar may, in any case where he thinks it proper so to do, refuse reincorporation and registration: Provided that the company may appeal from the decision of the Registrar under this section to the Territorial Court, or a Judge thereof in Chambers, by motion:

(g) Every certificate of registration issued under this section shall be published in one issue of the *Gazette* and in one issue of a newspaper circulating in the city or district in which the registered office of the company is situate. No. 15 of 1914, s. 138.

PART VI.

LICENSING AND REGISTRATION OF EXTRA-TERRITORIAL COMPANIES.

General.

139. Every extra-territorial company, other than a company incorporated under authority of an Act of Parliament of Canada, having gain for its purpose and object within the scope of this Ordinance is hereby required to be licensed or registered under this or some former Ordinance, and no company, firm, broker, or other person shall, as the representative or agent of or acting in any other capacity for any such extra-territorial company, carry on any of the business of an extra-territorial company within the Yukon Territory until such extra-territorial company shall have been licensed or registered as aforesaid.

Extra-Territorial Companies required to become licensed or registered.

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This section shall apply to an extra-territorial company notwithstanding that it was heretofore registered as a foreign company under the provisions of any Ordinance. No. 15 of 1914, s. 139.

Extra-territorial companies heretofore registered.

(2) To apply to companies incorporated by Act of Parliament that legislative provision concerning company

1926 C.S. Registrar's power to dispense with filing of documents.

140. The Registrar may, for good cause shown, dispense with the filing by an extra-territorial company, proceeding to obtain a license or registration under the provisions of this Part of this Ordinance, of one or more of the documents which compose its charter and regulations, and may allow to be substituted therefor a list of the documents so dispensed with, accompanied by a statement of the reasons for dispensing with the originals, and (if he so require) by such memorandum of the contents of such originals as he may deem sufficient. No. 15 of 1914, s. 140.

141. Any extra-territorial company licensed or registered under this or some former Ordinance may sue and be sued in its corporate name, and, if authorized so to do by its charter and regulations, may acquire and hold lands in the Yukon Territory by gift, purchase, or as mortgagees or otherwise, as fully and freely as private individuals, and may sell, lease, mortgage, or otherwise alienate the same. No. 15 of 1914, s. 141.

Rights of such company to sue, hold land, etc.

142. Every extra-territorial company registered as a company under this or some former Ordinance shall, subject to the provisions of its charter and regulations, and of this Ordinance, have and may exercise all the rights, powers, and privileges by this Ordinance granted to and conferred upon

Rights and duties of registered companies.

companies incorporated thereunder; and every such extra-territorial company and the directors, officers, and members thereof shall, save as in this Ordinance otherwise provided, be subject to and shall, subject as aforesaid, observe, carry out, and perform every act, matter, obligation, and duty by this Ordinance prescribed and imposed upon companies incorporated thereunder, or upon the directors, officers, and members thereof. No. 15 of 1914, s. 142.

Power to issue and transfer shares.

143. Every extra-territorial company registered under this Part of this Ordinance shall, in and by the power of attorney hereinafter prescribed empower its attorney to issue and transfer shares of the company.

Register.

Every such extra-territorial company shall, at its head office or chief place of business in the Territory, provide and keep, in form and manner provided by section 33 of this Ordinance, a register of all shares issued at such head office or chief place of business, and of all transfers of shares in the company made within the Territory and presented for record at such head office or chief place of business; and every lawful transfer of shares made by a member shall, upon the entry and record on such register, be valid and binding to all intents and purposes; and every act, matter, or thing lawfully done by the attorney of the company pursuant to this section shall be as valid and binding in all respects as if done by the company or the directors, managers, or officers of the company, pursuant to the provisions of the charter and regulations of the company and of this Ordinance in that behalf. No. 15 of 1914, s. 143.

Surrender of certificate of registration for license.

144. Every extra-territorial company duly incorporated under the laws of the United Kingdom, or of the late Province of Canada, or of any of the Provinces of Canada, registered prior to the first day of May, 1914, in the Territory as a foreign company under the provisions of any Ordinance, may surrender to the Registrar the certificate of registration of the company issued under such Ordinance and obtain from him a license under the provisions of this Part of this Ordinance; and for the purpose of obtaining such license the surrender of such certificate of registration and the filing of the power of attorney prescribed by clause (c) of section 152 of this Ordinance shall be deemed to be a sufficient compliance with the requirements of this Part. No. 15 of 1914, s. 144.

What certificate of registration or license to extra-territorial companies to contain.

145. The license issued in pursuance of the last preceding section of this Ordinance to an extra-territorial company heretofore registered as a foreign company need not contain in detail the objects of the company, but may incorporate them by reference to the former certificate of registration of the company. No. 15 of 1914, s. 145.

What extra-territorial companies subject to the Ordinance.

146. Every extra-territorial company registered in the Territory before the passage of this Ordinance, as a foreign company under the provisions of any Ordinance in that behalf

(other than a company entitled to obtain, and which has obtained, a license under some former Ordinance, or may obtain a license under this Part of this Ordinance), and the directors, officers, and members thereof, shall be subject to and shall observe, carry out, and perform every act, matter, obligation, and duty by this Ordinance prescribed and imposed upon companies incorporated thereunder, or upon the directors, officers, and members thereof. No. 15 of 1914, s. 146.

147. In case of any suit or other proceeding being commenced by any extra-territorial company against any person or corporation residing or carrying on business in the Territory, such extra-territorial company shall furnish security for costs, if demanded. No. 15 of 1914, s. 147.

Security for costs by extra-territorial company.

148. The Commissioner may, by an order to be published in three consecutive issues of the *Gazette*, suspend or revoke and make null and void any license granted or any registration effected under this or some former Ordinance to any company which refuses or fails to keep a duly appointed attorney within the Territory, or to comply with any of the provisions of this Part of this Ordinance; and, notwithstanding such suspension or revocation, the rights of creditors of the company shall remain as at the time of such suspension or revocation. No. 15 of 1914, s. 148.

Commissioner's power to suspend or revoke license.

149. Sections 102 to 110A, both inclusive, of this Ordinance shall apply to every extra-territorial company. No. 15 of 1914, s. 149.

Application of certain sections to extra-territorial companies.

150. The license or certificate of registration to any extra-territorial company (the objects whereof are restricted as mentioned in section 131, subsection (1), of this Ordinance) may, if so applied for in the application for such license, or in the petition for such registration, contain the provision that the company is specially limited as in that section expressed; and in such case the provisions of sections 131, 132, 133, 134, and 135 of this Ordinance shall apply to such extra-territorial company. No. 15 of 1914, s. 150.

Extra-territorial companies may obtain benefit of non-personal liability.

Licensing of Extra-territorial Companies.

151. Any extra-territorial company duly incorporated under the laws of—

Companies entitled to license.

(a) The United Kingdom;

(b) The former Province of Canada; and

(c) Any of the Provinces of the Dominion; (d) Part of Can.

duly authorized by its charter and regulations to carry out or effect any of the purposes or objects to which the legislative authority of the Council extends, may obtain a license from the Registrar authorizing it to carry on business within the Territory on compliance with the provisions of this Ordinance, and on payment to the Registrar in respect of the several matters mentioned in the Table B in the First Schedule hereto the

1926. C. 5.

several fees therein specified, and shall, subject to the provisions of the charter and regulations of the company, and to the terms of the license, thereupon have the same powers and privileges in the Territory as if incorporated under this Ordinance. No. 15 of 1914, s. 151.

Proceedings
to obtain
such license.

152. Before the issue of a license to any such extra-territorial company, the company shall file in the office of the Registrar—

(a) A true copy of the charter and regulations of the company, verified in manner satisfactory to the Registrar, and showing that the company by its charter has authority to carry on business in the Territory; and if any instrument included in the aforesaid is not written in the English language, a notarially certified translation thereof:

(b) An affidavit or statutory declaration that the company is still in existence and legally authorized to transact business under its charter:

(c) A duly executed power of attorney, under its common seal, empower in some person therein named, and residing in the city or place where the head office of the company in the Territory is situate, to act as its attorney and to sue and be sued, plead or be impleaded, in any Court, and generally, on behalf of such company and within the Territory, to accept service of process and to receive all lawful notices, and to do all acts and to execute all deeds and other instruments relating to the matters within the scope of the power of attorney and of the company to give to its attorney; and such company may from time to time, by a new or other power of attorney executed and filed as aforesaid, appoint another attorney within the Territory for the purposes aforesaid to replace the attorney formerly appointed. The power of attorney may be according to a form approved of and provided by the Registrar:

(d) Notice of the place where the head office without the Territory is situate:

(e) Notice of the city, town or district in the Territory where the head office of the company is proposed to be situate:

(f) The amount of the capital of the company:

(g) The number of shares into which it is divided. No. 15 of 1914, s. 152.

Contents of
license.

153. The license shall set forth—

(a) The corporate name of the company:

(b) The place where the head office of the company is situate:

(c) The place where the head office of the company in the Territory is situate:

(d) The name, address, and occupation of the attorney of the company:

(e) The amount of the capital of the company:—

(f) The number of shares into which it is divided:

- (g) The time of the existence of the company, if incorporated for a limited period:
- (h) In the case of a limited company, that the company is limited:
- (i) In the case of a mining company, to which the non-personal liability sections in Part V of this Ordinance apply, that the liability of the members is so specially limited:

start and such certificate, together with a statement by the Registrar of the objects for which the company has been established and licensed, shall be published at the expense of the company ~~for four weeks in the Gazette~~; and such license shall be conclusive evidence of compliance with all the requirements of this Ordinance. *Evidence. 1921 1926*
once in the Gazette
or newspaper published
etc.

Notice of the appointment of a new attorney, or of the company ceasing to carry on business in the Territory, shall likewise be published for the time and in the manner aforesaid. No. 15 of 1914, s. 153.

154. The license, or a copy thereof certified under the hand and seal of the Registrar, or a copy of the *Gazette* containing such license, shall be sufficient evidence in any proceeding in any Court in the Territory of the due licensing of the company aforesaid. No. 15 of 1914, s. 154. *Evidence of license.*

155. If the power of attorney hereinbefore prescribed becomes invalid or ineffectual from any reason, or if other service cannot be readily effected, the Court or Judge may order substitutional service of any process or proceeding upon the company to be made by such publication as is deemed requisite to be made in the premises, for at least four weeks in at least one newspaper; and such publication shall be held to be due service upon the company of such process or proceeding. No. 15 of 1914, s. 155. *Substitutional service.*

Registration of Extra-territorial Companies.

156. Any other extra-territorial company, duly authorized by its charter and regulations to carry out or effect any of the purposes or objects to which the legislative authority of the Council extends, may register the company as a company under this Ordinance on compliance with the provisions of this Part, and on payment to the Registrar in respect of the several matters mentioned in the Table B in the First Schedule hereto the several fees therein specified, and such company shall, subject to the provisions of the charter and regulations of the company and of this Ordinance, thereupon have the same powers and privileges in the Territory as if incorporated under the provisions of this Ordinance. No. 15 of 1914, s. 156. *Power for extra-territorial company to register.*

157. Any extra-territorial company desiring to become registered as a company under this Ordinance as aforesaid may petition therefor under the common seal of the company, and with such petition shall file in the office of the Registrar— *Proceedings by such company to obtain registration.*

- (a) A true copy of the charter and regulations of the company, verified in manner satisfactory to the Registrar, and showing that the company by its charter has authority to carry on business in the Territory; and if any instrument included in the aforesaid is not written in the English language, a notarially certified translation thereof:
- (b) An affidavit or statutory declaration that the said company is still in existence and legally authorized to transact business under its charter:
- (c) A duly executed power of attorney, under its common seal, empowering some person therein named, and residing in the city or place where the head office of the company in the Territory is situate, to act as its attorney and to sue and be sued, plead or be impleaded, in any Court, and generally, on behalf of such company and within the Territory, to accept service of process and to receive all lawful notices, to issue and transfer shares or stock, and to do all acts and to execute all deeds and other instruments relating to the matters within the scope of the power of attorney and of the company to give to its attorney; and such company may from time to time, by a new or other power of attorney executed and deposited as aforesaid, appoint another attorney within the Territory for the purposes aforesaid to replace the attorney formerly appointed. The power of attorney may be according to a form approved of and provided by the Registrar:
- (d) Notice of the place where the head office of the company without the Territory is situate:
- (e) Notice of the city, town or district in the Territory where the head office of the company is proposed to be situate:
- (f) The amount of the capital of the company: and
- (g) The number of shares into which it is divided. No. 15 of 1914, s. 157.

Powers of attorney by extra-territorial companies seeking registration.

158. The Registrar may accept from any extra-territorial company, proceeding to obtain registration under the provisions of section 157 of this Ordinance, a power of attorney which varies in substance from that called for by clause (c) of said section, in that it omits to empower the attorney named therein to issue and transfer shares or stock, upon its being shown to his satisfaction either that the company is not a public company the shares or stock whereof are upon the market, or that although the company is a public company, and the shares or stock thereof are upon the market, yet that, either owing to the small quantity of the shares or stock of the company held in the Territory and to the fact that the company does not propose to place any of the shares or stock upon the market in the Territory, or to the fact that the consent of the holders of shares or stock within the Territory has been obtained, the preponderance of convenience is in favour of exempting the company from empowering their attorney in the manner specified:

- (a) The certificate of registration issued to the company under the provisions of section 159 shall state, after the name, address and occupation of the attorney, that such attorney is not empowered to issue or transfer shares or stock:
- (b) The company shall thereupon be relieved from compliance with section 143 of this Ordinance. No. 15 of 1914, s. 158.

159. The Registrar shall issue to any extra-territorial company registered under this Ordinance a certificate of registration which shall set forth—

Contents of certificate.

- (a) The corporate name of the company:
- (b) The place where the head office of the company is situate:
- (c) The place where the head office of the company in the Territory is situate:
- (d) The name, address, and occupation of the attorney of the company:
- (e) The amount of the capital of the company:
- (f) The number of shares into which it is divided, and the amount of each share:
- (g) The time of the existence of the company, if incorporated for a limited period:
- (h) In the case of a limited company, that the company is limited:
- (i) In the case of a mining company, to which the non-personal liability sections in Part V of this Ordinance apply, that the liability of the members of the company is so specially limited:

but see section 158, 157(c) + 143

1921 and 1926 once in the Gazette or newspaper published, etc.

and such certificate, together with a statement by the Registrar of the objects for which the company has been established and registered, shall be published at the expense of the company for four weeks in the *Gazette*; and such certificate shall be conclusive evidence of compliance with all the requirements of this Ordinance.

Publication.

Notice of the appointment of a new attorney, or of the company ceasing to carry on business in the Territory, shall likewise be published for the time and in manner aforesaid. No. 15 of 1914, s. 159.

160. The certificate of registration, or any copy thereof certified under the hand and seal of the Registrar, or a copy of the *Gazette* containing such certificate of registration, shall be sufficient evidence in any proceeding in any Court in the Territory of the due registration of the company as aforesaid. No. 15 of 1914, s. 160.

Evidence of such registration.

161. If the power of attorney hereinbefore prescribed becomes invalid or ineffectual from any reason, or if other service cannot readily be effected, the Court or Judge may order substitutional service of any process or proceeding upon the company to be made by such publication as is deemed requisite to be made in the premises, for at least four weeks in at least one

Substitutional service on such Company.

newspaper; and such publication shall be held to be due service upon the company of such process or proceeding. No. 15 of 1914, s. 161.

Provision requiring all transactions of an unregistered company to conform to the laws of the Territory.

162. No act, matter, disposition, or thing affecting the corporate rights and property of the company within the Territory, made, done, or executed by any extra-territorial company entitled to registration only under this Part of this Ordinance, although valid by the laws of the country or State under which such company is incorporated, or permissible under its original corporate powers, shall be of any force or effect, or enforceable by the company or any one on its behalf by action in any Court in the Territory, unless such act, matter, disposition, or thing be valid and permissible by the laws of the Territory. No. 15 of 1914, s. 162.

Disabilities and Penalties.

Penalty for doing business without license.

163. If any extra-territorial company shall, without being licensed or registered pursuant to this or some former Ordinance carry on in the Territory any part of its business, such extra-territorial company shall be liable to a penalty of fifty dollars for every day upon which it so carries on business. No. 15 of 1914, s. 163.

Unlicensed company not capable of maintaining action.

164. So long as any extra-territorial company remains unlicensed or unregistered under this or some former Ordinance, it shall not be capable of maintaining any action, suit, or other proceeding in any Court in the Territory in respect of any contract made in whole or in part within the Territory in the course of or in connection with its business, contrary to the requirements of this Part of this Ordinance.

does not apply to D. H. Co. 1916 C. 5

Provided

Provided, however, that upon the granting or restoration of the license or the issuance or restoration of the certificate of registration or the removal of any suspension of either license or the certificate, any action, suit, or other proceeding may be maintained as if such license or certificate had been granted or restored or such suspension removed before the institution of any such action, suit, or other proceedings. No. 15 of 1914, s. 164.

Cannot hold land.

165. No extra-territorial company required by this Ordinance to be licensed or registered shall be capable of acquiring or holding lands or any interest therein in the Territory, or registering any title thereto under the *Land Titles Act*, unless duly licensed or registered under this or some former Ordinance:

Provido.

Provided, however, that the granting of a license or certificate of registration shall operate as a removal of any disability under this section. No. 15 of 1914, s. 165.

Penalty for agent of unlicensed or unregistered company carrying on business.

166. If any company, firm, broker, or other person acting as the agent or representative of or in any other capacity for an extra-territorial company not licensed or registered under this or some former Ordinance shall carry on any of its business contrary to the requirements of this Part of this Ordinance,

such company, firm, broker, agent, or other person shall be liable to a penalty of twenty dollars for every day it, he, or they shall so carry on such business. No. 15 of 1914, s. 166.

167. The Commissioner may, when or after a license has been granted or a certificate issued, remit in whole or part any penalty incurred under this Ordinance by the company receiving the license or the certificate, or by any representative or agent thereof, and may also remit in whole or part the costs of any action or proceeding commenced for the recovery of any such penalty, and thereupon the whole or such part of the costs, as the case may be, shall not be recoverable. No. 15 of 1914, s. 167. Power to remit penalties.

168. The penalties imposed by this Part of this Ordinance shall be recoverable only by action at the suit of or brought with the written consent of the Commissioner, and any action or proceeding to recover any such penalty shall be commenced within six months after the liability for such penalty has been incurred, and not afterward: Provided that in any action to recover any such penalty the onus of proving that a company is duly licensed or registered under this or some former Ordinance shall be upon the defendant. No. 15 of 1914, s. 168. Penalties only recoverable by or with consent of Commissioner.

169. No act, matter, contract, agreement, undertaking, or proceeding of an extra-territorial company carrying on business in the Territory prior to the passage of this Ordinance shall be attached, nor shall the same be invalidated, nullified, or held so to be by reason only of the fact that the company, or the directors, officers, or members thereof, or any of them, may hereafter becomeliabile to a penalty for neglect to observe any provision of this Ordinance. No. 15 of 1914, s. 169. Acts of former companies not invalidated by default of directors.

169A. The taking orders by travellers for goods, wares or merchandise to be subsequently imported into the Yukon Territory to fill such orders, or the buying or the selling of such goods, wares or merchandise by correspondence, if the company has no resident agent or representative and no warehouse, office or place of business in the Yukon Territory, the onus of proving which shall in any prosecution under this Part rest on the accused, shall not be deemed to be carrying on business within the meaning of this Part. No. 15 of 1914, c. 169A. Sales by travellers or by correspondence.

169B. Provisions of sec 163, 164, 165 not to apply to company incorp under Act of Parlt.

PART VII.

1926

PROCESS AGAINST UNREGISTERED EXTRA TERRITORIAL COMPANIES.

170. In this Part of this Ordinance the word "company" shall be construed to mean any unlicensed and unregistered extra-territorial company which has done, entered into, or made Definition of "company" in this Part.

any act, matter, contract, or disposition giving to any person or company a right of action in any Court in the Territory. No. 15 of 1914, s. 170.

Service of process on unregistered company.

171. Any writ or summons, plaint, injunction, or other legal proceeding duly issued at the instance or suit of any person by the Territorial Court of the Yukon Territory, or any Police Magistrate's Court, or officer of such Court, may be served as against the company by delivering the same at Dawson to the clerk of the Territorial Court. No. 15 of 1914, s. 171.

Publication of such process.

172. It shall be the duty of such clerk to cause to be inserted in the four regular issues of the *Gazette*, consecutively, following the delivery of such process to him, a notice of such process with a memorandum of the date of delivery, stating generally the nature of the relief sought and the time limited and the place mentioned for entering an appearance. No. 15 of 1914, s. 172.

When such service valid.

173. After such advertisement shall have appeared in such four issues, the delivery of such process to such clerk as aforesaid shall be deemed, as against the defendant company, to be good and valid service of such process. No. 15 of 1914, s. 173.

Procedure on entering a judgment against company.

174. In entering up, applying for, or obtaining a judgment by default, or for the purpose of taking any proceeding consequent or following on such service, it shall not be necessary, so far as such service is concerned, to file any affidavit, but the plaintiff shall, instead thereof, file a copy of each of the four issues of the *Gazette* in which the advertisement shall have appeared: Provided always that when service of process shall have been effected as hereinbefore mentioned, the plaintiff shall and he is hereby required to prove the amount of the debt or damages claimed by him in manner following, that is to say: Before a Judge of the Territorial Court or a Police Magistrate, or before the clerk, as a Judge of the said Court, or Police Magistrate may direct; and the making of such proof shall be a condition precedent to the plaintiff obtaining judgment. No. 15 of 1914, s. 174.

Averment in action against company.

175. In any action, suit, or proceeding against the company, it shall not be necessary to aver in any pleading, or to adduce any evidence, that the company was organized or incorporated under the laws of any foreign State or jurisdiction, or that the company has power under its organization or incorporation to make the contract or incur the liability in respect of which the action, suit, or proceeding against the company shall be brought. No. 15 of 1914, s. 175.

Ordinance not to affect remedies against companies.

176. Nothing in this Part of this Ordinance contained shall be deemed to limit, abridge, or take away any legal right, recourse or remedy against a company not therein enacted or

recognized, nor to absolve or lessen any obligation, rule, or duty imposed by law on a company. No. 15 of 1914, s. 176.

PART VIII.

PUBLIC UTILITIES.

177. This Part of the Ordinance shall apply to all applications for incorporation of companies intended to operate or control any public or municipal franchise, undertaking or utility, including water, gas, electric and telephone companies, or which may require for its purposes the erection of any permanent structure in or upon any highway, stream or adjoining navigable waters, and to such companies when incorporated. No. 15 of 1914, s. 177.

Applies to public utility companies.

178. With the application for incorporation the applicants shall file with the Registrar of joint-stock companies and produce to the Commissioner of the Yukon Territory:

Evidence to accompany application.

- (a) Evidence that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated; that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking;
- (b) A detailed description of the plant, works and intended operations of the company, and an estimate of their cost;
- (c) A by-law of every municipality in which the operations of the company are to be carried on authorizing the execution thereof in the manner set out in the detailed description above referred to;
- (d) If the undertaking is to be carried on in an unorganized district a letter from the Commissioner of the Yukon Territory, approving of the undertaking;
- (e) If it is proposed that the company shall acquire any plant, works, land, undertaking, good will, contract or other property or assets, a detailed statement of the nature and value thereof. No. 15 of 1914, s. 178.

179. The Commissioner of the Yukon Territory may refer the application and all statements, evidence and material filed thereon to engineers, architects, valuers or other experts for consideration, investigation and report regarding the public necessity for the undertaking of the company, the amount of capital required therefor, the value of any plant, works, lands, undertaking, good will, contract or other property or assets to be acquired by the company and any other matter which may appear to be in the public interest regarding such undertaking. No. 15 of 1914, s. 179.

Reference to engineers or other experts to report.

180. All Letters Patent and Supplementary Letters Patent of companies to which the provisions of this Part of this Ordinance are made applicable and of all companies heretofore incorporated for any purpose referred in section 177 shall be issued on order of the Commissioner of the Yukon Territory, 70263—12½

Letters patent to issue.

180. Name of articles as in Part B

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and such Letters Patent or Supplementary Letters Patent may be issued in terms and conditions different from those applied for. No. 15 of 1914, s. 180.

Notice of application to be published.

181. Notice of the application shall be published in such manner and shall be given to such persons or corporations as the Commissioner of the Yukon Territory may determine. No. 15 of 1914, s. 181.

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Supplementary letters.

Provision continues to apply to companies limited by letters patent
182. Upon any application for Supplementary Letters Patent extending the powers, increasing the capital or otherwise varying any term of the Letters Patent the company shall produce such evidence and statements as are referred to in section 178 hereof and such other evidence and statements as the Commissioner of the Yukon Territory may require, and he may refer the same in the manner and for the purposes set out in section 179. No. 15 of 1914, s. 182.

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Power to pass by-laws.

183. The company may pass by-laws regarding the control and management of its undertaking; its dealings with the public it is incorporated to serve; the fixing and collection of tolls, charges, rates or levies for the public service given by the company: Provided, however, that no such by-laws shall have any force or effect or be acted upon until approved by the Commissioner of the Yukon Territory, and published two times in a public newspaper at the place where the undertaking of the company is carried on or as near thereto as may be, and in the Gazette. No. 15 of 1914, s. 183.

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still
in force*

By-laws to be approved by Commissioner and published.

Annual report to Registrar.

184. In addition to the other returns which may be required by this or any other Ordinance, the company shall on or before the first day of March in each year make a report to the Registrar of joint stock companies under oath of the president and secretary which shall specify:

- (a) The cost of work, plant and undertaking of the company:
- (b) The amount of its capital, and the amount paid thereon:
- (c) The amount received during the year from tolls, levies, rates and charges and all other sources, stating each separately:
- (d) The amount and rate of dividends paid:
- (e) The amount expended for repairs; and
- (f) A detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the current year, together with an estimate of the cost thereof. No. 15 of 1914, s. 183.

Books open to inspection.

185. The books of account of the company shall be at all reasonable times open to the inspection and examination of any shareholder. No. 15 of 1914, s. 185.

Commissioner may appoint inspector.

186. The Commissioner of the Yukon Territory, should he have any doubts as to the correctness or truth of any statements furnished by the company, may appoint a person to

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inspect and examine such books, and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all other officers and servants thereof, all such information as to such books and the affairs of the company generally, as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of affairs of the company, so as to enable him to ascertain the correctness of statements furnished by the company. No. 15 of 1914, s. 186.

187. The Commissioner of the Yukon Territory may, by Supplementary Letters Patent, extend the term of existence of any company incorporated for a limited period under this Ordinance, for such further period as by Order in Council made previous to the expiry of such period, he may direct, and the provisions of this Ordinance, having regard to the expiration of the term of existence of a company, shall thereupon apply to such term as so extended. No. 15 of 1914, s. 187.

Term of company's existence may be extended.

188. A company incorporated for any of the purposes to which this Part of the Ordinance applies shall respectively have full power to construct, maintain, complete and operate works and apparatus for the production, sale and distribution of gas, water, electricity or other products for the purpose of light, heat or power or of operating a system of telephones, or for such other purpose as the company may be incorporated for, as the case may be, and may construct and operate the same by any means through, under, along or over streets, highways, and public places; but subject always to such agreement in respect thereof as shall be made between the company and the municipal corporation within whose jurisdiction the same are situate, and be ratified by a by-law of the council of such municipality; and such municipality may, by agreement ratified as aforesaid, contract with any such company for the purchase of water, gas or electricity and for the purchase or renting of any apparatus connected with the production, sale or distribution thereof for any number of years not in the first instance exceeding ten years, and renew any such contract from time to time for such period not exceeding ten years as such council desires. In the case of streets, highways and public places not within the limits of any municipality, the right of any such gas, water, electric or telephone company to make use of such streets, highways or public places to the extent indicated in this Ordinance, shall be subject to such terms as may be imposed by the Commissioner upon application first made by such company. No. 15 of 1914, s. 188.

Erection of works.

Municipal contract

Exemption from taxation.

Terms when roads not within a municipality.

189. Every such company may sell and dispose of gas meters and gas, water and electric fittings of every description for the use of private and public houses or for any establishment, company or corporation whatsoever, as well as coke, coal, tar, and all and every the products of their works, refuse or residuum arising to be obtained from the materials used or necessary

Powers of companies.

for the manufacture of gas or electricity; and every company may let out to hire gas meters and gas, water and electric fittings of every kind and description at such rate and rents as may be agreed upon between the consumers and tenants and such company. No. 15 of 1914, s. 189.

Laying
mains and
wires on
streets.

190. Any such company may break up, dig and trench and use so much and so many of the streets, squares, highways, lanes and public places of the locality for supplying which with gas, water, electricity, or other product or service or either of them the company has been incorporated as are necessary for laying the mains and pipes to conduct the gas or water or for placing the wires and connections to conduct the electricity or other product and to supply such services from the works of and by the company to and for the consumers or users thereof, doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places while the works are in progress. No. 15 of 1914, s. 190.

Company's
rights
regarding
mains and
pipes.

191. When any such company has laid down mains, pipes, wires or conductors for the supply of gas, water or electricity through any of the streets, squares or public places of any locality no other person or persons, bodies politic or corporate shall without the consent of such company first had and obtained nor otherwise than on payment to such company of such compensation as may be agreed upon, or in default of agreement being arrived at, settled by arbitration as hereinafter provided, lay down any pipe, wire or conductor for the supply of gas, water or electricity within six feet of such company's main pipes, wires or conductors or if it be impracticable to cut drains for such other main pipes, wires or conductors at a greater distance then as nearly six feet as the circumstances of the case will admit. This section shall apply to mains, pipes, wires or conductors crossing as well as running or parallel with other mains, pipes, wires or conductors. No. 15 of 1914, s. 191.

Supplying
parts of
buildings
having
different
owners or
tenants.

192. When there are buildings within the locality the different parts whereof belong to different proprietors or are in possession of different tenants or lessees the company may carry pipes, wires or conductors to any part of any building so situate passing over the property of one or more proprietors or in the possession of one or more tenants to convey the gas, water or electricity to the property of another or in the possession of another and such pipes, wires or conductors shall be carried up and attached to the outside of the building. No. 15 of 1914, s. 192.

Breaking up
passages,
etc.

193. The company may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes, wires or conductors or taking up or repairing the same, doing as little damage as may be in the execution of the powers granted by this Ordinance. No. 15 of 1914, s. 193.

194. Every company shall make satisfaction to the owners or proprietors of buildings or other property or to the public for all damages by them sustained in or by the execution of all or any of the said powers subject to which provisions this Ordinance shall be sufficient to indemnify every such company and their servants, and those by them employed for what they or any of them do in pursuance of the powers hereby granted. Compensation.

2. Every person claiming compensation from the company under this section shall proceed by originating summons. Procedure.
No. 15 of 1914, s. 194.

195. Every such company shall construct, locate and operate their gas works, water works or electric or telephone system and all apparatus and appurtenances thereto belonging or appertaining or therewith connected and wheresoever situated so as not to endanger the public health or safety. No. 15 of 1914, s. 195. Location of works.

196. Nothing contained in this Ordinance shall authorize any such company or any person acting under the authority of the same to take, use or injure for the purposes of the company any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house, or nursery ground for trees, or to convey from the premises of any person any water already appropriated and necessary for his domestic uses without the consent in writing of the owner or owners thereof first had and obtained. No. 15 of 1914, s. 196. Limitation of powers of company.

197. Nothing in this Ordinance shall authorize any company established under it to interfere with or infringe upon any exclusive privilege granted to any other company. No. 15 of 1914, s. 197. Privileges of other companies.

198. Nothing in this Ordinance contained shall prevent any person from constructing any works for the supply of gas, water, electricity or telephones to his own premises, but no person supplying electricity, water or telephone to any other premises than his own shall be subject to the provisions of this Part and shall pay the license or fee at any time imposed on any other company or person supplying similar utilities in the same city, town or district. No. 15 of 1914, s. 198. Individual rights.

199. Neither the service nor the connecting pipes, wires or conductors of the company, nor any meters, lustres, lamps, pipes, gas fittings, electric fittings, or any other property of any kind whatsoever of the company shall be subject to or liable for rent nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be nor be in any way whatsoever liable to any person for the debt of any person to and for whose use or the use of whose house or building the same may be supplied by the company notwithstanding the actual or apparent possession thereof by such person. No. 15 of 1914, s. 199. Exemption from distress and seizure.

Nonpayment
of rates, etc.

200. If any person supplied by the company with gas, water, electricity or other product, telephone or other service neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof the company or any one acting under its authority on giving forty-eight hours' previous notice to the person supplied may stop the supply of gas, water, electricity or other product from entering or being supplied, and may cut off such telephone or other service to the premises of and to the person in arrear as aforesaid by cutting off the service pipe or pipes, wires or conductors or by such other means as the company or its officers see fit and may recover the rent or charge due up to such time together with the expense of cutting off the gas, water, electricity or other product or service as the case may be, in any competent court notwithstanding any contract to furnish for a longer time. No. 15 of 1914, s. 200.

Entry of
premises by
employees
of company.

201. In all cases where the company may lawfully cut off and take away the supply of gas, water, electricity or other product or service from any house, building or premises the company, their agents or their workmen upon giving forty-eight hours previous notice to the person in charge or the occupier may enter into the house, building or premises between the hours of nine o'clock in the forenoon and five o'clock in the afternoon, making as little disturbance and inconvenience as possible and may remove and take away any pipe, meter, cock, branch, lamp, fitting, telephone or other apparatus the property of and belonging to the company and any servant duly authorized by the company may between the hours aforesaid enter any house into which gas, water, electricity or other product or service as aforesaid have been taken or supplied for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe, apparatus or fitting belonging to the company or used for their gas, water, electricity or other product or service, and if any person refuses to permit or does not permit the servants and officers of the company to enter and perform the acts aforesaid the person so refusing or obstructing shall incur a penalty to the company, for every such offence, of \$20, and a further penalty of \$4 for every day during which such refusal or obstruction continues, to be recovered with costs as hereinafter provided. No. 15 of 1914, s. 201.

Removal of
fittings, etc.,
where
service
discontinued.

202. Where any customer discontinues the use of the gas, or other means of lighting or heating, or water, electricity or power or other product or service furnished or supplied by a company incorporated under this Ordinance and subject to the provisions of this Part, or the company lawfully refuses to continue any longer to supply the same, the officers and servants of the company may at all reasonable times enter the premises in or upon which such customer was supplied with gas, or other means of lighting or heating, water, electricity, power or other product or service for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes,

wires, conductors, telephones or other things, being the property of the company, in or upon such premises and may remove the same therefrom, doing no unnecessary damage. No. 15 of 1914, s. 202.

203. If it is found necessary or deemed proper to conduct any of the pipes, wires or conductors or to carry any of the works of the company through the lands of any person lying within or within ten miles of the locality for supplying which the company is incorporated and the consent of such person cannot be obtained for that purpose the company may take or use the land required and nominate and appoint a disinterested person and the owner or owners of the land taken or damaged may nominate and appoint another, which two persons so appointed shall nominate and appoint a third person and the said three persons shall act as arbitrators in the matter between the company and the owner or owners of the property.

Expropriation.

Appointment of arbitrators.

2. Nothing in this section shall authorize the company to take or use any house, land or property in contravention of section 196 of this Ordinance. No. 15 of 1914, s. 203.

204. The said arbitrators shall examine all witnesses and administer all necessary oaths or declarations to them and the said arbitrators or a majority of them shall award, determine and adjudge what sum or sums of money respectively shall be paid to the owner or owners of the property so taken or damaged by the company. No. 15 of 1914, s. 204.

Powers and duties of arbitrators.

205. The sum or sums of money so awarded shall be paid within three months after the date of the award and in default of such payment the owner or owners may resume the possession of his property with all the rights appertaining thereto, but the company shall be held liable to such owner for any damage it may have done to the property. No. 15 of 1914, s. 205.

Payment of award.

206. In the event of the company or the owner of such property failing to appoint an arbitrator after eight days' notice from one of the said parties to the other or of the said two arbitrators failing to appoint a third, a Judge of the Territorial Court may appoint a third arbitrator and the decision of the said three arbitrators or a majority of them shall be binding on all parties concerned. No. 15 of 1914, s. 206.

Failure to appoint arbitrator.

206A. All companies having the privileges conferred by this Part of the Ordinance shall supply the utility controlled by them to all persons within the area covered by the privilege except in such cases where the company may lawfully refuse to supply such utility. No. 15 of 1914, s. 206A.

Company shall supply.

207. This part of the Ordinance in so far as the same may be applicable shall apply to any company heretofore incorporated under any general or special Ordinance for any of the purposes referred to in section 177. No. 15 of 1914, s. 207.

Applies to companies heretofore incorporated.

PART IX.

WINDING-UP.

Preliminary.

Modes of winding-up.

208. (1.) The winding-up of a company may be either—

- (a) By the Court; or
- (b) Voluntary; or
- (c) Subject to the supervision of the Court.

2. The provisions of this Ordinance with respect to winding-up apply, unless the contrary appears, to the winding-up of a company in any of those modes.

3. The following sections of this Part shall apply to the winding-up of all companies or associations incorporated by or under the authority of the Council, except those companies or associations wound up on the ground of the bankruptcy or insolvency of such company or association. No. 15 of 1914, s. 208.

Contributories.

Liability as contributories of present and past members.

209. In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges, and expenses of the winding-up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following, that is to say:—

- (a) A past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding-up:
- (b) A past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member:
- (c) A past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Ordinance:
- (d) In the case of a company limited by shares, no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is liable as a present or past member:
- (e) In the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up:
- (f) A sum due to any member of a company, in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company; but any such sum may be taken into

account for the purpose of the final adjustment of the rights of the contributories among themselves.

2. In the winding-up of a limited company, any director or manager, whether past or present, whose liability is, in pursuance of this Ordinance, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were, at the commencement of the winding-up, a member of an unlimited company: Provided that—

- (a) A past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding-up:
- (b) A past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office:
- (c) Subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding-up.

3. In the winding-up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him. No. 15 of 1914, s. 209.

210. The term "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and, in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory. No. 15 of 1914, s. 210. Definition of contributory.

211. The liability of a contributory shall create a debt, of the nature of a specialty, accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability. No. 15 of 1914, s. 211. Nature of liability of contributory.

212. 1. If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives and his heirs and devisees shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability, and shall be contributories accordingly. Contributories in case of death of member.

2. Where the personal representatives are placed on the list of contributories, the heirs or devisees need not be added, but they may be added as and when the Court thinks fit.

3. If the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the personal and real estates of the

deceased contributory, or either of them, and of compelling payment thereof of the money due. No. 15 of 1914, s. 212.

Winding-up by Court.

Application of Part.

213. The following sections of this Part shall apply to the winding-up of all companies or associations incorporated by or under the authority of the Council, except those companies or associations wound up on the ground of the bankruptcy or insolvency of such company or association. No. 15 of 1914, s. 213.

Circumstances in which company may be wound up by Court.

214. A company may be wound up by the Court—

- (a) If the company has by special resolution resolved that the company be wound up by the Court:
- (b) If default is made in filing the statutory report or in holding the statutory meeting:
- (c) If the company does not commence its business within a year from its incorporation, or suspends its business for a whole year:
- (d) If the number of members is reduced, in the case of a private company, below two, or in the case of any company registered prior to this Ordinance, below three, or, in the case of any other company, below five:
- (e) If the Court is of opinion that it is just and equitable that the company should be wound up. No. 15 of 1914, s. 214.

Provisions as to applications for winding-up.

215. 1. An application to the Court for the winding-up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by any contributory or contributories, or either of those parties, together or separately: Provided that—

- (a) A contributory shall not be entitled to present a petition for winding up a company unless—
 - (1.) Either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below five; or
 - (2.) The shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him and registered in his name for at least six months during the eighteen months before the commencement of the winding-up, or have devolved on him through the death of a former holder; and
- (b) A petition for winding-up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held.

2. Where a company is being wound up voluntarily or subject to supervision, a petition may be presented by the liquidator, as well as by any other person authorized in that behalf under the other provisions of this section, but the Court shall

not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories. No. 15 of 1914, s. 215.

216. An order for winding-up a company shall operate in favour of all the creditors and of all the contributories of the company. No. 15 of 1914, s. 216. Effect of winding-up order.

217. A winding-up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up. No. 15 of 1914, s. 217. Commencement of winding-up by Court.

218. At any time after the presentation of a petition for winding-up, and before a winding-up order has been made, the company, or any contributory, may— Power to stay or restrain proceedings against company.

(a) Where any action or proceeding against the company is pending in the Territorial Court or Court of Appeal of British Columbia, apply to the Court in which the action or proceeding is pending for a stay of proceedings therein; and

(b) Where any other action or proceeding is pending against the company, apply to the Court having jurisdiction to wind up the company to restrain further proceedings in the action or proceeding;

and the Court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit. No. 15 of 1914, s. 218.

219. 1. On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it deems just, but the Court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets. Powers of Court on hearing petition.

2. Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default. No. 15 of 1914, s. 219.

220. When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose. No. 15 of 1914, s. 220. Actions stayed on winding-up order.

221. On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company to the Registrar, who shall make a minute thereof in his books relating to the company. No. 15 of 1914, s. 221. Copy of order to be forwarded to Registrar.

Power of Court to stay winding-up.

222. The Court may at any time after an order for winding-up, and on proof to the satisfaction of the Court that all proceedings in relation to the winding-up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit. No. 15 of 1914, s. 222.

Court may have regard to wishes of creditors or contributories.

223. The Court may, as to all matters relating to a winding up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence. No. 15 of 1914, s. 223.

Liquidators.

Appointment, remuneration, and title of liquidators.

224. 1. For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a liquidator or liquidators.

2. The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding up:

(a) If a provisional liquidator is appointed before the making of a winding-up order, any fit person may be appointed:

(b) Such provisional liquidator shall promptly give notice of his appointment to the Registrar and give security in such amount as the Court may direct, to the satisfaction of the Clerk of the Court:

(c) When any person other than the provisional liquidator is afterwards appointed liquidator, he shall not be capable of acting as liquidator until he has notified his appointment to the Registrar and given security in the prescribed manner to the satisfaction of the Clerk of the Court.

3. If more than one liquidator is appointed by the Court, the Court shall declare whether any act by this Ordinance required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

4. A liquidator appointed by the Court may resign or, on cause shown, be removed by the Court.

5. A vacancy in the office of a liquidator appointed by the Court shall be filled by the Court.

6. The liquidator shall receive such salary or remuneration by way of percentage or otherwise as the Court may direct; and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the Court directs.

7. A liquidator shall be described by the style of the liquidator of the particular company in respect of which he is appointed, and not by his individual name.

8. The acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification. No. 15 of 1914, s. 224.

225. 1. In a winding-up by the Court the liquidator shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled. Custody of company's property.

2. In a winding-up by the Court, if and so long as there is no liquidator, all the property of the company shall be deemed to be in the custody of the Court. No. 15 of 1914, s. 225.

226. 1. The liquidator in a winding-up by the Court shall have power, with the sanction either of the Court or of the committee of inspection (if any),— Powers of liquidator.

- (a) To bring or defend any action or other legal proceeding in the name and on behalf of the company;
 - (b) To carry on the business of the company, so far as may be necessary for the beneficial winding up thereof;
 - (c) To employ a solicitor or other agent to take any proceedings or do any business which the liquidator is unable to take or do himself; but the sanction in this case must be obtained before the employment, except in cases of urgency, and in those cases it must be shown that no undue delay took place in obtaining the sanction.
2. The liquidator in a winding-up by the Court shall have power—
- (a) To sell the real and personal property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;
 - (b) To do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal;
 - (c) To prove, rank, and claim in the distribution of the estate of any contributory, for any balance against his estate, and to receive dividends in such distribution in respect of that balance, as a separate debt due from the estate of the contributory, and ratably with the other separate creditors;
 - (d) To draw, accept, make, and indorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made, or indorsed by or on behalf of the company in the course of its business;
 - (e) To raise on the security of the assets of the company any money requisite;
 - (f) To take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself.

(g) To do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

3. The exercise by the liquidator of the powers conferred by this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

4. Where a liquidator is provisionally appointed by the Court, the Court may limit and restrict his powers by the order appointing him. No. 15 of 1914, s. 226.

Meetings of
creditors and
contribu-
tories in
winding-up.

227. 1. When a winding-up order has been made by the Court, the liquidator shall summon separate meetings of the creditors and contributories of the company for the purpose of—

(a) Determining whether or not an application is to be made to the Court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

2. The Court may make an appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of any of the matters mentioned in the foregoing provisions of this section, the Court shall decide the difference and make such order thereon as the Court may think fit. No. 15 of 1914, s. 227.

Payments of
liquidator in
winding-up
into bank.

228. 1. Every liquidator of a company which is being wound up by the Court shall, in such manner and at such times as the Court may direct, pay the money received by him into some chartered bank.

2. If any such liquidator at any time retains for more than ten days a sum exceeding two hundred and fifty dollars, or such other amount as the Court in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the lawful rate per annum, and shall be liable to disallowance of all or such part of his remuneration as the Court may think just, and to be removed from his office by the Court, and shall pay any expenses occasioned by reason of his default.

3. A liquidator of a company which is being wound up by the Court shall not pay any sums received by him as liquidator into his private banking account. No. 15 of 1914, s. 228.

Audit of
liquidator's
accounts in
winding-up.

229. 1. Every liquidator of a company which is being wound up by the Court shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the Clerk of the Court an account of his receipts and payments as liquidator.

2. The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

3. The Court shall cause the account to be audited, and for the purpose of the audit the liquidator shall furnish the auditor with such vouchers and information as he may require, and the auditor may at any time require the production of and inspect any books or accounts kept by the liquidator.

4. When the account has been audited, one copy thereof shall be filed with the Court, and such copy shall be open to the inspection of any creditor, or of any person interested.

5. The auditor shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory. No. 15 of 1914, s. 229.

230. Every liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books. No. 15 of 1914, s. 230.

Books to be kept by liquidator in winding-up.

231. When a liquidator of a company which is being wound up by the Court has realized all the property of the company, or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation, and has distributed a final dividend (if any) to the creditors and adjusted the rights of the contributories among themselves, and made a final return (if any) to the contributories, or has resigned, or has been removed from his office, the Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of this Ordinance, shall take into consideration the report, and any objection which may be urged by any creditor, or contributory, or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

Release of liquidators.

2. Where the release of a liquidator is withheld, the Court may, on the application of any creditor or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

3. An order of the Court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact, or may be reversed on appeal to the Court of Appeal of British Columbia.

4. Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office. No. 15 of 1914, s. 231.

232. Subject to the provisions of this Ordinance, the liquidator of a company which is being wound up by the Court

Exercise and control of liquidator's powers.

shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection; and any directions given by the creditors or contributories at any general meeting shall, in case of conflict, be deemed to override any directions given by the committee of inspection.

2. The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

3. The liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the winding-up.

4. Subject to the provisions of this Ordinance, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

5. If any person is aggrieved by any act or decision of the liquidator, that person may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just. No. 15 of 1914, s. 232.

Control of
Court over
liquidators.

233. The Court shall take cognizance of the conduct of liquidators of companies which are being wound up by the Court, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by Ordinance, rules, or otherwise with respect to the performance of his duties, or if any complaint is made to the Court by any creditor or contributory in regard thereto, the Court shall inquire into the matter, and take such action thereon as it may be deemed expedient.

2. The Court may at any time require any liquidator of a company which is being wound up by the Court to answer any inquiry in relation to any winding-up in which he is engaged, and may, if thought fit, order his examination on oath before the Clerk of the Court or any special examiner appointed by the Court concerning the winding-up.

3. The Court may also direct a local investigation to be made of the books and vouchers of the liquidator. No. 15 of 1914, s. 233.

Committee of Inspection, Special Manager, Receiver.

Committee
of inspection
in winding-up.

234. A committee of inspection appointed in pursuance of this Ordinance shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and con-

tributories, or as, in case of difference, may be determined by the Court.

2. The committee shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month; and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

3. The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

4. Any member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

5. If a member of the committee becomes insolvent, compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

6. Any member of the committee may be removed by an ordinary resolution at a meeting of creditors (if he represents creditors) or of contributories (if he represents contributories), of which seven days' notice has been given, stating the object of the meeting.

7. On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, reappoint the same or appoint another creditor or contributory to fill the vacancy.

8. The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

9. If there is no committee of inspection, any act or thing or any direction or permission by this Ordinance authorized or required to be done or given by the committee may be done or given by the Court on the application of the liquidator. No. 15 of 1914, s. 234.

235. The liquidator of a company, whether provisionally or otherwise, may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the Court to, and the Court may on such application, appoint a special manager thereof to act during such time as the Court may direct, with such powers, including any of the powers of a receiver or manager, as may be intrusted to him by the Court.

Power to
appoint
special
manager.

2. The special manager shall give such security and account in such manner as the Court may direct:

3. And shall receive such remuneration as may be fixed by the Court. No. 15 of 1914, s. 235.

Ordinary Powers of Court.

Settlement of list of contributories and application of assets.

236. As soon as may be after making a winding-up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Ordinance, and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

2. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable to the debts of others. No. 15 of 1914, s. 236.

Power to require delivery of property.

237. The Court may, at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, receiver, banker, agent, or officer of the company, to pay, deliver, convey, surrender, or transfer forthwith, or within such times as the Court directs, to the liquidator any money, property, or books and papers in his hands to which the company is *prima facie* entitled. No. 15 of 1914, s. 237.

Power to order payment of debts by contributory.

238. The Court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Ordinance.

2. The Court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him, or to the estate which he represents, from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

3. But in the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call. No. 15 of 1914, s. 238.

Power of Court to make calls.

239. The Court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding-

up, and for the adjustment of the rights of the contributories among themselves.

2. In making a call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call. No. 15 of 1914, s. 239.

240. The Court may order any contributory, purchaser, or other person from whom money is due to the company to pay the same into some chartered bank to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator. Power to order payment into bank.

2. All moneys and securities paid or delivered into any bank or any branch thereof in the event of a winding-up by the Court shall be subject in all respects to the orders of the Court. No. 15 of 1914, s. 240.

241. An order made by the Court on a contributory shall (subject to any right of appeal) be conclusive evidence that the money (if any) thereby appearing to be due or ordered to be paid is due. Order on contributory conclusive evidence.

2. All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings, except proceedings against the real estate of a deceased contributory, in which case the order shall be only *prima facie* evidence for the purpose of charging his real estate, unless his heirs or devisees were on the list of contributories at the time of the order being made. No. 15 of 1914, s. 241.

242. The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved. No. 15 of 1914, s. 242. Power to exclude creditors not proving in time.

243. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto. No. 15 of 1914, s. 243. Adjustment of rights of contributories.

244. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges, and expenses incurred in the winding-up in such order of priority as the Court thinks just. No. 15 of 1914, s. 244. Power to order costs.

245. When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly. Dissolution of company.

2. The order shall be reported by the liquidator to the Registrar, who shall make in his books a minute of the dissolution of the company.

3. If the liquidator makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding twenty-five dollars for every day during which he is in default. No. 15 of 1914, s. 245.

Delegation to liquidator of certain powers of Court.

246. General rules may be made for enabling or requiring all or any of the powers and duties conferred and imposed on the Court by this Ordinance, in respect of the matters following, to be exercised or performed by the liquidator as an officer of the Court and subject to the control of the Court; that is to say, the powers and duties of the Court in respect of—

- (a) Holding and conducting meetings to ascertain the wishes of creditors and contributories:
- (b) Settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets:
- (c) Requiring delivery of property or documents to the liquidator:
- (d) Making calls:
- (e) Fixing a time within which debts and claims must be proved:

Provided that the liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without either the special leave of the Court or the sanction of the committee of inspection. No. 15 of 1914, s. 246.

Extraordinary Powers of Court.

Power to summon persons suspected of having property of company.

247. The Court may, after it has made a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the trade, dealings, affairs, or property of the company.

2. The Court may examine him on oath concerning the same, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

3. The Court may require him to produce any books and papers in his custody or power relating to the company; but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to that lien.

4. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination. No. 15 of 1914, s. 247.

Power to order public examination of promoters, directors, etc.

248. When an order has been made for winding up a company by the Court, and the liquidator has made report under this Ordinance stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the

Court may, after consideration of the report, direct that any person who has taken any part in the promotion or formation of the company, or has been a director or officer of the company, shall attend before the Court on a day appointed by the Court for that purpose and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

2. The liquidator and any creditor or contributory may take part in the examination, either personally or by solicitor or counsel.

3. The Court may put such questions to the person examined as the Court thinks fit.

4. The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

5. A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the liquidator's report and may at his own cost employ a solicitor with or without counsel, who shall be at liberty to examine him for the purpose of enabling him to explain or qualify any answers given by him: Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

6. Notes of the examination shall be taken down either in shorthand or in writing, and if in writing shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

7. The Court may, if it thinks fit, adjourn the examination from time to time.

8. An examination under this section may, if the Court so directs, and subject to general rules, be held before any officer of the Court being a clerk or deputy clerk of the Court named for the purpose, and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held. No. 15 of 1914, s. 248.

249. The Court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit the Territory, or otherwise to abscond or to remove or conceal any of his property for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and movable personal property to be seized, and him and them to be safely kept until such time as the Court may order. No. 15 of 1914, s. 249.

250. Any powers by this Ordinance conferred on the Court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory

^{Powers of}
arrest
absconding
contributory.

^{Powers of}
Court
cumulative.

or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums. No. 15 of 1914, s. 250.

Enforcement of and Appeal from Orders.

Power to enforce orders.

251. Orders made by the Court under this Ordinance may be enforced in the same manner as orders made in any action pending therein. No. 15 of 1914, s. 251.

Appeals from order.

252. Subject to Rules of Court, an appeal from any order or decision made or given in the winding-up of a company by the Court under this Ordinance shall lie in the same manner and subject to the same conditions as an appeal from any order or decision of the Court in cases within its ordinary jurisdiction. No. 15 of 1914, s. 252.

Voluntary Winding-up.

Circumstances in which company may be wound-up voluntarily.

253. A company may be wound up voluntarily—

- (1.) When the period (if any) fixed for the duration of the company by the Ordinance, charter, or instrument of incorporation has expired; or when the event (if any) has occurred, upon the occurrence of which it is provided by the Ordinance or charter or instrument of incorporation that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up;
- (2.) If the company resolves by special resolution that the company be wound up voluntarily;
- (3.) If the company, although it may be solvent as respects creditors, resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

Commencement of voluntary winding-up.

254. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up. No. 15 of 1914, s. 254.

Effect of voluntary winding-up on status of company.

255. When a company is wound up voluntarily, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding-up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved. No. 15 of 1914, s. 255.

Notice of resolution to wind up voluntarily.

256 When a company has resolved by special or extraordinary resolution to wind up voluntarily, it shall give notice of the resolution by advertisement in the *Gazette*. No. 15 of 1914, s. 256.

257. The following consequences shall ensue on the voluntary winding up of the company:—

Consequences of voluntary winding-up.

- (a) The property of the company shall be applied in satisfaction of its liabilities *pari passu*, and, subject thereto, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company:
- (b) The company in general meeting shall appoint one or more liquidators for the purpose of winding-up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them:
- (c) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof:
- (d) The liquidator may, without the sanction of the Court, exercise all powers by this Ordinance given to the liquidator in a winding up by the Court:
- (e) The liquidator may exercise the powers of the Court under this Ordinance of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves:
- (f) The list of contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories:
- (g) When several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two:
- (h) If from any cause whatever there is no liquidator acting, the Court may, on the application of a contributory, appoint a liquidator:
- (i) The Court may, on cause shown, remove a liquidator, and appoint another liquidator. No. 15 of 1914, s. 257.

258. The liquidator in a voluntary winding up shall, within twenty-one days after his appointment, file with the Registrar a notice of his appointment in the form prescribed.

Notice by liquidator of his appointment.

2. If the liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues. No. 15 of 1914, s. 258.

259. Every liquidator appointed by a company in a voluntary winding up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company that a meeting of the creditors of the company will be held on a date, not being less than fourteen nor more than twenty-one days after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the *Gazette* and

Rights of creditors in a voluntary winding-up.

once at least in one local newspaper circulating in the district where the registered office or principal place of business of the company was situate.

2. At the meeting to be held in pursuance of the foregoing provisions of this section the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in the place of or jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection, and, if the creditors so resolve, an application may be made accordingly to the Court at any time, not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose of the meeting.

3. On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection either together with or without any such appointment of a liquidator, or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just.

4. No appeal shall lie from any order of the Court upon an application under this section.

5. The Court shall make such order as to the costs of the application as it may think fit, and if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant. No. 15 of 1914, s. 259.

**Power to fill
vacancy in
office of
liquidator.**

260. If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company in a voluntary winding up, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

2. For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

3. The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court. No. 15 of 1914, s. 260.

**Delegation
of authorities
to appoint
liquidators.**

261. A company about to be, or in course of being, wound up voluntarily may, by extraordinary resolution, delegate to its creditors, or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

2. Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company. No. 15 of 1914, s. 261.

262. Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily and its creditors shall, subject to any right of appeal under this section, be binding on the company if sanctioned by any extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

Arrangement when binding on creditors.

2. Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary, or confirm the arrangement. No. 15 of 1914, s. 262.

263. Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (in this section called "the transferee company"), the liquidator of the first-mentioned company (in this section called "the transferor company") may, with the sanction of special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

Power of liquidator to accept shares, etc., as consideration for sale of property of company.

2. Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

3. If any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming the same expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

4. If the liquidator elects to purchase the member's interest the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

5. A special resolution shall not be invalid for the purposes of this section by reason that it passed before or concurrently with a resolution for winding up the company, or for appointing liquidators; but, if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

6. For the purpose of an arbitration under this section the provisions of *The Arbitration Ordinance* with respect to the settlement of disputes by arbitration shall be incorporated with this Ordinance. No. 15 of 1914, s. 263.

263 A. Dreyfus Co. have power to dispose of whole of assets provided and subject to act favour in accordance of ...

1929

Power to
apply to
Court.

264. Where a company is being wound up voluntarily, the liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding-up, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court.

2. The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just. No. 15 of 1914, s. 264.

Power of
liquidator
to call
general
meeting.

265. Where a company is being wound up voluntarily, the liquidator may summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit.

2. In the event of the winding-up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding-up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding year. No. 15 of 1914, s. 265.

Final meet-
ing and
dissolution.

266. In the case of every voluntary winding-up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed of; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

2. The meeting shall be called by advertisement in the *Gazette*, specifying the time, place, and object thereof, and published continuously for one month at least before the meeting.

3. Within one week after the meeting, the liquidator shall make a return to the Registrar of the holding of the meeting and of its date, and in default of so doing shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

4. The Registrar on receiving the return shall forthwith register it, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved:

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

5. It shall be the duty of the person on whose application an order of the Court under this section is made, within seven

days after the making of the order, to file with the Registrar an office copy of the order, and if that person fails so to do he shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues. No. 15 of 1914, s. 266.

267. All costs, charges, and expenses properly incurred in the voluntary winding-up of a company, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims. No. 15 of 1914, s. 267. Costs of voluntary liquidation.

268. The voluntary winding-up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, if the Court is of opinion that the rights of the creditors or that the rights of the contributories will be prejudiced by a voluntary winding-up. No. 15 of 1914, s. 268. Saving for rights of creditors and contributories.

269. Where a company is being wound up voluntarily, and an order is made for winding-up by the Court, the Court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding-up. No. 15 of 1914, s. 269. Power of Court to adopt proceedings of voluntary winding-up.

Winding-up subject to Supervision of Court.

270. When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally on such terms and conditions as the Court thinks just. No. 15 of 1914, s. 270. Power to order winding-up subject to supervision.

271. A petition for the continuance of a voluntary winding-up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over actions, be deemed to be a petition for winding-up by the Court. No. 15 of 1914, s. 271. Effect of petition for winding-up subject to supervision.

272. The Court may, in deciding between a winding-up by the Court and a winding-up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence. No. 15 of 1914, s. 272. Court may have regard to wishes of creditors and contributories.

273. Where an order is made for a winding-up subject to supervision, the Court may, by the same or any subsequent order, appoint any additional liquidator. Power for Court to appoint or remove liquidators.

2. A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

3. The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation. No. 15 of 1914, s. 273.

Effect of supervision order.

274. Where an order is made for a winding-up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

2. An order for a winding-up subject to supervision shall for all purposes, including the staying of actions and other proceedings, the making and enforcement of calls, and the exercise of all other powers, be deemed to be an order for winding-up by the Court. No. 15 of 1914, s. 274.

Supplemental Provisions.

Avoidance of transfers, etc., after commencement of winding-up.

275. In the case of voluntary winding-up, every transfer of shares, except transfers made to or within the sanction of the liquidator, and every alteration in the status of the members of the company made after the commencement of the winding-up, shall be void.

2. In the case of a winding-up by or subject to the supervision of the Court, every disposition of the property (including things in action) of the company, and every transfer of shares or alteration in the status of its members, made after the commencement of the winding-up, shall, unless the Court otherwise orders, be void. No. 15 of 1914, s. 275.

Debts of all description to be proved.

276. In every winding-up under this Ordinance, all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value. No. 15 of 1914, s. 276.

Preferential payments.

277. In a winding-up there shall be paid in priority to all other debts—

- (a) All assessed taxes, rates, real-property tax, personal-property tax, wild-land tax, coal-land tax, timber-land tax, or income tax assessed on the company up to the first day of January next before that date, and not exceeding in the whole one year's assessment; and
- (b) All wages or salary of any clerk or servant in respect of services rendered to the company during three months before the said date, not exceeding two hundred and fifty dollars; and
- (c) All wages of any workman or labourer, whether payable for time or for piece work, in respect of services rendered to the company during three months before the said date; and

(d) Unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all amounts (not exceeding in any individual case five hundred dollars) due in respect of compensation under the *Workmen's Compensation Ordinance*.

2. The foregoing debts shall—

(a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) In so far as the assets of the company available for payment of general creditors are insufficient to meet them have priority over the claims of holders of debentures under any floating charge created by the company and be paid accordingly out of any property comprised in or subject to that charge.

3. Subject to retention of such sums as may be necessary for the costs and expenses of the winding-up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

4. In the event of the landlord or other person distraining or having distrained on any goods or effects of the company within one month next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

5. The date hereinbefore in this section referred to is—

(a) In the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and

(b) In any other case, the date of the commencement of the winding up. No. 15 of 1914, s. 277.

278. Any conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property which would, if made or done by or against an individual, be deemed a fraudulent preference shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors and be invalid accordingly. No. 15 of 1914, s. 278. Fraudulent preference.

279. Where any company is being wound up by or subject to the supervision of the Court, any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding-up shall be void to all intents. No. 15 of 1914, s. 28. Avoidance of certain attachments, executions, etc.

280. The liquidator may, with the sanction following, that is to say:— General scheme of liquidation may be sanctioned.

- (a) In the case of a winding-up by the Court with the sanction either of the Court or of the committee of inspection:
- (b) In the case of a voluntary winding-up with the sanction of an extraordinary resolution of the company,—
- do the following things or any of them:—
- (c) Pay any classes of creditors in full:
- (d) Make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable:
- (e) Compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding-up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability, or claim, and give a complete discharge in respect thereof.

2. In the case of a winding-up by the Court, the exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers. No. 15 of 1914, s. 280.

Power of
Court to
assess
damages
against
delinquent
directors,
etc.

281. Where in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof, respectively, with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance, or breach of trust as the Court thinks just.

2. This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

3. Where an order for payment of money is made under this section, the order shall be deemed to be a final judgment. No. 15 of 1914, s. 281.

Prosecution
of delinquent
directors,
etc.

282. If it appears to the Court in the course of a winding-up by or subject to the supervision of the Court that any past or present director, manager, officer, or member of the

company has been guilty of an offence in relation to the company for which he is criminally responsible, the Court may, on the application of any person interested in the winding-up, or of its own motion, direct the liquidator to prosecute for the offence, and may order the costs and expenses to be paid out of the assets of the company.

2. If it appears to the liquidator in the course of a voluntary winding-up that any past or present director, manager, officer, or member of the company has been guilty of any offence in relation to the company for which he is criminally responsible, the liquidator, with the previous sanction of the Court, may prosecute the offender, and all expenses properly incurred by him in the prosecution shall be payable out of the assets of the company in priority to all other liabilities. No. 15 of 1914, s. 282.

283. Where by this Ordinance the Court is authorized, in relation to winding-up, to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting, and to report the result thereof to the Court.

Meetings to ascertain wishes of creditors or contributories.

2. In the case of creditors, regard shall be had to the value of each creditor's debt.

3. In the case of contributories, regard shall be had to the number of votes conferred on each contributory by the articles. No. 15 of 1914, s. 283.

284. Where any company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded. No. 15 of 1914, s. 284.

Books of company to be evidence.

285. After an order for a winding-up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its books and papers as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise. No. 15 of 1914, s. 285.

Inspection of books.

286. When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows, that is to say:—

Disposal of books and papers of company.

(a) In the case of winding-up by or subject to the supervision of the Court, in such way as the Court directs:

(b) In the case of a voluntary winding-up, in such way as the company by extraordinary resolution directs.

2. After two years from the dissolution of the company no responsibility shall rest on the company or the liquidators

or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein. No. 15 of 1914, s. 286.

Power of Court to declare dissolution of company void.

287. Where a company has been dissolved, the Court may, at any time within one year of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

2. It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, to file with the Registrar a copy of the order, certified by the clerk of the Court; and if that person fails so to do he shall be liable to a fine not exceeding twenty-five dollars for every day during which the default continues. No. 15 of 1914, s. 287.

Information as to pending liquidations.

288. If the winding-up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

2. Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of Court, and shall be punishable accordingly on the application of the liquidator.

3. If a liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding one hundred dollars for each day during which the default continues.

4. If it appears from any such statement or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay the same into the Territorial Treasury with a copy of the statement referred to in subsection (1), and shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

5. Any person claiming to be entitled to any money paid into the Territorial Treasury in pursuance of this section may apply to the Commissioner for payment of the same, and the said Commissioner may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

6. Any person dissatisfied with the decision of the said Commissioner in respect of any claim made in pursuance of this section may appeal to the Court. No. 15 of 1914, s. 288.

289. In all proceedings under this Part of this Ordinance, all Courts, Judges, and persons judicially acting, and all officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of the Court appended to or impressed on any document made, issued, or signed under the provisions of this Part of this Ordinance, or any official copy thereof. No. 15 of 1914, s. 289. Judicial notice of signature of officers.

290. The clerk of the Territorial Court shall be a Commissioner for the purpose of taking evidence under this Ordinance, and the Court may refer the whole or any part of the examination of any witnesses under this Ordinance to any person hereby appointed Commissioner, who is hereby required to act as such Commissioner. Special commission for receiving evidence.

2. Every Commissioner shall, in addition to any other powers which he might lawfully exercise, have in the matter so referred to him all the same powers of summoning and examining witnesses, of requiring the production or delivery of documents, of punishing defaults by witnesses, and of allowing costs and expenses to witnesses as the Court which made the winding-up order.

3. The examination so taken shall be returned or reported to the Court which made the order in such manner as that Court directs. No. 15 of 1914, s. 290.

291. Any affidavit required to be sworn under the provisions or for the purposes of this Part of this Ordinance may be sworn before any person lawfully authorized to take and receive affidavits pursuant to "The Evidence Ordinance." Affidavits, etc.

2. All Courts, Judges, Justices, Commissioners, and persons acting judicially shall take judicial notice of the seal or stamp or signature, as the case may be, of any such person attached, appended, or subscribed to any such affidavit or to any other document to be used for the purposes of this Part of this Ordinance. No. 15 of 1914, s. 291.

292. The officers of the Courts acting in the winding-up of companies shall make to the Registrar, at Dawson, such returns of the business of their respective Courts and offices, at such times and in such manner and form as may be prescribed, and from those returns the Registrar shall cause books to be prepared which shall be open for public information and searches. No. 15 of 1914, s. 292. Returns by officers in winding-up.

293. All documents purporting to be orders or certificates made or issued by the Registrar for the purposes of this Ordinance, and to be sealed with his seal of office, shall be received in evidence and deemed to be such orders or certificates without further proof, unless the contrary is shown. Proceedings of Registrar.

2. A certificate purporting to be signed by the Territorial Secretary that any order made, certificate issued, or act done is the order, certificate, or act of the Commissioner, shall be conclusive evidence of the fact so certified. No. 15 of 1914, s. 293.

Rules and Fees.

Rules and fees for winding-up.

294. The Commissioner may make general rules for carrying into effect the objects of this Part of this Ordinance.

2. All general rules made under this section shall be laid before the Yukon Council within three weeks after they are made, if the Council is then sitting, and, if it is not sitting, within one week after the beginning of the next session of the Council, and shall be judicially noticed, and shall have effect as if enacted by this Ordinance.

3. There shall be paid in respect of proceedings under this Ordinance in relation to the winding up of companies such fees as the Commissioner may direct, and the Commissioner may further direct by whom and in what manner the same are to be collected and accounted for, and to what account they are to be paid. No. 15 of 1914, s. 294.

Removal of Defunct Companies from Register.

Registrar may strike defunct company off register.

295. Where a company incorporated under any public Ordinance in this Territory, or a registered extra-territorial company, has failed for any period of two years after such incorporation or registration to send or file any return notice or document required to be made or filed or sent to the Registrar pursuant to this Ordinance or any former public Ordinance, or the Registrar has reasonable cause to believe that such company or an extra-territorial licensed company is not carrying on business or in operation, he shall send to the company by post a registered letter inquiring whether such company is carrying on business or in operation and notifying it of its default (if any); and

2. If within two months no reply to such letter is received by the Registrar, or such company fails to fulfil the lawful requirements of the Registrar or notifies the Registrar that it is not carrying on business or in operation, he may, at the expiration of another fourteen days, publish in the *Gazette* and send to such company a notice that at the expiration of two months from the date of that notice the name of such company mentioned therein will, unless cause is shown to the contrary, be struck off the register, and the company, if one incorporated as aforesaid, will be dissolved.

3. At the expiration of the time mentioned in such last mentioned notice, the Registrar shall, unless cause to the contrary is previously shown by such company, strike the name of such company off the register, and shall publish notice thereof in the *Gazette* for one month, and on such last mentioned publication the company, being an incorporated company

as aforesaid, shall be dissolved; or, being an extra-territorial company, shall be deemed to have ceased to do business in the Territory, under its license or certificate of registration: Provided that the liability (if any) of every director, managing officer, and member of any such company shall continue and may be enforced as if the name of said company had not been struck off the register.

4. If any such company or a member or creditor thereof feels aggrieved by the name of such company having been struck off the register in pursuance of this section, the company or member or creditor may, before the completion of the last mentioned publication, apply to the Court; and the Court, if satisfied that the company was at the time of the striking off carrying on business or in operation and that it is just to do so, may, upon such terms as the Court may see fit to impose, including the payment of any costs and expenses, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if the name thereof had never been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position, as nearly as may be, as if the name of the company had never been struck off.

5. A letter or notice authorized or required for the purpose of this section to be sent to any such company may be sent by post addressed to the company at its registered or head office in the Territory; or, if no office has been registered, addressed to the care of some director or officer of the company; or, if there be no director or officer of the company whose name and address are known to the Registrar, the letter or notice in identical form may, in the case of a company incorporated as aforesaid, be sent to each of the persons who subscribed the memorandum of association, addressed to him at the address mentioned in the memorandum; and in the case of an extra-territorial company sent to the attorney of such company.

6. Where a company is being wound up, and the Registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the company are fully wound up and the returns required to be made by the liquidator have not been made for a period of three consecutive months, after notice by the Registrar demanding the returns has been sent by post to the registered address of the company and to the liquidator at his last known place of business, the provisions of this section shall apply in like manner as if the Registrar had not within two months after sending the letter first mentioned received any answer thereto. No. 15 of 1914, s. 295.

PART X.

REGISTRATION OFFICE AND FEES.

296. The Commissioner may appoint such Assistant Registrars, clerks, and servants as may be deemed necessary for the registration of companies under this Ordinance, and the ^{Appointment} of officers.

carrying out of such other duties as may be imposed upon them, and may make regulations with respect to their duties and may remove any persons so appointed.

2. The Commissioner may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

Inspection of
documents.
Copies.

3. Any person may inspect the documents kept by the Registrar on payment of such fees as may be appointed by the Commissioner, not exceeding twenty-five cents for each inspection; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy, or extract of the prescribed fees, not exceeding one dollar for a certificate of incorporation, and not exceeding ten cents for each folio of a certified copy or extract.

Copies.

4. A copy of or extract from any document kept and registered at the office of the registration of companies, certified to be a true copy under the hand of the Registrar or a Deputy or an Assistant Registrar (whose official position it shall not be necessary to prove), shall, in all legal proceedings, be admissible in evidence as of equal validity with the original document.

5. Whenever any act is by this Ordinance directed to be done to or by the Registrar, it shall, until the Commissioner otherwise directs, be done to or by the existing Registrar, or, in his absence, to or by such person as the Commissioner may for the time being authorize. No. 15 of 1914, s. 296.

Fees.

297. There shall be paid to the Registrar in respect of the several matters mentioned in Table B in the first schedule to this Ordinance the several fees therein specified, or such smaller fees as the Commissioner may from time to time direct.

2. All fees paid to the Registrar in pursuance of this Ordinance shall be paid into the Territorial Treasury. No. 15 of 1914, s. 297.

PART XI.

APPLICATION OF ORDINANCE TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ORDINANCES.

Application
of Ordinance
to companies
formed under
former
companies
Ordinances.

298. In the application of this Ordinance to existing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by shares; in the case of a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by guarantee; in the case of a company specially limited under the provisions of Chapter 60 of the Consolidated Ordinances of the Yukon Territory, 1902, as a company specially limited under Part V of this Ordinance, and in the case of a company

other than a limited company, as if the company had been formed and registered under this Ordinance as an unlimited company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Acts or Ordinances, as the case may be, under which it was registered. No. 15 of 1914, s. 298.

299. Save as hereinbefore provided, this Ordinance shall apply to every company registered under any former public Act or Ordinance, in the same manner as it is hereinafter in this Ordinance declared to apply to companies registered but not formed under this Ordinance.

Application of Ordinance to companies registered under former Companies Acts or Ordinances.

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the aforesaid Acts or Ordinances, as the case may be. No. 15 of 1914, s. 299.

300. Any existing company may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct, and shall not require any greater number of shareholders than required by the Act or Ordinance under which incorporated.

Mode of transferring shares.

(a) Nothing in this Ordinance shall affect or shall be deemed to affect pending litigation. No. 15 of 1914, s. 300.

PART XII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ORDINANCE.

301. With the exceptions and subject to the provisions mentioned and contained in this section,—

Companies capable of being registered.

- (a) Any company consisting of three or more members which was in existence on the first day of May, 1914; and
- (b) Any company formed after the date aforesaid, whether before or after the commencement of this Ordinance, in pursuance of any Ordinance of the Council other than this Ordinance, or of letters patent, or being otherwise duly constituted by law, and consisting of five or more members,—

may at any time register under this Ordinance as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up.

2. Provided as follows:—

- (c) A company having the liability of its members limited by Ordinance of the Council or letters patent, and not being a joint-stock company as hereinafter defined, shall not register in pursuance of this section:

- (d) A company having the liability of its members limited by Ordinance of the Council or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee:
- (e) A company that is not a joint-stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares:
- (f) A company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the regulations of the company) at a general meeting summoned for the purpose:
- (g) Where a company not having the liability of its members limited by Ordinance of the Council or letters patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting:
- (h) Where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

3. In computing any majority under this section when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the company. No. 15 of 1914, s. 301.

Definition of
"joint-stock
company."

302. For the purposes of this Part of this Ordinance, as far as relates to registration of companies as companies limited by shares, a "joint-stock company" means a company having a permanent paid-up or nominal share capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons; and such a company when registered with limited liability under this Ordinance shall be deemed to be a company limited by shares. No. 15 of 1914, s. 302.

Require-
ments for
registration
by joint-
stock
companies.

303. Before the registration in pursuance of this Part of this Ordinance of a joint-stock company there shall be delivered to the Registrar the following documents, that is to say:—

- (1.) A list showing the names, addresses, and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the

shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;

- (2.) A copy of any private Ordinance of the Council, Royal charter, letters patent, deed of settlement, contract of copartnership, memorandum and articles of association and by-laws, or any other instrument constituting or regulating the company; and
- (3.) If the company is intended to be registered as a limited company, a statement specifying the following particulars, that is to say:—
 - (a) The nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists;
 - (b) The number of shares taken and the amount paid on each share;
 - (c) The name of the company, with the addition of the word "limited" as the last word thereof; and
 - (d) In the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee. No. 15 of 1914, s. 303.

304. Before the registration in pursuance of this Part of this Ordinance of any company not being a joint-stock company there shall be delivered to the Registrar—

- (1.) A list showing the names, addresses, and occupations of the directors or other managers (if any) of the company; and
- (2.) A copy of any Ordinance of the Council, letters patent, deed of settlement, contract of copartnership, or other instrument constituting or regulating the company; and
- (3.) In the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee. Nov. 15 of 1914, s. 304.

Requirements for registration by other than joint-stock companies.

305. The lists of members and directors and any other particulars relating to the company required to be delivered to the Registrar shall be verified by a statutory declaration of any two or more directors or other principal officers of the company. No. 15 of 1914, s. 305.

Authentication of statements of existing companies.

306. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint-stock company as hereinbefore defined. No. 15 of 1914, s. 306.

Registrar may require evidence as to nature of company.

307. No fees shall be charged in respect of the registration in pursuance of this Part of this Ordinance of a company if it has already paid the same fees as if it had originally been registered under this Ordinance, otherwise the same fees shall be paid as are payable by a company registering under this Ordinance. No. 15 of 1914, s. 307.

Exemption of certain companies from payment of fees.

**Addition of
"limited"
to name.**

308. When a company registers in pursuance of this Part of this Ordinance with limited liability, the word "limited" shall form and be registered as part and the last word of its name. No. 15 of 1914, s. 308.

**Certificate
of registra-
tion of
existing
companies.**

309. On compliance with the requirements of this Part of this Ordinance with respect to registration, and on payment of such fees (if any) as are payable under Table B in the first schedule to this Ordinance, the Registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Ordinance, and in the case of a limited company that it is limited, and thereupon the company shall be incorporated, and shall have perpetual succession and a common seal, with power to hold lands. No. 15 of 1914, s. 309.

**Vesting of
property on
registration.**

310. All property, real and personal (including things in action), belonging to or vested in a company at the date of its registration in pursuance of this Part of this Ordinance shall, on registration, pass to and vest in the company as incorporated under this Ordinance for all the estate and interest of the company therein. No. 51 of 1914, s. 310.

**Saving for
existing
liabilities.**

311. Registration of a company in pursuance of this Part of this Ordinance shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of the company before registration. No. 15 of 1914, s. 311.

**Continuation
of existing
actions.**

312. All actions and other legal proceedings which at the time of the registration of the company in pursuance of this Part of this Ordinance are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless, execution shall not issue against the effects of an individual member of the company on any judgment, decree, or order obtained in any such action or proceeding; but, in the event of the property and effects of the company being insufficient to satisfy the judgment, decree, or order, an order may be obtained for winding up the company. No. 15 of 1914, s. 312.

**Effect of
registration
under
Ordinance.**

313. When a company is registered in pursuance of this Part of this Ordinance,—

- (1.) All provisions contained in any Ordinance of the Council, deed of settlement, contract of copartnership, letters patent, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Ordinance, have been required to be inserted in the memorandum were contained in a registered memorandum, and the residue thereof were contained in registered articles:

(2.) All the provisions of this Ordinance shall apply to the company, and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Ordinance, subject as follows, that is to say:—

(a) The regulations in Table A in the first schedule to this Ordinance shall not apply unless adopted by special resolution;

(b) The provisions of this Ordinance, relating to the numbering of shares shall not apply to any joint-stock company whose shares are not numbered;

(c) Subject to the provisions of this section, the company shall not have power to alter any provision contained in any Ordinance of the Council, relating to the company;

(d) Subject to the provisions of this section, the company shall not have power, without the sanction of the Commissioner, to alter any provision contained in any letters patent relating to the company;

(e) The company shall not have power to alter any provision contained in a Royal charter, or letters patent with respect to the object of the company;

(f) In the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability; or to pay or contribute to the payment of the costs and expenses of winding-up the company, so far as relates to such debts or liabilities as aforesaid; and every contributory shall be liable to contribute to the assets of the company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid; and, in the event of the death of any contributory, the provisions of this Ordinance with respect to the personal representatives, heirs, and devisees of deceased contributories shall apply:

(3.) The provisions of this Ordinance with respect to—

(a) The registration of an unlimited company as limited;

(b) The powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding-up;

(c) The power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding-up,—shall apply, notwithstanding any provisions contained in any Ordinance of the Council, Royal charter, deed of

settlement, contract of copartnery, letters patent, or other instrument constituting or regulating the company :

- (4.) Nothing in this section shall authorize the company to alter any such provisions contained in any deed of settlement, contract of copartnery, letters patent, or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Ordinance, have been required to be contained in the memorandum and are not authorized to be altered by this Ordinance:
- (5.) Nothing in this Ordinance shall derogate from any power of altering its constitution or regulations which may, by virtue of any Ordinance of the Council, deed of settlement, contract of copartnery, letters patent, or other instrument constituting or regulating the company, be vested in the company. No. 15 of 1914, s. 313.

Power to substitute memorandum and articles for deed of settlement.

314. Subject to the provisions of this section, a company registered in pursuance of this Part of this Ordinance may, by special resolution, alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

2. The provisions of this Ordinance with respect to confirmation by the Court and registration of an alteration of the objects of a company shall, so far as applicable, apply to an alteration under this section, with the following modifications:—

- (a) There shall be substituted for the copy of the altered memorandum required to be delivered to the Registrar a copy of the substituted memorandum and articles; and
- (b) On the registration of the alteration being certified by the Registrar, the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Ordinance with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

3. An alteration under this section may be made either with or without any alteration of the objects of the company under this Ordinance.

4. In this section the expression "deed of settlement" includes any contract of copartnery or other instrument constituting or regulating the company, not being an Ordinance of the Council, a Royal charter or letters patent. No. 15 of 1914, s. 314.

Power of Court to stay or restrain proceedings.

315. The provisions of this Ordinance with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order shall, in the case of a company registered in pursuance of this Part of this Ordinance, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company. No. 15 of 1914, s. 315.

316. Where an order has been made under this Ordinance for winding up a company registered in pursuance of this Part of this Ordinance, no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company, in respect of any debt of the company except by leave of the Court, and subject to such terms as the Court may impose. No. 15 of 1914, s. 316.

Actions stayed on winding-up order.

PART XIII.

MISCELLANEOUS AND SUPPLEMENTAL.

Legal Proceedings, Offences, etc.

317. All violations of the provisions of this Ordinance made punishable by any fine may be prosecuted under the provisions regarding summary convictions contained in Part XV of the Criminal Code. No. 15 of 1914, s. 317.

Prosecution of offences.

318. The Court imposing any fine under this Ordinance may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit the fine is recovered; and subject to any such direction all fines under this Ordinance shall, notwithstanding anything in any other Ordinance, be paid into the Territorial Treasury. No. 15 of 1914, s. 318.

Court may apply fine to payment of costs: otherwise pay into Treasury.

319. Where a limited company is plaintiff in any action or other legal proceeding, any Judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given. No. 15 of 1914, s. 319.

Insolvent plaintiff. Judge may order security for costs.

320. If in any proceeding against a director, or person occupying the position of director, of a company for negligence or breach of trust it appears to the Court hearing the case that the director or person is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think proper. No. 15 of 1914, s. 320.

Relief against breach of trust.

321. If any person or persons trade or carry on business within the Territory under any name or title of which "limited" is the last word, that person or those persons shall, unless duly incorporated with limited liability or licensed or registered, and entitled to use the word "limited" as the last word of their name, be liable to a fine not exceeding twenty-five dollars for every day upon which that name or title has been used. No. 15 of 1914, s. 321.

No one to use "limited" as part of name unless incorporated.

Applications
to the Court.

322. All applications to the Court authorized by this Ordinance in which the procedure is not otherwise prescribed may, in all actions pending or other proceeding already in Court, be made to the Court or to a Judge in Chambers by motion, and in all other cases to a Judge in Chambers by petition. No. 15 of 1914, s. 322.

Power to
adjourn.

323. A Judge in Chambers may adjourn any matter before him into Court for further argument and consideration. No. 15 of 1914, s. 323.

Power to
relieve from
penalties.

324. A Judge in Chambers shall have power at any time to remit or relieve from, either absolutely or upon condition, any penalty imposed or to which a company may be liable for the infraction of this Ordinance. No. 15 of 1914, s. 324.

Authentication of Documents issued by the Commissioner.

Authentica-
tion of
documents
issued by
Commis-
sioner.

325. Any approval, sanction, or license, or revocation of license, which under this Ordinance may be given or made by the Commissioner may be under the hand of any person authorized in that behalf by the Commissioner. No. 15 of 1914, s. 325.

Repeal of Ordinances and Transitional Provisions.

Ordinances
repealed.

326. The Ordinances following are hereby repealed:—
Chapter 57 of the Consolidated Ordinances of the Yukon Territory, 1902, being *The Companies Ordinance*.
Chapter 58 of the Consolidated Ordinances of the Yukon Territory, 1902, being *An Ordinance to authorize the changing of the names of Incorporated Companies*.
Chapter 59 of the Consolidated Ordinances of the Yukon Territory, 1902, being *The Foreign Companies Ordinance*.
Chapter 60 of the Consolidated Ordinances of the Yukon Territory, 1902, being *An Ordinance respecting Mining Companies*.
Chapter 3 of the Ordinances of the Yukon Territory, 1909, being *An Ordinance to amend The Companies Ordinance*.

Saving
clause.

2. The repeal of the Ordinances mentioned in this section shall be subject to the following provisos:—

(a) That such repeal shall not be held or taken to in any way alter, limit, or affect the corporate existence, rights, privileges, powers, and liabilities of any company incorporated under the said repealed Ordinances, or any or either of them:

(b) That the provisions of Part IX of this Ordinance shall apply to every company incorporated under the said repealed Ordinances, or any or either of them; and

(c) That every company incorporated under the said repealed Ordinances, or any or either of them, may dispose of the whole or any portion of its assets, rights, powers, privileges, and franchise by resolution duly passed to such effect at a general or special meeting of the shareholders representing at least two-thirds in

Application
of Part IX.
of this
Ordinance
to all
companies.
Disposition
by companies
under
repealed
Ordinances

value of the paid-up capital of the company, which meeting shall be held in the city, town, or district where the company has its chief place of business in the Territory: Provided always that at least one month's notice of such meeting, signed by the secretary, or, in the event of his death or absence, by the acting-secretary, or if there be neither secretary nor acting-secretary, then by one of the Trustees, shall be published in at least four issues of the *Gazette* and of some newspaper published in the city, town, or district aforesaid: Provided always that nothing herein contained shall be construed or allowed to prejudice any claim against the corporation:

Provided also that the power hereby conferred shall be deemed to be enabling and not imperative, and shall in nowise limit, control or affect any power of sale vested in any company incorporated under the repealed Ordinances by its memorandum of association, or any provisions or conditions as to the exercise of such power contained in its articles of association or by-laws. No. 15 of 1914, s. 326.

327. Where any repealed enactment is mentioned or referred to in any document, that document shall be read as if the corresponding provision (if any) of this Ordinance were therein mentioned or referred to and substituted for the repealed enactment. No. 15 of 1914, s. 327.

328. The provisions of this Ordinance, with respect to winding-up shall not apply to any company of which the winding-up has commenced before the first day of May, 1914, but every such company shall be wound up in the same manner and with the same incidents as if this Ordinance had not passed, and, for the purposes of the winding-up, the Ordinance or Ordinances under which the winding-up commenced shall be deemed to remain in full force. No. 15 of 1914, s. 328.

329. Every conveyance, mortgage, or other deed made before the first day of May, 1914, in pursuance of any enactment repealed by this Ordinance, shall be of the same force as if that Ordinance had not passed, and for the purposes of that deed the repealed enactment shall be deemed to remain in full force. No. 15 of 1914, s. 329.

Offices.

330. Registers of companies kept in any existing office shall be deemed part of the registers of companies to be kept under this Ordinance. No. 15 of 1914, s. 330.

Rules and Regulations.

331. The Commissioner may from time to time make rules and regulations for carrying out the purpose of this Ordinance, including matters in respect whereof no express or only partial or imperfect provision has been made. No. 15 of 1914, s. 331.

Power to
make rules.

332. Subject to this Ordinance and to any rules made by the Commissioner, the Registrar may make rules and regulations for the management of his office and the conduct of business therein. No. 15 of 1914, s. 332.

Sections 34,
74, 83, 119,
and 120
applicable
to all
companies.

333. Sections 34, 74, 83, 119, and 120 of this Ordinance shall apply to all companies heretofore or hereafter incorporated by any public Ordinance of the Council. No. 15 of 1914, s. 333.

Date of
coming into
force.

334. This Ordinance shall come into force on the first day of May, A.D. 1914. No. 15 of 1914, s. 334.

SCHEDULES.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations, unless the context otherwise requires, expressions defined in the *Companies Ordinance*, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and vice versa, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Business.

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 96 of the *Companies Ordinance*, if, and so far as, those restrictions are binding upon the company.

Shares.

3. Subject to the provisions (if any) in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred, or other special rights or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings, shall, *mutatis mutandis*, apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least five per cent of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections 94 and 97 of the *Companies Ordinance* as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon; provided that, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

7. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee (if any), not exceeding twenty-five cents, and on such terms (if any) as to evidence and indemnity as the directors think fit.

8. No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien.

9. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien (if any) on a share shall extend to all dividends payable thereon.

10. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the

lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or bankruptcy to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares.

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares: Provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

13. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him,

and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares.

18. The instrument of transfer of any shares in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve:—

I, A. B., of _____, in consideration of the sum of \$ _____ paid to me by C. D., of _____ (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share (or shares) numbered _____ in the undertaking called the _____ Company, Limited, to hold unto the said transferee, his executors, administrators, and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid.

As witness our hands the _____ day of _____

 Witness to the signatures of, etc.

20. The directors may decline to register any transfer of shares not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognize any instrument of transfer unless—

- (a) A fee not exceeding fifty cents is paid to the company in respect thereof; and
- (b) The instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

21. The executors or administrators of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognized by the company as having any title to the share.

22. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evi-

dence being produced as may from time to time be required by the directors, have the right either to be registered as a member in respect of the share, or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

23. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares.

24. If a member fails to pay any call or instalment of a call on the day appointed for the payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receives payment in full of the nominal amount of the shares.

29. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has

been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration (if any) given for the share on the sale or disposition thereof, shall constitute a good title to the share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any), nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction reconvert any stock into paid-up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof, in the same manner and subject to the same regulations as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share warrants) as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder."

Share Warrants.

35. The company may issue share warrants, and accordingly the directors may in their discretion, with respect to any share

which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the directors may from time to time require as to the identity of the person signing the request, and on receiving the certificate (if any) of the share, and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons or otherwise for the payment of dividends, or other moneys, on the shares included in the warrant.

36. A share warrant shall entitle the bearer to the shares included in it, and the shares shall be transferred by the delivery of the share warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

38. The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognized as depositor of the share warrant. The company shall, on two days' written notice, return the deposited share warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a member at a meeting of the company or be entitled to receive any notices from the company; but the bearer of a share warrant shall be titled in all other respects, to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share warrant or coupon may be issued by way of renewal in case of defacement, loss, or destruction.

Alteration of Capital.

41. The directors may, with the sanction of an extraordinary resolution of the company, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

44. The company may, by special resolution,—

- (a) Consolidate and divide its share capital into shares of larger amount than its existing shares:
- (b) By subdivision of its existing shares, or any of them, divide the whole or any part of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of subsection (1) of section 48 of the *Companies Ordinance*:
- (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person:
- (d) Reduce its share capital in any manner and with, and subject to, any incident authorized, and consent required, by law.

General Meetings.

45. The statutory general meeting of the company shall be held within the period required by section 73 of the *Companies Ordinance*.

46. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

47. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

48. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitions, as provided by section 74 of the *Companies Ordinance*. If at any time there are not within the Territory sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Proceedings at General Meeting.

49. Seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given), specifying the place, the day, and the hour of meeting, and, in case of special business, the general nature of that business, shall be given in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

57. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

59. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A

poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

60. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

61. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

62. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy may vote, whether on a show of hands or on a poll, by his committee, *curator bonis*, or other person in the nature of a committee or *curator bonis* appointed by that Court and any such committee, *curator bonis*, or other person may, on a poll, vote by proxy.

63. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

64. On a poll votes may be given either personally or by proxy.

65. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorized in writing, or, if the appointer is a corporation, either under the common seal or under the hand of an officer or attorney so authorized. No person shall act as a proxy unless he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

66. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

67. An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve:

Company, Limited.

I, _____, of _____, in the _____, being a member of the _____ Company, Limited, hereby appoint _____, of

, as my proxy to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on the _____ day of _____, and at any adjournment thereof.
Signed this _____ day of _____

Directors.

68. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

69. The remuneration of the directors shall from time to time be determined by the company in general meeting.

70. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of section 81 of the *Companies Ordinance*.

Powers and Duties of Directors.

71. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the *Companies Ordinance*, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Ordinance, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of the *Companies Ordinance*, or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company, or created by it, and to keeping a register of the directors, and to sending to the Registrar of Companies an annual list of members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital or conversion of shares into stock, and copies of special resolutions, and a copy of the register of directors and notifications of any changes therein.

75. The directors shall cause minutes to be made in books provided for the purpose—

- (a) Of all appointments of officers made by the directors;
- (b) Of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) Of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose; and these two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors.

77. The office of director shall be vacated if the director—

- (a) Ceases to be a director by virtue of section 81 of the *Companies Ordinance*; or
- (b) Holds any other office of profit under the company except that of managing director or manager; or
- (c) Becomes bankrupt; or
- (d) Is found lunatic or becomes of unsound mind; or
- (e) Is concerned or participates in the profits of any contract with the company:

Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is a director; but a director shall not vote in respect of any such contract or work, and if he does so vote his vote shall not be counted.

Rotation of Directors.

78. At the first ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest to one-third, shall retire from office.

79. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.

80. A retiring director shall be eligible for re-election.

81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place, and, if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall be deemed to have been re-elected at the adjourned meeting.

83. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

84. Any casual vacancy occurring in the board of directors may be filled up by the directors but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

87. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

95. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

97. No dividend shall be paid otherwise than out of profits.

98. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares; but if, and so long as nothing is paid up on any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend set aside out of the profits of the company such sums as they think proper as a reserve or reserves, which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100. If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

Accounts.

103. The directors shall cause true accounts to be kept—
Of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place: and
Of the assets and liabilities of the company.

104. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by Ordinance or authorized by the directors or by the company in general meeting.

106. Once at least in every year the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

107. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount (if any) which they propose to carry to a reserve fund.

108. A copy of the balance-sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

Audit.

109. Auditors shall be appointed and their duties regulated in accordance with sections 119 and 120 of the *Companies Ordinance* or any statutory modification thereof for the time being in force.

Notices.

110. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address in the Yukon Territory) to the address (if any) within the said Territory supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

111. If a member has no registered address in the Yukon Territory and has not supplied to the company an address within the said Territory for the giving of notices to him, a

notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

112. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

113. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address (if any) in the Yukon Territory supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

114. Notice of every general meeting shall be given in some manner hereinbefore authorized to (a) every member of the company (including bearers of share warrants) except those members who (having no registered address within the Yukon Territory) have not supplied to the company an address within the said Territory for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B.

Table of Fees to be paid to the Registrar of Joint-stock companies by a Company having a Capital divided into Shares.

1. For registration of a company whose nominal capital does not exceed \$10,000, a fee of..... \$100.00
2. For registration of a company whose nominal capital exceeds \$10,000, the above fee of \$100, with the following additional fees, regulated according to the amount of nominal capital, that is to say:—

For every \$5,000 of nominal capital or part of \$5,000, after the first \$10,000, up to \$25,000.....	\$10.00
For every \$5,000 of nominal capital, or part of \$5,000, after the first \$25,000, up to \$200,000.....	\$ 5.00

For every \$5,000 of nominal capital, or part of \$5,000, after the first \$200,000 up to \$500,000..... \$ 3.00

For every \$5,000 of nominal capital, or part of \$5,000, after the first \$500,000\$ 1.25

3. For registration of any increase of capital made after the first registration of the company, the same fees per \$5,000 or part of \$5,000 as would have been payable if such increased capital had formed part of the original capital at the time of registration. This provision shall apply to an extra-territorial company licensed or registered which increases its capital, excepting an insurance company.

12/2/9
New provisions
provides for fees to be paid on certificate to be issued on...
250.00

1149 (2 with papers)
69

4. For a license to or registration of any extra-territorial company, the same fees as are payable for incorporating a new company. In the case of an extra-territorial company having a nominal capital exceeding \$450,000 which proves to the satisfaction of the Registrar that it is actually carrying on an established business beyond the Territory in which at least fifty per cent of its subscribed capital is invested, there shall be accepted in commutation of the fees prescribed by this table a fee of.....

5. For registration under this Ordinance of any existing company, the certificate of registration whereof is issued pursuant to section 130 hereof, or the capital whereof is increased, the same fees as are payable for registering a new company hereunder, allowing credit as part of such fees for the amount of fees paid by such company in respect of its original registration. (See section 307.)

6. For a license to or registration under this Ordinance of any extra-territorial company already registered in this Territory as a foreign company. And in addition thereto, if the license or certificate of registration under this Ordinance is issued pursuant to section 131 hereof, the same fees as are payable for registering a new company hereunder, allowing credit as part of such fees for the amount of fees paid by such extra-territorial company in respect of its original registration in this Territory.

10.00

4/

7. For registering or filing any document hereby required or authorized to be registered or filed, other than the memorandum of association.....

1 00

8. For making a record of any fact hereby authorized or required to be recorded by the Registrar, a fee of.....

1.00

9. Publication in the *Gazette*, according to the scale of charges paid by the Government for printing therein.
10. For each and every search..... .25
 The scale of fees provided by this Table B shall apply to, and the fees therein specified shall be taken on all registrations, proceedings, or transactions relating to companies incorporated and carrying on business under any Ordinance repealed by the *Companies Ordinance*, dealt with in the office of the Registrar after the first day of May, 1914.
 Fees to be paid on Registration of Mortgage or charge.
11. Where the amount of the mortgage or charge does not exceed \$1,000..... 5 00
12. Where the amount of the mortgage or charge exceeds \$1,000..... 10.00
 Provided that in the case of a series of debentures registered in accordance with subsection (3) of section 102 the above fees shall be charged on the first debenture of such series, and a further fee of fifteen cents on each subsequent debenture of the series. Provided further that where a mortgage or charge requiring registration under section 102 of this Ordinance is one that also requires to be registered under the provisions of the *Land Titles Act* or of the *Bills of Sale Ordinance*, the fee for registering the same shall be one dollar.

TABLE B—PART II.

Table of fees to be paid to the Registrar of Joint-Stock Companies by a Company not having a Capital divided into Shares.

1. For registration of a company whose number of members as stated in the articles of association, does not exceed 20.....\$ 10.00
2. For registration of a company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100..... 25.00
3. For registration of a company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of \$25, with an additional \$1 for every 50 members or less number than 50 members after the first 100.

4. For registration of a company in which the number of members is stated in the articles of association to be unlimited, a fee of \$100 00
5. For registration of any increase on the number of members made after the registration of the company in respect of every 50 members, or less than 50 members, of such increase 1 00
6. Provided that no one company shall be liable to pay on the whole a greater fee than \$100 in respect of its number of members, taking into account the fee paid on the first registration of the company.
7. For registering any document hereby required or authorized to be registered, other than the memorandum of association 1 00
8. For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of 1 00

SECOND SCHEDULE.

FORM A.

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1st. The name of the Company is "The Eastern Steam Packet Company, Limited."

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "The conveyance of passengers and goods in ships or boats between such places as the Company may from time to time determine, and the doing of all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. The share capital of the Company is dollars,
divided into shares of dollars each.
We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
"1. John Jones of , in the , Merchant	200
"2. John Smith, of , in the " "	25
"3. Thomas Green, of , in the " "	30
"4. John Thompson, of , in the " "	40
"5. Caleb White, of , in the " "	15
Total shares taken.....	310

Dated the day of , 19 .

Witness to the above signatures:

Name

Address

Occupation

FORM B.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of Company is "The Highland Hotel Company, Limited."

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "Facilitating travelling in the Territory by providing hotels and conveyances by water and by land for the accommodation of travellers, and the doing of all such other things as are incidental or conducive to the attainment of the above objects."

4th. The liability of the members is limited.

5th. Every member of the Company undertakes to contribute to the assets of the Company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before he ceases to be a member, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding fifty dollars.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

"1. John Jones, of	, in the	, Merchant.
"2. John Smith, of	, in the	"
"3. Thomas Green, of	, in the	"
"4. John Thompson, of	, in the	"
"5. Caleb White, of	, in the	"

Dated the day of , 19

Witness to the above signatures:

Name
Address
Occupation

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING
MEMORANDUM OF ASSOCIATION.

Number of Members.

1. The Company for the purpose of registration, is declared to consist of five hundred members.
2. The directors hereinafter mentioned may, whenever the business of the Association requires it, register an increase of members.

General Meetings.

3. The first general meeting shall be held at such time, not being less than one month nor more than three months after the incorporation of the Company, and at such place as the directors may determine.

4. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the Company in general meeting, or, in default, at such time in the month following that in which the anniversary of the Company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

5. The above mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

6. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, convene an extraordinary general meeting.

7. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the Company.

8. On receipt of the requisition the directors shall forthwith proceed to convene a general meeting; if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or any other five members, may themselves convene a meeting.

Proceedings at General Meetings.

9. Seven days' notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

10. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

11. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows, that is to say: If the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

12. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

13. The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

14. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

15. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

16. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried and an entry to that effect in the book of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

17. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Votes of Members.

18. Every member shall have one vote and no more.

19. If any member is a lunatic or idiot he may vote by his committee, *curator bonis*, or other legal curator.

20. No member shall be entitled to vote at any meeting unless all moneys due from him to the Company have been paid.

21. On a poll votes may be given either personally or by proxy. A proxy shall be appointed in writing under the hand of the appointer, or, if such appointer is a corporation, under its common seal.

22. No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for a corporation.

The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

23. Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

, of , in the , being a member of
the Company, Limited, hereby appoint , of
, as my proxy, to vote for me and on my behalf at the
[ordinary or extraordinary, as the case may be] general
meeting of the Company to be held on the day
of , and at any adjournment thereof.

Signed this day of , 19

Directors.

24. The number of directors, and the names of the first directors, shall be determined by the subscribers of the Memorandum of Association.

25. Until directors are appointed the subscribers of the Memorandum of Association shall, for all the purposes of the Companies Ordinance be deemed to be directors.

Powers of Directors.

26. The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not by the Companies Ordinance, or by any statutory modification thereof for the time being in force, or by these articles required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

Election of Directors.

27. The directors shall be elected annually by the Company in general meeting.

Audit.

28. Auditors shall be appointed and their duties regulated in accordance with sections 119 and 120 of the Companies Ordinance or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word "members" were substituted for "shareholders," and as if "first general meeting" were substituted for "statutory meeting."

Notices.

29. A notice may be given by the Company to any member either personally, or by sending it by post to him to his registered address.

30. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Names, Addresses, and Descriptions of Subscribers.

- | | | | |
|----------------------|---|--------|----------|
| 1. John Jones, of | , | in the | Merchant |
| 2. John Smith, of | , | in the | " |
| 3. Thomas Green, of | , | in the | " |
| 4. John Thompson, of | , | in the | " |
| 5. Caleb White, of | , | in the | " |

Dated the day of , 19 .

Witness to the above signatures:

Name :

Address

Occupation

FORM C.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of the Company is "The Killarney Hotel Company, Limited."

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "The facilitating travelling in the mountains of Yukon Territory by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the Company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges, and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding one hundred dollars.

6th. The share capital of the Company shall consist of dollars, divided into shares of dollars each. We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
1. John Jones, of , in the , Merchant..	200
2. John Smith, of , in the "	25
3. Thomas Green, of , in the "	30
4. John Thompson, of , in the "	40
5. Caleb White, of , in the "	15
Total shares taken.....	310

Dated the day of , 19 .

Witness to the above signatures:

Name .
Address .
Occupation.

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING
MEMORANDUM OF ASSOCIATION.

1. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares in the Company.
2. The directors may, with the sanction of the Company in general meeting, cancel any shares belonging to the Company.
3. All the articles of Table A of the *Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the Company.

Names, Addresses, and Descriptions of Subscribers.

- | | | |
|----------------------|----------|-----------|
| 1. John Jones, of | , in the | Merchant. |
| 2. John Smith, of | , in the | " |
| 3. Thomas Green, of | , in the | " |
| 4. John Thompson, of | , in the | " |
| 5. Caleb White, of | , in the | " |

Dated the day of , 19

Witness to the above signatures:

Name

Address

Occupation

FORM D.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED
COMPANY HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of the Company is "The Patent Stereotype Company."

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "The working of a patent method of founding and casting stereotype plates, of which method John Smith of , is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
1. John Jones, of _____, in the _____, Merchant ..	3
2. John Smith, of _____, in the _____ " "	2
3. Thomas Green, of _____, in the _____ " "	1
4. John Thompson, of _____, in the _____ " "	2
5. Caleb White, of _____, in the _____ " "	2
Total shares taken.....	10

Dated the _____ day of _____, 19

Witness to the above signatures:

Name _____
 Address _____
 Occupation _____

**ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING
 MEMORANDUM OF ASSOCIATION.**

1. The share capital of the Company is _____ dollars, divided into twenty shares of _____ dollars each.
2. All the articles of Table A of the *Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the Company.

Names, Addresses, and Descriptions of Subscribers.

1. John Jones, of _____, in the _____ Merchant.
2. John Smith, of _____, in the _____ " "
3. Thomas Green, of _____, in the _____ " "
4. John Thompson, of _____, in the _____ " "
5. Caleb White, of _____, in the _____ " "

Dated the _____ day of _____, 19

Witness to the above signatures:

Name _____
 Address _____
 Occupation _____

FORM E.

(As required by Part III of the Ordinance.)

Summary of Share Capital and Shares of the _____ Company
 Limited, made up to the _____ day of _____, 19____
 (being the fourteenth day after the date of the first ordinary
 general meeting in 19____).

Nominal share capital, \$ _____, divided into¹ _____ } shares of \$ _____ each.
 _____ } shares of \$ _____ each.

Total number of shares taken up¹ to the _____ day of _____, 19____ }
 (which number must agree with the }
 total shown in the list as held by }
 existing members).

Number of shares issued subject to payment wholly in cash.

Number of shares issued as fully paid up otherwise than in cash.

Number of shares issued as partly paid up to the extent of _____ per share otherwise than in cash..... } \$

²There has been called up on each of _____ shares, \$ _____ } \$

There has been called up on each of _____ shares, \$ _____ } \$

³There has been called up on each of _____ shares, \$ _____ } \$

²Total amount of calls received, including payments on application and allotment..... } \$

Total amount (if any) agreed to be considered as paid on _____ shares which have been issued as fully paid up otherwise than in cash } \$

Total amount (if any) agreed to be considered as paid on _____ shares which have been issued as partly paid up to the extent of _____ per share..... } \$

Total amount of calls unpaid..... } \$

Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary..... } \$

Total amount (if any) paid on⁴ _____ shares forfeited..... } \$

Total amount of shares and stock for which share warrants are outstanding..... } \$

Total amount of share warrants issued and surrendered respectively since date of last summary..... } \$

Number of shares or amount of stock comprised in each share warrant..... } \$

Names and addresses of the persons who are the Directors of the _____, Limited, on the _____ day of _____ 19____.

Names.	Addresses.

(Signature).....
(State whether manager or secretary).....

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns may be subdivided so that the number of each class held or transferred may be shown separately.

FORM F.

FORM OF STATEMENT TO BE PUBLISHED BY SOCIETIES,
AND OTHER ASSOCIATIONS.

(Section 115.)

*The share capital of the Company is _____, divided into _____ shares of _____ each.

The number of shares issued is _____.

Calls to the amount of _____ dollars per share have been made, under which the sum of _____ dollars has been received.

The liabilities of the Company on the first day of January (or July) were:—

Debts owing to sundry persons by the Company—

- On judgment, \$ _____
- On specialty, \$ _____
- On notes or bills, \$ _____
- On simple contracts, \$ _____
- On estimated liabilities, \$ _____

The assets of the Company on that day were —

- Government securities [stating them], _____
- Bills of exchange and promissory notes, \$ _____
- Cash at the bankers, \$ _____
- Other securities, \$ _____

*If the Company has no share capital, the portion of the Statement relating to capital and shares must be omitted.

STATEMENT IN LIEU OF PROSPECTUS.

(Section 91).

The nominal share capital of the company	\$
Divided into.....	Shares of \$ each. Shares of \$ each. Shares of \$ each.
Names, descriptions and addresses of directors or proposed directors.	
Minimum subscription (if any) fixed by the Memorandum or Articles of Association on which the Company may proceed to allotment.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash. The consideration for the intended issue of those shares and debentures.	1. shares of \$ fully paid. 2. shares upon which \$ per share credited as paid. 3. debenture \$. 4. Consideration.
(a.) For definition of vendor, see section 90 (2) of the "Companies Ordinance." Names and addresses of (a) vendors of property purchased or acquired, or proposed to be (b) purchased or acquired by the Company. Amount (in cash, shares, or debentures) payable to each separate vendor.	
(b.) See section 90 (3) of the "Companies Ordinance." Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.	Total purchase price... \$ Cash..... Shares..... Debentures..... <hr/> Goodwill..... \$
Amount, (if any) paid or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure, subscriptions for any shares or debentures in the Company; or, Rate of the commission.....	Amount paid. Amount payable. Rate per cent.
Estimated amount of preliminary expenses.....	\$
Amount paid or intended to be paid to any promoter. Consideration for the payment.	Name of promoter. Amount, \$ Consideration.

STATEMENT IN LIEU OF PROSPECTUS—Concluded.

Dates of and parties to every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company, or entered into more than two years before the filing of this statement).	
Time and place at which the contracts or copies thereof may be inspected.	
Names and addresses of the auditors of the Company (if any).	
Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the Company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the Company.	
Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance-sheets or reports of the auditors or other reports.	Nature of the provisions.

(Signatures of the persons above named as directors or proposed directors, or of their agents authorized in writing.)

CHAP. 19.

An Ordinance respecting Compensation to the Families of Persons Killed by Accident.

Interpretation.

1. The following words and expressions have in this Ordinance the meanings hereby assigned to them respectively so far as such meanings are not excluded by the context or by the nature of the subject-matter:

"Parent."

1. "Parent" includes father, mother, grandfather, grandmother, stepfather, stepmother, and

"Child."

2. "Child" includes son, daughter, grandson, grand-daughter, stepson, stepdaughter. C.O.Y.T. c. 44, s. 1.

When compensation recoverable.

2. Whenever the death of a person has been caused by such wrongful act, neglect or default as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, in each case the person who would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death of the party injured. C.O.Y.T. c. 44, s. 2.

Who to benefit by action.

3. Every such action shall be for the benefit of the wife, husband, parent, child, brother or sister of the person whose death has been so caused and shall be brought by and in the name of the executor or administrator of the person deceased and in every such action the court may give such damages as it thinks proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action has been brought. C.O.Y.T. c. 44, s. 3.

Limitation of action.

4. Not more than one action shall lie for and in respect of the same subject matter of complaint and every such action shall be commenced within twelve months after the death of the deceased person. C.O.Y.T. c. 44, s. 4.

repealed

CHAP. 20.

An Ordinance Respecting Constables.

1. Any justice of the peace may in writing appoint one or more constables whose powers and duties as such shall extend to the whole of the Territory; such appointment to be in force for the time mentioned in the appointment but shall at no time be longer in force than until the thirty-first day of December then next following the date of such appointment or until any process on the said thirty-first day of December in his hands is executed. C.O.Y.T. c. 30, s. 1.

Justices may
appoint
constables.

Duration of
office.

2. Every constable so appointed shall before entering upon the duties of his office take and subscribe before a justice of the peace the following oath:

Oath.

I, _____ having been appointed constable for the Yukon Territory do solemnly swear that I will truly, faithfully and impartially perform the duties appertaining to the said office according to the best of my skill and ability. So help me God. C.O.Y.T. c. 30, s. 2.

3. It shall be lawful for any Sheriff, Deputy Sheriff, Constable or other peace officer of the Territory, whether uniformed or otherwise vested with a badge or other sign showing his authority to enter, without a warrant, at any hour of the day or night; any dwelling, shop or other building, or appurtenances within the curtilage thereof, wherein any business is conducted, or supposed to be conducted, and for which a special license has been, or should have been previously obtained under any Ordinance of the Territory, or any rule, orders or by-laws thereunder, and to make such inspection of the said premises as will permit any such officer to ascertain whether any such Ordinance, rule, orders or by-laws thereunder, are in any way violated or infringed upon. C.O.Y.T. c. 30, s. 3.

Sheriff and
peace officers
may enter
buildings at
any time to
see if ordi-
nances are
violated.

4. Any one assaulting, or obstructing, any such officer or refusing to permit any such officer to enter and inspect any such premises for the purpose aforesaid, or any one instructing or advising any person to assault, obstruct, or refuse to permit any such officer to enter and inspect such premises shall be liable on summary conviction to a fine not exceeding \$100 and costs, and in default of payment, to imprisonment not exceeding two months. C.O.Y.T. c. 30, s. 4.

Penalty for
obstructing
officer.

Appeal
CHAP. 21.

An Ordinance Relating to the Decision of Constitutional and other Questions.

Interpretation.

1. In the construction of this Ordinance the word "Court" shall mean "The Territorial Court for the Yukon Territory," and the word "Judge" shall mean a Judge of the said Court. No. 2, 1914, s. 1.

Commissioner may refer certain matters to the Court.

2. The Commissioner of the Yukon Territory may refer to the Court for hearing and consideration any matter which he thinks fit to refer and the Court shall thereupon hear and consider the same and if the matter referred involves the determination of a question of fact, the same shall be tried and determined in all respects as if it were an issue in any ordinary action in said Court. No. 2, 1914, s. 2.

Court to certify opinion.

3. The Court shall certify to the Commissioner the opinion or decision of the Court in the matter referred, with the reasons therefor, which shall be given as in the case of an ordinary action. No. 2, 1914, s. 3.

Attorney-General to be notified.

4. If the matter relates to the constitutional validity of any Ordinance of the Territory, or of any provision in any such Ordinance, the Attorney General of Canada shall be notified of the hearing in order that he may be heard if he thinks fit and notice of such hearing shall be given in such manner as the Court or Judge shall order. No. 2, 1914, s. 4.

Court may direct that persons interested be notified.

5. The Court or Judge shall have power to direct that any person interested, or, where there is a class of persons interested, any one or more persons as representative of such class, be notified of the hearing in such manner as the Court or Judge may direct, and such person or persons shall be entitled to be heard. No. 2, 1914, s. 5.

Court may appoint counsel to represent absentees.

6. Where any interest affected is not represented by Counsel the Court or Judge shall have discretionary power to request Counsel to appear and argue the matter on behalf of such interest, and the reasonable and proper charges and expenses thereby occasioned shall be paid out of the general revenue of the Territory. No. 2, 1914, s. 6.

Decision to be treated as Judgment of Court.

7. The decision of the Court or Judge upon any such reference, although advisory only, shall for all purposes of appeal be considered and treated as a final judgment of the Court between parties. No. 2, 1914, s. 7.

CHAP. 22.

An Ordinance Respecting Controverted Elections.

SHORT TITLE.

1. This Ordinance may be cited as *The Controverted Elections Ordinance*. C.O.Y.T. c. 4, s. 1. Short title.

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires: Interpretation.
 (1) The expression "the judge" means a judge of the Territorial Court; "Judge."
 (2) The expression "the clerk" means the clerk of the said Court. C.O.Y.T. c. 4, s. 2. "Clerk."

PETITIONS.

3. At any time within one month after the publication by the Territorial Secretary of the notice prescribed by section 96 of the Ordinance respecting elections any defeated candidate or any duly qualified elector of the electoral district in which the election was held may petition against the undue return or undue election of any candidate at such election. C.O.Y.T. c. 4, s. 3. Time for election petition.
Who may petition.

4. Such petition may be in form A in the schedule hereto; and shall within the time prescribed by the last preceding section be filed in the office of the clerk of the Territorial Court, and shall contain the following statements: Form of petition.
Filing.

- (a) The right of the petitioner to petition;
- (b) The holding and result of the election in general terms;
- (c) In a brief form the facts and grounds relied on to sanction the prayer;

and such petition shall conclude with a prayer that the election may be declared void and set aside, and it also may contain a prayer that some other candidate at the election than the one certified to be elected was duly elected. C.O.Y.T. c. 4, s. 4.

SECURITY FOR COSTS.

5. The petitioner shall at the time he files such petition deposit with the said clerk the sum of \$500 in current bank notes of the Dominion of Canada or other current money as security for the respondent's costs of and incidental to the said petition and the proceedings thereunder. C.O.Y.T. c. 4, s. 5. Petitioner to give security for costs.

SERVICE OF PETITION.

6. A copy of such petition shall be served on the candidate against whom such petition is filed (herein called the respondent) within twenty days after the same is so filed; and such service Respondent to be served with copy of petition.

may be effected in the way that service of a writ of summons in an ordinary civil action in the said court is effected. C.O. Y.T. c. 4, s. 6.

Extension of time for service.

7. Upon the judge being satisfied by affidavit either before or after the time hereinbefore limited for the service of a copy of the petition that every reasonable effort has been made to effect such service and that such service has not been effected, he may *ex parte* extend the time for effecting such service for a period not exceeding ten days and so from time to time until such service has been effected; or the judge may in such case make an *ex parte* order for substitutional service of such petition in such manner as he directs. C.O.Y.T. c. 4, s. 7.

Substitutional service.

ADDRESS FOR SERVICE.

Petitioner to endorse address for service on petition.

8. The petitioner shall endorse on the petition filed with the clerk and on the copy thereof served on the respondent an address for service (which shall not be more than three miles from such clerk's office) at which all summonses, notices, demands and other papers in the proceedings may be served on him; and in default of so doing such summonses, notices, demands and other papers in the proceedings may be served on him by being filed with the clerk. C.O.Y.T. c. 4, s. 8.

Respondent to file notice of address for service.

9. The respondent shall, within ten days after being served with a copy of the petition as hereinbefore provided, file with the clerk a notice in writing specifying an address for service not more than three miles from such clerk's office, at which all summonses, notices, demands and other papers in the proceedings may be served on him; and in default of so doing such summonses, notices, demands or other papers may be served on him by being filed with the clerk. C.O.Y.T. c. 4, s. 9.

PRELIMINARY OBJECTIONS.

Respondent may apply to have petition set aside.

10. The respondent may, at any time within twenty days after the service upon him of the petition apply to the judge to set such petition aside and have it removed from the files of the court on any of the following grounds:

- (a) That the petitioner is not qualified to file a petition;
- (b) That the petition was not filed within the prescribed time;
- (c) That the deposit has not been made as provided in section 5 hereof;
- (d) That the petition does not on its face disclose sufficient grounds or facts to have the election set aside or declared void;
- (e) That service of a copy of such petition has not been made on him as herein prescribed;

and the judge may (if satisfied that the application is well founded) order the petition to be set aside and removed from the files of the court with or without costs, as he may direct;

or (if not so satisfied) may dismiss the application with or without costs as aforesaid. C.O.Y.T. c. 4, s. 10.

PARTICULARS.

11. Evidence need not be stated in the petition, but the respondent may at any time within twenty days after service upon him of the petition (unless he makes an application under the next preceding section, and if he does then within five days after such application is disposed of if it is refused or dismissed) apply to the judge for particulars or for further and better particulars of the facts and grounds relied on to sustain the prayer of the petition; and the judge may order such particulars as may be necessary to prevent surprise and to ensure a fair and effectual trial; and may prescribe the time within which such particulars shall be delivered; and may in such order direct that in case such particulars are not delivered as prescribed the petitioner shall not be at liberty to give any evidence at the trial with respect to facts and grounds of which particulars are ordered and not delivered. C.O.Y.T. c. 4, s. 11.

Respondent may apply for further particulars.

PETITION CLAIMING SEAT; OBJECTIONS.

12. If the petitioner claims the seat for any other candidate than the one certified to be elected the respondent may within twenty days after service upon him of the petition (unless he applies to set aside the petition under section 10 hereof, and if he does then within ten days after such application is disposed of if it is refused or dismissed) file with the clerk a statement in form B in the schedule hereto, claiming that the seat ought not to be awarded to the candidate for whom it is so claimed because:

Respondent may file statement of objections if seat claimed for other than returned candidate.

(a) He is not qualified to be elected a member of the Yukon council;

(b) He at the election in question was guilty of some act or acts in contravention of sections 99, 100 or 101 of the Ordinance respecting elections;

and serve a copy of such statement on the petitioner. C.O.Y.T. c. 4, s. 12.

SETTING ASIDE OBJECTIONS.

13. The petitioner within ten days after service upon him of the said statement may apply to the judge to set such statement aside and have it removed from the files of the court on any of the following grounds:

Petitioner may apply to have statement of objections set aside.

(a) That it was not filed within the prescribed time;

(b) That it was not served on him as herein prescribed;

(c) That it does not on its face disclose sufficient grounds to have the election declared void as against the candidate for whom the seat is claimed;

(d) That the petition does not claim the seat for any other candidate;

omitted

or if the statement is not served on the petitioner as herein directed he may apply at any time to have it set aside and removed from the files of the court; and the judge may (if satisfied that any application under this section is well founded) order such statement to be set aside and removed from the files of the court with or without costs as he directs; and if not so satisfied he shall dismiss the application with or without costs as he directs. C.O.Y.T. c. 4, s. 13.

EVIDENCE; PARTICULARS.

Petitioner may apply for further particulars.

omitted

14. Evidence need not be stated in such statement but the petitioner may at any time within ten days after service upon him of the said statement (unless he makes an application under section 13 hercof to set the statement aside, and if he does then within five days after such application is disposed of if it is refused or dismissed) apply to the judge for particulars or for further and better particulars of the facts and grounds relied on for the claim that the seat ought not to be awarded to the candidate for whom it is claimed in the petition; and the judge may order such particulars as may be necessary to prevent surprise and to ensure a fair and effectual trial in the same manner and with the same consequence as prescribed in section 11 of this Ordinance. C.O.Y.T. c. 4, s. 14.

PETITIONS AT ISSUE.

Petition when at issue.

15. If the said petition is not ordered to be set aside and taken off the files of the court the same shall be deemed to be at issue when all other orders (upon applications hereinbefore authorized to be made) by the judge have been made whether granting or refusing such applications or when the time for making such applications has expired if no such applications have been made. C.O.Y.T. c. 4, s. 15.

Application of petitioner for time and place of trial.

16. At any time after the said petition is at issue the petitioner may apply to the judge to appoint a time and place for the trial of the petition; and the judge (on being certified that the petition is at issue) shall appoint a time and place for such trial. C.O.Y.T. c. 4, s. 16.

Application of respondent for dismissal of petition.

17. If the petitioner does not within one month after the petition is at issue apply to the judge to appoint a time and place for the trial of the petition the respondent may apply to the judge to dismiss the petition; and the judge may thereupon at the return of the summons (if the application is properly made) either dismiss the petition with costs or appoint a time and place for the trial of the petition. C.O.Y.T. c. 4, s. 17.

GENERAL.

18. The said petition and all proceedings thereunder shall be deemed to be a cause in the court in which the said petition is filed, and all the provisions of *The Judicature Ordinance* in so far as they are applicable and not inconsistent with the provisions of this Ordinance shall be applicable to such petition and proceedings; and the tariff of costs for clerks, sheriffs, solicitors and interpreters (whether prescribed by *The Judicature Ordinance* or under its authority) shall be applicable to such proceedings. C.O.Y.T. c. 4, s. 19.

Petition and proceedings thereunder deemed cause in court.

19. Applications to the judge shall be made in chambers and unless authorized to be made *ex parte* shall be made by notice. C.O.Y.T. c. 4, s. 18.

Applications to judge in chambers.

TRIAL.

20. The judge shall attend at the time and place appointed for the trial and try the matters of the said petition and arising thereout; and such place of trial shall be an open court at which the usual officers of the court shall attend and perform their respective duties as in the case of any other trial in the said court; and such trial may be adjourned from day to day or for such further time as the judge may direct. C.O.Y.T. c. 4, s. 20.

Trial.

JUDGE'S REPORT.

21. If the judge on such trial finds that the respondent was unduly returned or elected a member of the council by reason of any of the matters alleged in the petition he shall forthwith after the expiration of fourteen days from delivering his judgment (unless his judgment is appealed and application is made for a stay as hereinafter provided) report such finding to the Territorial Secretary; and shall certify in such report for what cause he finds that the respondent was unduly returned or elected; and if the seat is by the petition claimed for another candidate than the respondent and the judge finds at such trial that such other candidate is entitled to the seat, he shall so certify in the said report to the said Territorial Secretary and thereupon such other candidate shall be entitled to the seat in the place and stead of the respondent; but the judge shall not so find or certify that such other candidate is entitled to the seat under any circumstances if he finds that he is not qualified by law to be a member of such council or that at the election in question he was guilty of any acts in contravention of sections 99, 100 or 101 of the Ordinance respecting elections, provided that such want of qualification or acts (as the case may be) have been charged against such candidate in a statement filed under the provisions of section 12 of this Ordinance.

Judge to report to Territorial Secretary.

part omitted

(2.) If the judge does not in such report certify that another candidate is entitled to the seat the election shall be void and

omitted

set aside and a writ of election shall be issued to fill the vacancy so created. C.O.Y.T. c. 4, s. 21.

mutual

Dismisal of petition.

22. If the judge at the trial finds that the matters set forth in the petition are not proved to his satisfaction he shall dismiss the petition. C.O.Y.T. c. 4, s. 22.

WITHDRAWAL OF PETITIONS.

Withdrawal of petition.

23. The petitioner may at any time withdraw his petition by filing with the clerk a statement in writing that he so withdraws it and serving the respondent with a notice of such withdrawal; and in such case the judge shall on application order the petitioner to pay the respondent's costs of and incidental to the petition and the proceedings thereunder. C.O.Y.T. c. 4, s. 23.

mutual

Withdrawal of statement by respondent

24. The respondent may at any time withdraw any statement filed by him under section 12 of this Ordinance by filing with the clerk a statement that he so withdraws it and serving the petitioner with a notice of such withdrawal; and in such case the judge shall on application order the respondent to pay the petitioner's costs of and incidental to such statement C.O.Y.T. c. 4, s. 24.

ADMISSION OF UNDUE ELECTION.

Admission of undue election filed by respondent, election declared void

25. Unless the seat is claimed for a candidate other than the respondent, the respondent may at any time admit that he was unduly returned or elected by filing with the clerk a statement in writing admitting such fact and serving the petitioner with a notice that such statement has been filed; whereupon the judge shall on application order the respondent to pay to the petitioner his costs of and incidental to the petition; and shall report to the Territorial Secretary that the respondent has admitted that he was unduly returned or elected; whereupon the election shall be void and set aside and a writ of election shall be issued to fill the vacancy so created. C.O.Y.T. c. 4, s. 25.

COSTS.

Costs in discretion of judge.

26. Except when otherwise provided the costs of the petition and all matters incidental thereto and arising thereout shall be in the discretion of the judge. C.O.Y.T. c. 4, s. 26.

Judge may order costs to be paid out of security deposited.

27. If the judge at any time orders costs to be paid by the petitioner, he may (when the petition and all matters arising thereout have been finally determined and disposed of) order such costs to be paid out of the moneys deposited by the petitioner on filing the petition; but nothing in this section shall be construed as preventing the respondent from proceeding at any time to recover any costs that may have

been awarded to him according to the ordinary practice of the court. C.O.Y.T. c. 4, s. 27.

APPEAL.

28. An appeal shall lie to the Court of Appeal for the Yukon Territory as constituted by Section 46 of the *Yukon Act* from any order or determination of the Judge and such appeal and all proceedings relating thereto shall be had and taken in the same manner as in the case of an appeal from a judgment of the Territorial Court in an ordinary action in said last named Court. No. 9, 1913, s. 1.

Appeal shall lie to Court of Appeal for Territory

29. If such appeal is from an order or determination other than any finding or determination under section 21 or 22 of this Ordinance it shall not operate as a stay of proceedings unless so ordered by the judge; and the judge may for reasonable cause at any time set aside any stay of proceedings he may so order. C.O.Y.T. c. 4, s. 29.

Interlocutory appeals.

30. If such appeal is from any finding or determination under section 21 of this Ordinance the appellant shall (before the expiration of the fourteen days mentioned in that section) apply *ex parte* to the judge for a stay of proceedings; and the judge on being satisfied that notice of the appeal has been duly given shall make an order staying proceedings and shall not forward his report as provided in section 21 until the appeal is finally determined.

Stay of proceedings on appeal from final judgment.

2. The other party may apply to the judge at any time before the appeal is lodged with the clerk of the Territorial Court to have such stay set aside and the appeal quashed on the ground that the appeal is not being prosecuted with sufficient despatch; and the judge may if satisfied that there has been undue delay in prosecuting such appeal set aside the stay of proceedings and quash the appeal, and in that case shall forthwith forward his report to the Territorial Secretary as provided in section 21.

Application to remove stay for delay.

3. No order shall be made as provided in the preceding subsection if at the time of the application the appeal has been lodged with the said clerk. C.O.Y.T. c. 4, s. 30.

31. When any appeal to the said Court of Appeal is duly lodged with the clerk it shall be proceeded and dealt with according to the practice of such court in appeals in civil causes; and the adjudication and finding of such court on such appeal shall be duly certified by the clerk to the judge appealed from; and if the appeal is from any finding or determination of the judge under section 21 and such finding or determination is affirmed in whole or in part, the judge shall forthwith forward his report to the Territorial Secretary as provided in section 21 and as varied or modified by the order of the said court of appeal if so varied or modified. C.O.Y.T. c. 4, s. 31; No. 9, 1913, s. 2.

Hearing and adjudication of appeals.

Report to Territorial Secretary.

BALLOTS NOT TO BE COUNTED.

No count of ballots by judge.

32. Nothing in this Ordinance contained shall be construed to authorize the judge to count or recount the ballots cast at any election but the count of such ballots and the recount (if any) under the Ordinance respecting elections shall be considered conclusive. C.O.Y.T. c. 4, s. 32.

SCHEDULE.

FORM A.—SECTION 4.

In the Territorial Court.

Between A.B., Petitioner, and C.D., Respondent.

The petition of A.B., of (stating petitioner's residence and occupation) showeth:

- 1. An election was held on the day of A.D. 19 (state the date of the general polling day) for the Electoral District of (state the name of the electoral district) at which C.D. and E.F. were candidates, and the said C.D. has been certified to be the person elected at such election.
2. The petitioner was a duly qualified elector at such election (or the petitioner was a defeated candidate at such election).
3. The petitioner says (state here the facts and grounds on which the petitioner relies).

Wherefore the petitioner prays that it may be declared that the election of the said C.D. is void and that it be set aside and (if the seat is claimed for another candidate) that it may be declared that the said E.F. was duly elected.

Dated the day of A.D. 19

A.B.

FORM B.—SECTION 12.

In the Territorial Court.

Between A.B., Petitioner, and C.D., Respondent.

The above named respondent, C.D., says that the seat claimed in the petition herein for said E.F. ought not to be awarded to him because (here state the grounds and facts on which the respondent relies).

Dated the day of A.D. 19

C.D.

Amended

Amended 1919 c 6
1921 c 2 (sec sess)
1926 c 1
1944 c 3 (int sess)
1952 c 12 (int sess)
1954 (int) c 9
1955 (2nd) c 7

CHAP. 23.

An Ordinance Respecting the Council of the Yukon Territory.

1919 c 6

COUNCIL.

1. The elected members of the Yukon Council shall be elected to represent the electoral districts set forth in Schedule 1 appended to this Ordinance. C.O.Y.T. c. 2, s. 1.

VACATING OF SEATS.

2. Any elected member of the Yukon Council may vacate his seat therein in the manner herein provided: Resignation of members.

(1.) He may openly in his place in Council declare his wish to vacate his seat as a member; and in such case the Territorial Secretary shall record the same in the journals and the seat of such member shall forthwith be vacated; or, In House.

(2.) He may deliver to the Commissioner of the Yukon Territory a statement in writing under his hand, attested by two witnesses, declaring his resignation of such seat; upon receipt whereof by the Commissioner (whether during a session of the Council or not) the seat of such member shall become vacant. C.O.Y.T. c. 2, s. 2. To commissioner.

3. Upon any vacancy in the representation of any electoral district created by death or in any way other than by resignation, any two members of the Council may give notice of the vacancy to the Commissioner. C.O.Y.T. c. 2, s. 3. Vacancy other than by resignation.

4. The Commissioner upon receiving notice of the resignation or death of any Member of the Council shall fix the date for the election of a Member to fill such vacancy, appoint a returning officer and direct the Territorial Secretary to issue a writ under his hand and the seal of the Territory to such Returning Officer requiring him to hold such election. C.O.Y.T. c. 2, s. 4. Issue of writ to fill vacancy.

(1.) It shall not be necessary to prepare new voters' lists for the purpose of any election to be held in consequence of a vacancy in the Yukon Council caused by the death or resignation of any member thereof, or by a vacancy from any cause whatsoever, when such election takes place within twelve months from the date of a previous election in the Electoral District where such vacancy occurs, but the list prepared for such previous election shall be used. No. 9, 1912, s. 1. New Voters' Lists not necessary.

(2.) If the name of any person otherwise entitled to vote at such election and who is not otherwise disqualified from voting does not appear upon the said Voters' List such person shall be entitled to vote and his name shall be placed upon the Persons not on Voters' Lists may vote on taking oath.

Voters' List by the Deputy Returning Officer and shall receive a ballot paper upon taking and subscribing to the oath following:

I, _____ of _____ in the Yukon Territory, do solemnly swear,

1. That I am a natural born (or naturalized) British subject of the full age of twenty-one years.

2. That I have continuously resided in the Yukon Territory for a period of not less than twelve months and in this Electoral District of not less than one month immediately prior to this date, and that I have not voted before at this election at this or any other polling place.

So help me God.

Sworn before me at

in the Yukon Territory,

this _____ day of _____, A.D. 19

Deputy Returning Officer.

No. 7, 1913, s. 1.

Resignation not allowed pending election petition.

5. No Member elected to the Council shall be permitted to resign under the provisions of this Ordinance so long as any proceedings are pending under any of the provisions of the Ordinance respecting elections nor until he has been finally declared elected. C.O.Y.T. c. 2, s. 5.

Resignation not to affect proceedings.

6. The resignation of a Member shall in no way affect the conduct or result of any proceedings taken under the provisions of any Ordinance of the Territory respecting controverted elections. C.O.Y.T. c. 2, s. 6.

Members' Indemnity.

see schedule

INDEMNITY TO MEMBERS.

1949 C 3 (1st pass)

7. The Commissioner shall pay to each elected member of the Yukon Council an indemnity of six hundred dollars for each year of service after election, provided always that a deduction at the rate of fifteen dollars per day shall be made from such indemnity to any member for every day for which the council has been summoned or to which it is adjourned, and for every meeting of any committee of such council, of which notice has been given on which such member does not attend. No. 17, 1904, s. 2.

How paid.

8. Such indemnity may be paid from time to time as any Member becomes entitled to the same, to the extent of twenty-five dollars for each day's attendance, but three hundred dollars, less the amount already paid may be paid at the end of each six months of any fiscal year. No. 17, 1904, s. 2.

Members to receive travelling expenses.

9. There shall also be paid to each member of the Council his actual travelling expenses from his place of residence in attending the sittings of the Council and of any Committees thereof and returning to such place of residence. No. 7, 1908, s. 1.

10. The Council may by resolution waive any deduction for non-attendance of any representative. C.O.Y.T. c. 2, s. 10. Council may waive deduction.

EXAMINATION OF WITNESSES.

11. The Council may at all times command and compel the attendance before the Council or before any committee thereof of such persons, papers and things as the Council or committee may deem necessary for any of its proceedings or deliberations. C.O.Y.T. c. 2, s. 11. Attendance of witnesses.

12. Whenever the Council requires the attendance of any person before the said Council or before a committee thereof, the Clerk may issue his warrant directed to the person named in the order of the Council requiring the attendance of such person before the Council or a committee thereof and the production of such papers and things as may be ordered. C.O.Y.T. c. 2, s. 12. Clerk's warrant or subpoena.

OATH TO WITNESSES.

13. Any standing or select committee of the Council may require the facts, matters and things relating to the subject of inquiry to be verified or otherwise ascertained by the oral examination of witnesses and may examine such witnesses upon oath, and for that purpose the chairman or any other member of the committee may administer to any witness an oath or affirmation in the form A or in B in the Schedule 2 to this Ordinance. C.O.Y.T. c. 2, s. 13. Examination on oath.

14. In all matters and cases not specially provided for by any enactment of this Territory, the Council and the committees and members thereof respectively shall hold, enjoy and exercise such and the like privileges, immunities and powers as are from time to time held, enjoyed and exercised by the House of Commons of Canada and by the committees and members thereof respectively. No. 15, 1903, s. 1. Privileges of Council.

15. No member of the Council shall be liable to any civil action or to prosecution, arrest, imprisonment or damages by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him, before the Council. No. 15, 1903, s. 1. Not liable to any action.

16. Except for any violation of this Ordinance, no member of the Council shall be liable to arrest, detention or molestation for any debt or cause whatever of a civil nature, during any session of the Council, or during the fifteen days preceding or the fifteen days following such session. No. 15, 1903, s. 1. Not liable to civil action.

17. During the periods mentioned in the next preceding section, all officers and servants of the Council, and all witnesses summoned to attend before the Council or any committee, Exempt from serving as jurors.

shall be exempt from serving or attending as jurors before any court of justice. No. 15 1903, s. 1.

Not liable in damages.

18. No person shall be liable in damages or otherwise for any act done under the authority and within the legal power of the Council, or under or by virtue of any warrant issued under such authority. All persons to whom such warrants are directed may command the aid and assistance of all sheriffs, bailiffs, constables and others; and every refusal or failure to give such aid or assistance when required shall be a violation of this Ordinance. No. 15, 1903, s. 1.

May make rules.

19. The Council may establish rules for its government and the attendance and conduct of its members, and alter, amend and repeal the same; and may punish members for disorderly conduct or breach of the rules of the Council. The rules and orders of the Council now existing shall continue in force until altered, amended or repealed. All rules of the Council not inconsistent with this Ordinance shall have the force and effect of law, until altered, amended or repealed by it. No. 15, 1903, s. 1.

What are deemed violations.

20. The following acts, matters and things are prohibited, and shall be deemed violations of this Ordinance:

(1.) Insults to or assaults or libels upon members of the Council during the session of the Council;

(2.) Obstructing, threatening or attempting to force or intimidate members of the Council;

(3.) The refusal or failure of any member or officer of the Council, or other person, to obey any rule, order or resolution of the Council;

(4.) The offering to or acceptance by any member of the Council of a bribe to influence him in his proceedings as such member, or the offering to or acceptance by any such member of any fee, compensation or reward for or in respect to the promotion of any bill, resolution, matter or thing submitted to or intended to be submitted to the Council or any committee;

(5.) Assaults upon or interference with officers of the Council while in the execution of their duty;

(6.) Tampering with any witness in regard to evidence to be given by him before the Council or any committee;

(7.) Giving false witness or prevaricating, or otherwise misbehaving in giving or refusing to give evidence or to produce papers before the Council or any committee;

(8.) Disobedience to a warrant issued under the authority of this Ordinance requiring the attendance of witnesses before the Council or any committee;

(9.) Presenting to the Council or to any committee any forged or falsified document, with intent to deceive the Council or committee;

(10.) Forging, falsifying or unlawfully altering any of the records of the Council or of any committee, or any document or petition presented or filed, before the Council or committee,

or the setting or subscribing by any person of the name of any other person to any such document or petition with intent to deceive;

11. The bringing of any civil action or prosecution against, or the causing or effecting of any arrest or imprisonment of any member of the Council in any civil proceeding for or by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the Council;

12. The causing or effecting the arrest, detention, or molestation of a member of the Council for any debt or cause whatever of a civil nature, during a session of the Council, or during the fifteen days preceding or the fifteen days following such session. No. 15, 1903, s. 1.

21. Every person who is guilty of a violation of this Ordinance shall be liable (in addition to any other penalty or punishment to which he is by law liable), to imprisonment for such time during the session of the Council then being held as is determined by the Council before which such violation is inquired into. No. 15, 1903, s. 1. Penalty for breach of Ordinance. ✓

22. The Council shall be a court of record and shall have all the rights and privileges of a court of record for the purpose of summarily inquiring into and punishing the acts, matters and things herein declared to be violations of this Ordinance. No. 15, 1903, s. 1. Council a court of record.

2. For the purposes of this Ordinance the Council is hereby declared to possess all such powers and jurisdiction as is necessary for inquiring into, judging and pronouncing upon the commission or doing of any such acts, matters or things, and awarding and carrying into execution the punishment therefor provided by this Ordinance. Powers awarded council.

3. Every warrant of commitment under this section shall succinctly and clearly state and set forth on its face the nature of the offence in respect of which it is issued. Warrant.

4. The Council shall have power to make such rules as are deemed necessary or proper for its procedure as such court as aforesaid. Procedure.

23. The determination of the Council upon any proceeding under this Ordinance shall be final and conclusive. No. 15, 1903, s. 1. Determination final.

INDEPENDENCE.

24. No member of the Council, and no barrister or solicitor who in the practice of his profession is a partner of any member of the Council, shall accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the promoting of any bill, resolution, matter or thing submitted or intended to be submitted to the consideration of the Council or any committee. No fee for promoting bills.

Penalty.

2. Any person violating the provisions of this section shall be liable to a penalty of three hundred dollars in addition to the amount or value of the fee, compensation or reward accepted or received by him.

How to be recovered.

3. Such penalty and such amount or value may be recovered in the Territorial Court by any person who sues for the same. One-half of the amount recovered shall belong to the crown and one-half to the person who sues, unless he was a party to or implicated in the violation of this Ordinance in respect to which the action was brought, or was a witness at the trial of the action, in which cases the whole shall belong to the crown. No. 15, 1903, s. 1.

GENERAL PROVISIONS.

Copy of journals
prima facie
evidence of
journals.

25. Upon any inquiry touching the privileges, immunities or powers of the Council, or of any committee or member thereof, any copy of the journals of the Council printed or purporting to be printed by the order of the same shall be admitted as *prima facie* evidence of such journals by all courts, justices and others without further proof that such copy was so printed. No. 15, 1903, s. 1.

Action stayed
on production
of journals.

26. In any civil proceeding against any person for or on account or in respect of the publication of any copy of any report, paper, vote or proceedings of the Council the defendant at any stage of the proceedings may lay before the Court or judge such report, paper, vote or proceeding, and such copy, with an affidavit verifying such report, paper, vote or proceedings, and the correctness of such copy; and the Court or judge shall immediately stay such civil proceeding, and the same, and every writ or process issued therein, shall be finally put an end to, determined and superseded. No. 15, 1903, s. 1.

Publication
bona fide
and without
malice a
defence.

27. It shall be lawful in any civil proceeding against any person for printing any extract from or abstract of any such report, paper, vote or proceedings, to give in evidence such report, paper, vote or proceedings, and to show that such extract or abstract was published *bona fide*, and without malice; and if in the opinion of the court, or if in the opinion of the jury, if there is a jury, such publication was *bona fide* and without malice, judgment shall be rendered or a verdict shall be entered for the defendant. No. 15, 1903, s. 1.

Evidence of
journals.

28. A copy of the journals of the Council, printed or purporting to be printed by order of the same, or certified by the Clerk of the Council, shall be admitted as *prima facie* evidence of such journals by all courts and justices without further proof that such copies were so printed. No. 15, 1903, s. 1.

Immunity
of officers.

29. No action shall be brought against any officer of the Council, or any person assisting such officer, for any act or thing done by authority of the Council. No. 15, 1903, s. 1.

30. The Council of the Yukon Territory may sue and be sued, plead or be impleaded in any court, and service of process upon the Commissioner of the Yukon Territory shall be deemed good and sufficient service upon the Council of said Territory. No. 4, 1907, s. 1. Yukon Council may sue, etc.

31. In case of the absence of the Commissioner from the Yukon Territory service of process upon the Acting Commissioner shall be deemed good and sufficient service upon the Council of said Territory. No. 4, 1907, s. 1. In absence of Commissioner.

32. Notwithstanding anything contained in this Ordinance no action shall be commenced in any court against the Council of the Yukon Territory except upon the written consent of the Commissioner obtained upon petition presented to him by an interested party. No. 4, 1907, s. 1. Consent of Commissioner required.

SCHEDULE 1.

1919 06
re substitute 1952 (1st sess)
C 11

1. The electoral District of North Dawson shall consist of all that portion of the Yukon Territory commencing at the point of intersection of the eastern limit of the Yukon Territory with the watershed dividing Peel River and its tributaries from the Stewart River and its tributaries; thence westerly along said watershed to the head of the Klondike River; thence southerly and westerly along the centre of the main channel of the Klondike River to its intersection with the eastern boundary of the City of Dawson; thence northerly along the eastern boundary line of the City of Dawson to its intersection with the prolongation of the centre line of King street; thence southerly along the centre line of King street and the prolongation to the centre of the Yukon River; thence along the centre of the main channel of the Yukon River to the mouth of Dawson Creek; thence up Dawson Creek to the watershed dividing the Fortymile River and tributaries from the Sixtymile River and tributaries; thence westerly along said watershed to its intersection with meridian 141 degrees west; thence north along said meridian to the northern limit of the Yukon Territory; thence easterly and southerly along the northern and eastern limits of the Yukon Territory to the point of commencement, and such electoral district shall return two members. No. 17, 1904, s. 3.

2. The Electoral District of South Dawson shall consist of all that portion of the Yukon Territory commencing at the junction of the Klondike River with the eastern boundary of the City of Dawson; thence northerly along the eastern city limit of Dawson to its intersection with the prolongation of the centre line of King street; thence southerly along the centre line of King street and a prolongation thereof to the centre of the Yukon River; thence along the centre of the Yukon River to the mouth of Dawson Creek; thence up Dawson Creek to the watershed dividing the Fortymile River and tributaries from the Sixtymile River and tributaries; thence along said water-

shed to its intersection with meridian 141 degrees west; thence south along said meridian to its intersection with the main channel of the White River; thence down stream along the centre of the main channel of the White River and Yukon River to the mouth of the Klondike River; thence up-stream along the centre of the main channel of the Klondike River to the point of commencement, and such electoral district shall return two members. No. 17, 1904, s. 3.

3. The Electoral District of Klondike shall consist of all that portion of the Yukon Territory commencing at a point in the centre of the Klondike River at the old Bonanza Upper Ferry Crossing; thence along the centre of the old Bonanza trail with its junction with the Ridge Road so called; thence along the centre line of the Ridge Road and the watershed between Bonanza and Hunker Creeks to King Solomon's Dome; thence along the watershed dividing Sulphur and Quartz Creeks to the centre of the Indian River at the mouth of Australia Creek; thence up the centre of Indian River to its intersection with the Whitehorse Overland Trail; thence along said Whitehorse Overland Trail to its intersection with the watershed dividing the Stewart River and its tributaries from the Pelly River and its tributaries; thence easterly along the said watershed to the eastern limit of said Territory; thence northwesterly along the eastern limit of the said Territory to its intersection with the watershed dividing the Peel River and its tributaries from the Stewart River and its tributaries; thence westerly along the said watershed to the head of the Klondike River; thence southerly and westerly along the centre of the main channel of the Klondike River to the point of commencement, and such electoral district shall return two members. No. 17, 1904, s. 3.

4. The Electoral District of Bonanza shall consist of all that portion of the Yukon Territory commencing at a point in the centre of the Klondike River at the crossing of the old Bonanza Upper Ferry; thence along the centre of the old Bonanza trail to its junction with the Ridge Road; thence along the centre line of the Ridge Road along the watershed dividing Hunker and Bonanza Creeks to King Solomon's Dome; thence down the watershed dividing Sulphur from Quartz Creeks to the centre of Indian River at the mouth of Australia Creek; thence up the centre of Indian River to its intersection with the Whitehorse Overland Trail; thence along said Overland Trail to its intersection with the watershed dividing Stewart River and its tributaries from the Pelly River and its tributaries; thence along said watershed to the eastern limit of said Territory; thence southeasterly and westerly along the eastern and southern limits of the Yukon Territory to the intersection of the southern boundary line of said Territory with the watershed dividing the Pelly River and tributaries from the Yukon River and tributaries; thence northwesterly along said watershed to the confluence of the Yukon and Pelly Rivers; thence down the centre of the main channel of the Yukon River to the mouth of the Klondike River; thence up the centre of the Klondike River to the point of commencement, and such electoral district shall return two members. No. 17, 1904, s. 3.

5. The Electoral District of Whitehorse shall consist of all those portions of the Yukon Territory not included in Electoral Districts Numbers 1, 2, 3 and 4 hereinbefore described, and such electoral district shall return two members. No. 17, 1904, s. 3.

SCHEDULE II.

SECTION 13.—FORM A.

The evidence you shall give upon this examination shall be the truth, the whole truth and nothing but the truth. So help you, God.

FORM B.

You do solemnly, sincerely and truthfully affirm that the evidence you shall give on this examination shall be the truth, the whole truth and nothing but the truth.

repealed

CHAP. 24.

An Ordinance to Abolish Priority among Execution Creditors.

SHORT TITLE.

Short-title. 1. This Ordinance may be cited as *The Creditors' Relief Ordinance*. C.O.Y.T., c. 24, s. 1.

INTERPRETATION.

Interpretation. 2. In this Ordinance the expression "sheriff" includes deputy sheriffs, duly appointed bailiffs, coroners and any other person discharging the duties of sheriff in the particular case or for the time being; the expression "judge" means a judge of the Territorial Court of the Yukon Territory. C.O.Y.T. c. 24, s. 2.

PROCEDURE UNDER EXECUTIONS. DISPOSITION OF MONEYS REALIZED.

Priorities abolished. 3. Subject to the provisions hereinafter contained there shall be no priority among creditors by execution from the Territorial Court of the Yukon Territory.

When levy made. Sheriff to give notice. Ratable distribution. (a) If a sheriff levies money upon an execution against the property of a debtor he shall forthwith enter in a book to be kept in his office open to public inspection without charge a notice stating that such levy has been made and the amount and date thereof and the money levied shall at the expiration of two months from the levy unless otherwise ordered by a judge be distributed ratably amongst all execution creditors whose writs were in the sheriff's hands at the time of the levy or who have delivered executions to the said sheriff within the said two months or within such further time as is ordered by a judge subject however to the provision hereinafter contained as to the payment of the costs of the creditor under whose writ the amount was levied:

Provided that if money is realized by sale of lands for which a certificate of title has been granted under *The Lands Titles Act*, the said period of two months shall be computed from the date of confirmation of the sheriff's sale under the said Act.

Form of notice. (b) The notice shall state the day upon which it was entered and may be in form A given in the schedule hereto.

Interpleader proceedings. Persons entitled after. (c) Where proceedings are taken by the sheriff or other officer for relief under any provisions relating to interpleader those creditors only who are parties thereto and who agree to contribute *pro rata* (in proportion to the amount of their

executions) to the expense of contesting any adverse claim shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions:

Provided, however, in case the money is ordered to be paid into court by the sheriff pending the trial of an interpleader issue the entry to be made by the sheriff shall not be made until the said money is again paid out of court to the sheriff for distribution. The Court or judge may direct that one creditor shall have the carriage of the interpleader proceedings on behalf of all creditors interested and the cost thereof as between solicitor and client shall be a first charge upon the moneys or goods which are found by the proceedings to be applicable upon the executions.

Sheriff's entry, where money paid into court.

Carriage of interpleader proceedings. Costs.

(d) If the sheriff shall subsequently to the entry of the notice but within the two months levy a further amount upon the property of the debtor the same shall be dealt with as if such amount had been levied prior to the entry of the notice but if after the two months a further amount is levied a new notice shall be entered and the distribution to be made of the amount so levied and of the further amount levied within two months of the entry of the last mentioned notice shall be governed by the entry thereof in accordance with the foregoing provisions of this section and so on from time to time:

Procedure where second levy made.

Provided, however, that the judge may on application delay any of such distribution or any part thereof to give reasonable time for obtaining judgment and fix a date for such distribution.

(e) If a debtor voluntarily and without any sale by the sheriff pays to the sheriff part of the amount owing in respect of an execution in the sheriff's hands and there is at the time no other execution in the sheriff's hands the sheriff is to apply the same on the execution so in his hands and subsections (a) (b) (c) and (d) of this section shall not apply to the money so received by the sheriff.

Part of execution debt paid before sale.

(f) In the distribution of moneys under this Ordinance creditors who have executions against goods or lands or against goods only or lands only shall be entitled to share ratably with all others any moneys realized under execution either against goods or lands or against both. C.O.Y.T. c. 24, s. 3.

Proceeds of land available under execution goods, etc.

4. When the amount levied by the sheriff is not sufficient to pay the execution debts with costs in full the moneys shall be applied to the payment ratably of such debts and costs after retaining the sheriff's fees and after payment in full of the taxed costs and costs of execution and extra costs of seizure and sale incurred by the creditor at whose instance and under whose execution the seizure and levy were made. C.O.Y.T. c: 24, s. 4.

Costs made preference.

5. Moneys realized by the sheriff as the result of attachment of personal property shall be distributable under the provisions of this Ordinance. C.O.Y.T. c. 24, s. 5.

Attachment proceedings.

Execution creditors alone to share.

6. No creditor shall be entitled to share in the distribution of money levied from the property of a debtor unless by the delivery of a writ of execution he has established a claim against the debtor either alone or jointly with some other creditor or creditors. C.O.Y.T. c. 24, s. 6.

Full amount of execution paid without sale.

7. If the debtor without any sale by the sheriff pays the full amount owing in respect of the executions in the sheriff's hands at the time of such payment and no other execution has been placed in his hands or in case all executions in the sheriff's hands are withdrawn no notice shall be entered as required by section 3 of this Ordinance and no further proceedings shall be taken under this Ordinance against the debtor by virtue of the executions having been in the sheriff's hands.

Procedure where writ stayed.

2. Save as aforesaid after an execution has been filed with the sheriff the withdrawal or expiry of the writ upon which the proceedings are founded or any stay upon the writ or the satisfaction of the plaintiff's claim thereon or the setting aside or return of the writ shall not affect the proceedings to be taken under this Ordinance and except so far as the action taken in regard to the writ may affect the amount to be levied the sheriff shall proceed and levy upon the goods or lands of the debtor or both as he would have proceeded had the writ or writs remained in his hands in full force to be executed and may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*. C.O.Y.T. c. 24, s. 7.

Fund in court belonging to execution debtor.

8. Where there is in any court a fund belonging to an execution debtor and to which he is entitled the same or a sufficient part thereof to pay the executions in the sheriff's hands may on application of the sheriff or any party interested be paid over to the sheriff and the same shall be deemed to be money levied under execution within the meaning of this Ordinance. C.O.Y.T. c. 24, s. 8.

One seizure sufficient, all executions sharing.

9. One seizure by the sheriff of the goods and lands of the debtor shall be deemed sufficient and shall be deemed a seizure on behalf of all creditors sharing under such seizure as hereinbefore provided. C.O.Y.T. c. 24, s. 9.

Sheriff entitled to single poundage only.

10. Where money is to be distributed under this Ordinance the sheriff shall not be entitled to poundage as upon separate writs but only upon the net proceeds of the estate distributed by him and at the same rate as if the whole amount had been payable under one writ. C.O.Y.T. c. 24, s. 10.

Sheriff's return after levy.

11. When money is made upon a writ the same shall be taken for the purposes of the sheriff's return and otherwise to be made upon all the writs entitled to the benefits thereof and the sheriff shall upon payment being made to the person entitled upon such writ indorse thereon a memorandum of the amount so paid but he shall not, except on the request of

the party issuing the writ or by direction of the court out of which the same issued or of a judge of such court, return the writ until the same has been fully satisfied or unless the same has expired by effluxion of time in which case the sheriff shall make a formal return of the amount paid thereon.

2. The like proceedings may be taken to compel payment by the sheriff of money payable in respect of an execution or other claim as may now be had to compel the return by the sheriff of a writ of execution. C.O.Y.T. c. 24, s. 11. Compelling payment by sheriff.

12. The sheriff shall, pending the distribution of moneys levied, keep in the said book mentioned in section 3 of this Ordinance a statement according to form B in the schedule hereto showing in respect of any debtor on whose property money has been levied the following particulars; Sheriff to keep statement of particulars.

(a) The amounts levied and the dates of levy;

(b) Each execution in his hands at the time of entering the notice form A required by section 3 hereof or subsequently received during the month, the amount thereof for debt and cost and the date of receipt and such statement shall be amended from time to time as an additional amount is levied or a new execution is received. C.O.Y.T. c. 24, s. 12.

13. Where the money levied is insufficient to pay all claims in full and the sheriff is *bona fide* in doubt as to how the proceeds should be distributed or where any contest arises among the creditors as to the distribution of the proceeds among them or any other real difficulty arises as to such distribution the sheriff shall prepare a statement of the proceeds in his hands for distribution and the executions in his hands and the amount thereof and such other particulars as are necessary to explain the contest or difficulty, to be verified by affidavit, and thereupon shall apply to a judge in chamber for a summons calling upon all parties interested to attend before the judge in chambers to settle a scheme of distribution and such summons shall be made returnable at such time and shall be served on such persons and in such manner and time as the judge directs. Questions as to distribution Scheme.
Contestation.

2. The judge may determine any question in dispute in a summary manner or may direct an issue or action for the trial thereof and may make such order as to costs of all proceedings as is just.

3. If several creditors are interested in a contestation the judge shall give such directions for saving the expense of an unnecessary number of parties and trials or of unnecessary proceedings as are proper and shall direct by whom and in what proportions costs incurred shall be paid and may make such costs a first charge on the moneys levied or otherwise direct that they shall be paid out of the said moneys or out of the share or shares of any one or more of the creditors interested in the same or by any party to such contestation. C.O.Y.T. c. 24, s. 13. Direction by judge where several creditors.

Sheriff to give information.

14. The sheriff shall at all times, without fee, answer any reasonable question which he is asked orally in respect to the estate of the debtor by a creditor or any one acting on behalf of a creditor and shall facilitate the obtaining by him of full information as to the value of the estate and the probable dividend to be realized therefrom or any other information in connection with the estate which the creditor reasonably desires to obtain. C.O.Y.T. c. 24, s. 14.

Undisposable money to be placed in bank.

15. If a sheriff has money in his hands which by reason of the provisions of this Ordinance or otherwise he cannot immediately pay over to the execution creditors he shall deposit the money in some incorporated bank designated for this purpose from time to time by order of the judge or where no such order is made then in some incorporated bank in which the public money is then being deposited, and such deposit shall be made in the name of the sheriff in trust. C.O. Y.T. c. 24, s. 15.

Irregularities not to void proceeding.

16. No proceeding under this Ordinance shall be void for any defect of form and the rules for amending or otherwise curing irregularities or defects which may from time to time be in force in the Territorial Court of the Yukon Territory shall apply to this Ordinance and any proceedings wrongfully taken under this Ordinance may be set aside by the judge with or without costs as he thinks fit. C.O.Y.T. c. 24, s. 16.

When Ordinance inapplicable.

17. The provisions of this Ordinance shall not apply to the proceeds of any seizure allowed under section 4 of chapter 30 of *The Consolidated Ordinances*. C.O.Y.T. c. 24, s. 17.

Employees to have priority of claim.

18. All persons in the employment of an execution debtor at the time of the notice mentioned in subsection (a) of section 3 of this Ordinance or within one month before such notice, who shall become entitled to share in the distribution of money levied out of the property of a debtor, shall be entitled to be paid out of such money the wages or salary due to them by such judgment debtor, not exceeding one month's wages or salary, in priority to the claims of the other creditors of the execution debtor and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claim. C.O.Y.T. c. 24, s. 18.

* See errata slip immediately before index.

SCHEDULE.

FORM A.

SHERIFF'S NOTICE.

Section 12.

Notice is hereby given that I have by virtue of certain executions delivered to me against the goods and chattels (or lands) of *C.D.*, levied and made out of the property of the said *C.D.* the sum of \$

And notice is further given that this notice is first entered in my office on the day of 19 , and that unless otherwise ordered distribution of the said money will be made amongst the creditors of the said *C.D.* entitled to share therein at the expiration of two months from the
day of 19 .

T.G.
Sheriff.

Dated, etc.

FORM B.

SHERIFF'S STATEMENT OF EXECUTIONS IN HAND AGAINST *C.D.**Section 12.*

Cause.	Pro-ceeding.	Claim Without Costs.	Costs.	Date of Receipt by Sheriff.	Amount Levied.	Date of Levy.
A. B. vs. C. D.	Fi-fa goods.	\$ 504	\$30.00	18 Feb., 1893	\$500.00	1 May, 1893.
F. G. vs. C. D. and E. G.	Fi-fa lands.	\$ 400	\$20.00	20 Feb., 1893	\$200.00	3 May, 1893. Nothing made against E. G.

repealed
CHAP. 25.

An Ordinance respecting the Practice of Dentistry.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Dental Ordinance*. C.O.Y.T. c. 49, s. 1.

REGISTER.

Dental register. **2.** The Territorial Secretary shall cause to be prepared a register to be called the Dental Register for the Yukon Territory. C.O.Y.T. c. 49, s. 2.

Who to be entered on register. **3.** He shall forthwith cause to be entered in such register with the date of entry the name of—

1. Every person who at the time of the coming into force of the Consolidated Ordinances of the Yukon Territory, 1902 was and had been for twelve months next preceding such time actively engaged within the Yukon Territory in the practice of the profession of Dentistry or Dental Surgery and who has verified such fact by statutory affirmation. And shall from time to time upon application and production of satisfactory evidence enter in such Register with the date of entry the name of:

2. Every person who possesses a diploma of graduation in Dental Surgery from any Dental College in Canada or from any University in Canada having a special Dental department or from any Dental College or University having such department in Great Britain or in any of her dependencies.

3. Every person who has served two years as an apprentice to a dental practitioner within the Yukon Territory having at the time of the commencement of such apprenticeship and during such two years the qualifications contained in any one of the preceding subsections of this section or whose name was at such time and during such two years entered in such register under this Ordinance, if such person has passed such examination as is prescribed by the Dental Board, and obtains from such practitioner to whom he was apprenticed a certificate of satisfactory service and good moral character.

4. Every person who produces a diploma of graduation from a foreign dental college or school of dentistry, or who furnishes a certificate from the Government of his country, authorizing him to practise in his country, and passes the examination hereinafter prescribed. C.O.Y.T. c. 49, s. 3. No. 18, 1903, s. 2.

No person to be entered unless fees paid. **4.** The Territorial Secretary shall not enter in such register any person until such person has paid to the Territorial Treasurer a fee of Twenty-five Dollars, if he is entitled to be so entered

under subsection (1) of the next preceding section, or a fee of Fifty Dollars, if he is entitled to be so entered under any other subsection of said section. C.O.Y.T. c. 49, s. 4.

5. No person shall practise the profession of Dentistry or Dental Surgery within the Yukon Territory unless his name has been entered in such register under the provisions of this Ordinance. C.O.Y.T. c. 49, s. 5. No person to practise unless entered on register.

6. On or before the 1st day of August in each and every year the Commissioner of the Yukon Territory shall appoint two or more examiners in dentistry and dental surgery, to be called the Dental Board, to serve for a period of two years or until their successors are appointed, whose duty it shall be to examine the credentials of the candidates, prepare examination papers and conduct examinations. In the event of a vacancy on the said Board caused by the death, resignation, removal from the country, or otherwise, the Commissioner shall appoint another or others in their stead. Dental Board.

2. Every candidate for examination shall pay to the Dental Board such fee as is fixed by the Commissioner for such examination, and shall produce a diploma of graduation from a dental college or school of dentistry or satisfactory evidence of having served an apprenticeship as provided for in this Ordinance, and pass an examination in the following subjects: Anatomy, Physiology, Chemistry, Histogeny, Materia Medica, General and Dental Pathology, Metallurgy, Operative and Prosthetic Dentistry, Oral Surgery and such other subjects as are prescribed by such Board from time to time and approved by the Commissioner. Candidates to pay fee and pass examination.

3. The Dental Board may retain the examination fee in payment for their services as such examiners. C.O.Y.T. c. 49, s. 6. No. 18, 1903, s. 4. Dental Board may retain fee.

7. A certificate from the Dental Board that a candidate has passed the prescribed examination shall entitle such candidate to be registered upon payment of the registration fee. No. 18, 1903, s. 5. Certificate of Dental Board.

8. The Territorial Secretary shall upon request issue to any person whose name is entered in such register a certificate of such entry and of the date thereof and such certificate shall be sufficient evidence of the facts so certified. C.O.Y.T. c. 49, s. 8. Certificate of entry of name on register to be given.

9. Every person who proposes to become entitled to be entered on the register by reason of service of apprenticeship in the Yukon Territory to be performed after the passing of this Ordinance shall give notice to the Territorial Secretary of the fact and file with such Secretary a verified copy of his articles of apprenticeship. C.O.Y.T. c. 49, s. 9. Apprentices to give notice to Territorial Secretary and file articles.

10. The Secretary shall keep a record of such notices and copies and shall enter no such person in the Dental Register unless two years have passed since the receipt by the Secretary of such notice and copy. C.O.Y.T. c. 49, s. 10. No person to be entered in register until two years after filing articles.

PAYMENT OF ANNUAL FEE.

Annual fee. **11.** Every person whose name is entered in the Dental Register shall on or before the thirtieth day of June in each year, pay to the Territorial Treasurer a fee of Ten Dollars and obtain a receipt therefor. C.O.Y.T. c. 49, s. 11.

Names to be erased if annual fee not paid. **12.** The Territorial Secretary shall erase from such register the name of every person who does not on or before the 30th day of June in any year produce to him such receipt, signed by the Treasurer, showing payment of said fee. The name of such person may be re-entered upon payment of a fee of Twenty-five Dollars to the Treasurer, and production to the Secretary of proof of such payment. C.O.Y.T. c. 49, s. 12.

ONLY REGISTERED DENTISTS TO PRACTISE.

No person to practise dentistry unless name on register. **13.** Subject to the exceptions hereinafter made no person shall practise Dentistry or Dental Surgery in any of its several branches in the Yukon Territory unless his name is entered in the Dental Register.

Name may be struck off register. 2. The Territorial Secretary upon proof by statutory declaration that any person registered under any of the provisions of this Ordinance is not domiciled in, or a *bona fide* resident of the Yukon Territory, shall erase the name of such person from the Dental Register and the name of such person shall not be entered on the Dental Register except under the provisions of subsection 2 of Section 6 of this Ordinance.

Territorial secretary to send notice. 3. Before striking off the name of any such person the Territorial Secretary shall give written notice to such person by posting, duly registered, addressed to such person at the address left with him by such person, or if no address is left, then at Dawson, Y.T., a statement that such statutory declaration has been made at least twenty days before a date named in such statement. On such date if such person does not appear at the office of the Territorial Secretary by himself or some other person and disprove the allegations contained in such declaration his name shall be struck from the register.

Decision to be final. 4. The decision of the Territorial Secretary shall be final C.O.Y.T. c. 49, s. 13. No. 18, 1903, s. 6.

STRIKING NAME OFF THE REGISTER.

Persons entered in register by false representation to be struck off. **14.** Every person who makes any false representations for the purpose of securing the entry in the register of his name, or in the course of applying to have his name so entered shall forfeit the right to have his name entered and if the same has been entered in the register the same shall be erased therefrom and a note made by the Secretary of the ground of such erasure. C.O.Y.T. c. 49, s. 14.

15. Every practitioner who has:

1. After due inquiry been adjudged by a Board appointed by the Commissioner to have been guilty of infamous conduct in any professional respect, or

Names to be
erased for
cause.

2. Made any material misrepresentation to the Secretary in order to procure the entry of his name on the register, or

3. Been convicted of any crime punishable by imprisonment in the penitentiary, shall forfeit the right to have his name entered in the register and his name, if entered, shall be erased from the register and his name shall be published in the *Yukon Official Gazette* as having been so erased. C.O.Y.T. c. 49, s. 15.

PUBLICATION OF REGISTER.

16. The Secretary shall on or before the tenth day of July in each year publish in the *Gazette* aforesaid a list of the persons whose names are entered in the Dental Register and who are entitled to practise Dentistry and Dental Surgery. C.O.Y.T. c. 49, s. 16.

List of names
registered to
be published
annually.

17. No person shall be entitled to recover any charge in any court of justice for any professional advice or attendance or for the performance of any operation appertaining to the practice of dentistry or dental surgery or for any surgical or dental appliances which he has supplied, unless his name is registered under this Ordinance, but this section shall not apply to duly qualified medical practitioners or to duly qualified druggists or chemists in the course of their practice or business. C.O.Y.T. c. 49, s. 17.

No charge to
recover
unless
registered.

18. Every person whose name is not registered under the provisions of this Ordinance who,

Penalties.

(a.) practises dentistry or dental surgery for hire, gain or hope of reward, or

(b.) wilfully or falsely pretends to be a practitioner of dentistry or dental surgery, or

(c.) takes or uses any name, title, addition or description implying or calculated to lead people to infer that his name is registered under this Ordinance, or

(d.) professes by public advertisement, card, circular, sign or otherwise to practise dentistry or dental surgery or to give advice therein or in any wise to lead people to infer that he is qualified to practise dentistry or dental surgery in the Yukon Territory, shall be liable to a penalty of fifty dollars, and every day on which any such offence occurs shall be deemed a separate offence. C.O.Y.T. c. 49, s. 18.

19. Every person who wilfully procures or attempts to procure his name to be registered under this Ordinance by making or producing or causing to be made or produced any false or fraudulent representation or declaration either verbally or in writing and every person knowingly aiding and assisting him therein shall be liable to a penalty of five hundred dollars. C.O.Y.T. c. 49, s. 19.

Penalty for
registering
by false
representations.

Penalties.
How
recovered.

20. Every penalty under this Ordinance shall be recoverable with costs and may be sued for and recovered in the same manner as a private debt by the Territorial Secretary or by any dental practitioner whose name is registered under this Ordinance in the Territorial Court and being recovered shall belong to the general revenue fund of the Yukon Territory. C.O.Y.T. c. 49, s. 20.

Burden of
proof to be on
defendant to
show right
to practise.

21. Upon the trial of any action under the provisions of this Ordinance the burden of proof as to the right of defendant to practise dentistry or dental surgery in the Yukon Territory shall be upon the defendant. C.O.Y.T. c. 49, s. 21.

Action.
When to be
commenced.

22. No such action shall be commenced after one year from the date of the offence or cause of action. C.O.Y.T. c. 49, s. 22.

GENERAL PROVISIONS.

Aid given in
need not
prevented by
this Ordinance
provided
no charge
made.

23. Nothing in this Ordinance shall prevent any person from giving necessary aid to any one in urgent need of it; provided that such aid is not given for hire or gain nor the giving of such aid made a business or way of gaining a livelihood. C.O.Y.T., c. 49, s. 23.

repealed

CHAP. 26.

An Ordinance respecting Distress for Rent and Extra-judicial Seizure.

1. No person making any distress for rent nor any person employed in any manner in making such distress or doing any act in the course of such distress or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels distrained upon and sold or from the tenant distrained on or from the landlord or from any other person any other or more costs and charges for and in respect to such distress or any matter or thing done therein than such as are fixed in the Schedule to this Ordinance and applicable to each proceeding which has been taken in the course of such distress and no person or persons shall make any charge for any act, matter or thing mentioned in this Ordinance or in the said schedule unless such act, matter or thing has been really performed or done. C.O.Y.T. c. 31, s. 1.

Costs in distresses not to exceed rates in schedule.

2. No person making any seizure under the authority of any chattel mortgage, bill of sale or any other extra-judicial process nor any person employed in any manner in making such seizure or doing any act in the course of such seizure or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels seized and sold from the person against whom the seizure may be directed or from any other person any other or more costs and charges for and in respect of such seizure or any matter or thing done therein or thereunder than such as are fixed in the schedule hereto and applicable to each act which has been done in course of such seizure and no person or persons shall make any charge for any act or matter or thing mentioned in the said schedule unless such act, matter or thing has been really performed and done. C.O.Y.T. c. 31 s. 2.

Seizure under chattel mortgage, etc., costs regulated.

3. If any person making any distress or seizure referred to in sections 1 and 2 of this Ordinance takes or receives any other or greater costs than are set down in the said schedule or makes any charge for any act, matter or thing mentioned in the said schedule and not really performed or done the party aggrieved may cause the party making the said distress or seizure to be summoned before the Territorial Court and the said court may order the party making the distress or seizure to pay to the party aggrieved treble the amount of moneys taken contrary to the provisions of this Ordinance and the costs of suit. C.O. Y.T. c. 31, s. 3.

Penalty for taking excessive costs.

4. A landlord shall not distrain for rent on the goods and chattels the property of any person except the tenant or person who is liable for the rent although the same are found on the

Distraint for rent limited to property of tenant.

Exceptions. premises; but this restriction shall not apply in favour of a person claiming title under or by virtue of an execution against the tenant or in favour of any person whose title is derived by purchase, gift, transfer or assignment from the tenant whether absolute or in trust or by way of mortgage or otherwise nor to the interest of the tenant in any goods on the premises in the possession of the tenant under a contract for purchase or by which he may or is to become the owner thereof upon performance of any condition nor where goods have been exchanged between two tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord, nor shall the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant or by any other relative of his in case such other relative lives on the premises as a member of the tenant's family. C.O.Y.T. c. 31, s. 4.

Distress for interest on mortgage.

5. The right of a mortgagee of land or his assigns to distrain for interest in arrear or principal due upon a mortgage shall notwithstanding anything stated to the contrary in the mortgage or in any agreement relating to the same be limited to the goods and chattels of the mortgagor or his assigns and as to such goods and chattels to such only as are not exempt from seizure under execution. C.O.Y.T. c. 31, s. 5.

Notice of sale. **6.** Goods distrained for such interest or principal shall not be sold except after such notice as is required to be given by a landlord who sells goods distrained for rent. C.O.Y.T. c. 31, s. 6.

SCHEDULE.

1. Levying distress.....	\$2.50
2. Man in possession, per day.....	4.00
3. Appraisement, whether by one appraiser or more, two cents on the dollar on the value of goods up to \$500, and one cent on the dollar for each additional \$500 or fraction thereof up to \$2,000, and one half cent on the dollar on all sums over that amount.	
4. All reasonable and necessary disbursements for advertising.	
5. Catalogue, sale, commission and delivery of goods, three per cent on the net proceeds of the goods up to \$1,000 and one and one-half per cent thereafter.	

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CHAP. 27.

An Ordinance respecting Dogs.

- 1.** In this Ordinance, unless the context otherwise requires: Inter-pretation.
- 1. The expression "dog" means a dog of the age of six months and upwards and includes both male and female. "Dog."
 - 2. The expression "muzzled" means covered by a muzzle over the mouth in such manner as to make it impossible for the dog so secured to touch with the mouth anything outside the muzzle and bite it. "Muzzled."
 - 3. The expression "owner" means any person owning any dog and includes any agent or servant of such owner, and any person entitled to the possession or control of any dog. "Owner."
 - 4. The expression "peace officer" means peace officer as defined by the Criminal Code and includes any member of the Royal Northwest Mounted Police force. "Peace."
 - 5. The expression "pound" means: "Pound."
 - (a) Any place established as a pound for dogs before the passing of this Ordinance, and any place established as such by the Commissioner by notice of location thereof published in the *Yukon Official Gazette*, and,
 - (b) If there is no such place established within three miles from the place where a dog is captured by a peace officer any place deemed proper for a pound by such peace officer.
 - 6. The expressions "run at large" or "running at large" mean without being restrained, so as to be unable to do injury or harm, by being "Running at large."
 - (a) Securely fastened to some stationary object so as to be unable to go more than five feet from such object, or,
 - (b) Confined within any building or other enclosure.
- C.O.Y.T. c. 70, s. 1.

2(a)
2(c)
2(e)
2(d)
~~2(b)~~
~~2(f)~~
2(f)

- 2.** No dogs shall be permitted to run at large within the Yukon Territory, and any dog running at large within such Territory, if not wearing a strap with the tag herein provided for, shall be liable to be killed or impounded by any peace officer. No dog to run at large without strap and tag.
- 2.** No dog shall be permitted to run at large that is of a vicious temperament or dangerous to the public safety; and any such dog running at large shall be liable to be killed or impounded by any peace officer. No vicious or dangerous dog to run at large.
- 3.** The owner of any dog shall on or before the 1st day of June in every year obtain in the manner provided in this Ordinance a license for such dog, and shall cause such dog to wear a strap around its neck with the tag furnished by a pound-keeper to such owner attached to such strap. Owner to take out license.
- 4.** The owner of any dog running at large contrary to the provisions of this section shall be liable to a penalty of not less than five dollars and not more than thirty dollars, and in de- Penalty.

fault of payment, to imprisonment for a term not exceeding thirty days.

Judgment to be recovered against officer.

5. No judgment shall be recovered against a peace officer for killing or impounding any dog unless the owner proves that when killed or impounded,

(a) Such dog was nor running at large contrary to the provisions of this section, and

(b) That the owner had paid the license fee in respect to such dog.

Bitch in heat not to run at large.

6. Notwithstanding anything contained in this Ordinance, no bitch when in heat shall be permitted to run at large, and any bitch running at large contrary to the provisions of this section shall be liable to be impounded by any peace officer or citizen. C.O.Y.T. c. 70, s. 2; No. 7, 1907, secs. 1, 2, 3 and 4.

Commissioner or Officer commanding N.W.M.P. to appoint pound keeper. Keeper to be furnished with license forms and tags. Forms etc. to be furnished. License to be numbered.

3. The Commissioner or the commanding officer of the Royal Northwest Mounted Police force in the Yukon Territory shall appoint for every pound a peace officer or other person as keeper thereof.

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2. Such keeper or other person specially appointed for that purpose shall be furnished by such officer with license forms, metal tags and straps for fastening such tags to the necks of dogs; every such tag shall be so made as to be easily fastened to a strap placed around the neck of the dog.

3. Every license form shall have a counterfoil, easily separated from a license form, and its counterfoil shall be numbered with the same number; license forms shall be numbered with consecutive numbers.

Tag to be numbered.

4. Each tag shall be numbered to correspond with a license. C.O.Y.T. c. 70, s. 3; No. 7, 1907, secs. 5 and 6.

Pound keeper to issue license on payment of fee.

4. Upon payment by or on behalf of any owner of a license fee of two dollars for a dog and five dollars for a bitch, the pound-keeper or person appointed to collect fees under this Ordinance to whom such fee is paid, shall issue to such owner a license in which shall be stated:

1. The date of issue;
2. The name of the owner of the dog in respect to which such license is issued;
3. The name of the person paying the fee;
4. A description of the dog, its name, probable age and sex.

C.O.Y.T. c. 70, s. 4; No. 7, 1907, s. 7.

Particulars of license to be entered on counterfoil.

5. The pound-keeper or person appointed to collect fees under this Ordinance shall enter the same particulars on the counterfoil of the license and retain the counterfoil. C.O.Y.T. c. 70, s. 5; No. 7, 1907, s. 8.

Tag to be given with license.

6. The pound-keeper or person appointed to collect fees under this Ordinance shall deliver to the person who obtains a license such one of the tags furnished to such pound-keeper as bears the same number as the license. C.O.Y.T. c. 70, s. 6; No. 7, 1907, s. 9.

7. No owner of any dog impounded shall be entitled to recover possession of such dog without paying to the pound-keeper, Owner to dog impounded to pay fees.

1. A sum equal to seventy-five cents a day for each day such dog has been impounded, and

2. A license fee for such dog, if not already paid. C.O.Y.T. c. 70, s. 7.

8. If such sum and fee have not been paid within 15 days after such dog has been first impounded, the pound keeper may sell such dog at public auction after five days' public notice. If fees not paid dog to be sold.

2. All impounded dogs for which no bid is obtained at any public auction held under this section shall be forthwith destroyed by the pound-keeper. C.O.Y.T. c. 70, s. 8; No. 7, 1907, s. 10. If no bid dog to be destroyed.

9. The sum realized from such sale shall be appropriated How sum realized to be appropriated.

1. To payment of the pound-keeper the sum of seventy-five cents for each day such dog has been impounded;

2. To payment of any unpaid license fee in respect to such dog;

3. To payment of any penalty imposed upon the owner in respect to such dog remaining unpaid, unless the owner has undergone or is undergoing the imprisonment in default of such payment; and

4. The balance, if any, shall be paid to such owner on demand;

5. If there is no bid for any dog offered for sale at public auction under this Ordinance the pound-keeper may dispose of such dog in such manner as he sees fit at any time after such auction. C.O.Y.T. c. 70, s. 9.

10. Every pound-keeper or person appointed to collect fees under this Ordinance, shall quarterly, and whenever required by said commanding officer, account to such officer for the licenses, tags and straps furnished to such pound-keeper, or such other person, and shall deliver to such officer the detached counterfoils in the possession of such pound-keeper, or such other person, and when so required, the licenses, tags and straps also, and shall pay to such officer the license fees received by such pound-keeper, or such other person. C.O.Y.T. c. 70, s. 10; No. 7, 1907, s. 11. Pound-keeper to make quarterly returns.

11. Every pound-keeper shall keep a record of every dog impounded, which record shall show the reason for impounding, the date such dog was first impounded, length of time impounded, the name and address of the owner, if known, and the final disposal made of such dog; such record shall be open to public inspection, and shall be subject to the order of such commanding officer. C.O.Y.T. c. 70, s. 11. To keep record of dogs impounded.

12. Every pound-keeper shall forthwith upon selling any dog, report to such officer the facts of such sale, and the price obtained for such dog, and shall pay to such officer the balance To report sale of dog.

of such price after deducting therefrom the sum of seventy-five cents for each day the dog sold was impounded. C.O.Y.T. c 70, s. 12.

After three months, balance to be paid comptroller.

13. If no demand is made on the said commanding officer for any balance to which the owner of any dog sold is entitled, within three months after such sale, such officer shall pay such balance to the Territorial Treasurer, and the same shall form part of the general revenue fund of the Territory. C.O. Y.T. c. 70, s. 13.

All penalties, etc., to be paid to.

14. Subject to the provisions of the two next preceding sections, all sums received by the commanding officer from pound-keepers or from any other source under the provisions of this Ordinance, and all penalties by whomsoever collected, shall be forthwith paid to such Treasurer and shall form part of said fund. C.O.Y.T. c. 70, s. 14.

Owner to state number of dogs owned or kept by him.

15. Every owner shall when required by a peace officer furnish in writing to such peace officer a true statement of the number of dogs owned or kept by him. C.O.Y.T. c. 70, s 15.

Penalty.

16. Every person violating any provisions of this Ordinance for violation of which no penalty is provided, shall be liable to a penalty of not less than five dollars and not exceeding one hundred dollars. C.O.Y.T. c. 70, s. 16.

17 added 1942 C 12

repealed

CHAP. 28.

An Ordinance respecting Elections.

ELECTORAL DISTRICTS AND VOTERS' LISTS.

1. The Commissioner may divide each electoral district into as many polling divisions as may be necessary and may appoint such number of revisors as may be necessary to prepare a list of persons entitled to vote at elections of a member for the Yukon Council for each such polling division. No. 18 of 1904, s. 1.

Commissioner to divide electoral districts into polling divisions and appoint assessors.

2. Every revisor shall be qualified to vote and a resident within the electoral district within which his duties are to be exercised and shall before acting as such take the oath of office in form "R" in schedule 1 to this Ordinance. No. 18 of 1904, s. 2.

Revisors may vote where his duties are exercised.

3. Every revisor after taking said oath shall post up at three of the most public places within the polling division for which he has been appointed revisor a notice that he has been appointed and that he will proceed forthwith to compile and within thirty days after the posting of such notice will compile the voters' list for such polling division, and designating the office or place within such division where he may be found and the time, not less than eight hours a day during the said thirty days, during which he will attend at such office or place for the purposes of compilation.

Revisor to post notice.

2. Such notice shall designate the time and place during and at which the final revision of the list for which provision is in this Ordinance hereinafter made, will take place. No. 11 of 1906, s. 1.

Notice to state time and place.

4. Every revisor shall, immediately after taking the oath of office compile a list of the persons qualified to vote in each polling district at such election, and he shall make three plainly written copies thereof, with the names of the voters alphabetically arranged giving the occupation and residence of each voter in the form "S" in said Schedule No. 1 to this Ordinance. No. 18 of 1904, s. 4.

Revisor to compile list.

5. In the compilation of such list the revisor shall use as the basis a list of voters for the division prepared for the election of a member of the Yukon Council at the election then last held, and shall enter on the list to be compiled by him the names of all persons on the list so used as a basis whom he believes to be still qualified as voters in such division and shall also enter on such list the name of every person proved to the satisfaction of the revisor by statutory declaration as prescribed in form

Federal list to be used as a basis.

"T" in said Schedule 1, of such person or of an agent of such person having knowledge of the facts to be qualified as a voter in such division. No. 11 of 1906, s. 3.

Voter to re-
side one
month.

6. The revisor shall not enter upon the list of voters for any polling division the name of any person who has not resided in such division for at least one month next previous to the commencement of the compilation of such list. No. 11 of 1906, s. 9.

Revisor to
compile with-
in 30 days.

7. Every revisor shall compile the list within such thirty days and shall affix thereto the date of compilation, his place of residence and his signature. He shall forthwith post up in his office and in each of at least two of the most public places within the polling division a copy of such list and shall retain one copy for revision. Every copy of such list shall have appended thereto notice of the time and place of final revision. Every such copy shall be posted at least seven days before the commencement of revision. No. 11 of 1906, s. 4.

Revisor to
complete
list.

8. At the time and place designated in the notice of final revision the revisor shall sit to revise the list prepared by him and shall complete such revision within the time mentioned in such notice. He shall,

Duties.

- (a) Add to the list the name of every person proved to his satisfaction by such statutory declaration as aforesaid to be qualified as a voter, and
- (b) Strike off said list the name of every person on said list who by statutory declaration filed with the revisor is proven to be not qualified to vote, and
- (c) Make such corrections in the occupation, addition or residence of persons on said list as he deems just.

Party struck
off to be
notified.

2. The revisor shall not strike off said list the name of any person without proof of due notice by the revisor to such person by personal service or by registered letter of the proposal to strike off his name. It shall be sufficient for the revisor to draw a line through any name struck off and place his initials opposite such line.

Revisor to
preserve
original list.

3. The revisor shall preserve the list revised by him showing the names added and those struck off and the corrections made with his initials opposite each such addition, striking off and correction. No. 11 of 1906, s. 5.

Revisor to
attend at
certain
hours.

4. The revisor shall attend at his office for the purpose of revision at least eight hours a day for two days and shall close the work of revision at six o'clock in the afternoon of the last of such days. No. 11 of 1906, s. 6.

Certificate
to be added
to revised
and cor-
rected list
by revisor.

9. Every revisor, having revised and corrected such retained copy of each voters' list compiled by him, if he deem such correction necessary, as provided in the next preceding section, shall write at the foot of such copy and close to the last name thereon, at least ten days before the polling day, a certificate

in the form of the second certificate contained in form "B" in the schedule to this Ordinance. No. 18 of 1904, s. 8. No. 11 of 1906, s. 7.

10. The revisor shall deliver the voters' list so certified forthwith to the Territorial Secretary together with all statutory declarations filed with him in connection with the compilation and revision of such list.

Certified list to be delivered to the Territorial Secretary. Candidate entitled to copy of list.

2. Any candidate or his agent duly appointed in writing shall be entitled to receive a copy of such voters' list from the Territorial Secretary as soon as the same is revised, upon paying therefor at the rate of two cents per voter named on such list. No. 18 of 1904, s. 9; No. 11 of 1906, s. 8.

ISSUE OF WRIT.

11. Every writ for the election of a member of the Yukon Council shall be dated and shall be returnable on such day as the Commissioner determines, and shall be issued by the Territorial Secretary under his hand and the seal of the Territory to such resident elector of the electoral district in which the election is to be held as the Commissioner appoints, and such person shall be the returning officer at the election to which such writ relates. Provided always that if the person to whom the writ has been addressed refuses or is unable or not qualified to act, he shall (under penalty hereinafter provided) forthwith after the receipt of such writ, notify the Commissioner by the most speedy means available of such refusal, inability or want of qualification, when the Commissioner may order another writ to issue or may appoint some other resident elector as returning officer who shall act under the writ already issued. Provided also, that no election shall be declared void if the person to whom the writ is addressed acts thereunder as returning officer on the ground that such person is not a resident elector of the district or is otherwise disqualified to act as returning officer. C.O.Y.T. c. 3, s. 1.

Writ, date of issue and return.

Returning Officer. Refusal or inability to act.

Proviso.

12. The Commissioner shall fix the day and locality for the nomination of candidates at such election; and the day and locality so fixed shall be specified in the writ of election for that electoral district. Provided always that in the case of a general election the day so fixed shall be the same in the case of every electoral district except that it may be varied when rendered necessary under any other provision of this Ordinance. Provided further, that there shall be an interval of at least fourteen days between the date of the writ and the day of nomination mentioned therein.

Day and place of nomination to be named in writ.

A general election day to be same in all districts.

Fourteen days to elapse between date of writ and nomination.

Form of writ. How to be transmitted.

2. The writs of election shall be in form A in Schedule 2 to this Ordinance and shall be transmitted by registered letter by the Territorial Secretary addressed to the respective returning officers, unless otherwise ordered by the Commissioner. C.O.Y.T. c. 3, s. 2.

RETURNING OFFICER.

Indorsement
of receipt of
writ.

13. The returning officer shall, on receiving the writ of election forthwith indorse thereon the date on which he received the same and before taking any action under this Ordinance, shall take before a Justice of the Peace or Commissioner for taking affidavits the oath of office set out in form "A" in said Schedule 1, and shall forthwith thereafter cause a certificate (form "B" in said Schedule) made by such Justice of the Peace or Commissioner, of the said oath having been taken, to be filed with the Territorial Secretary. C.O.Y.T. c. 3, s. 3.

Oath of office.

To appoint an
election clerk.

14. The returning officer, by a warrant under his hand, in form "C" in said Schedule 1, shall appoint an election clerk, and may, at any time, during the election, appoint in the same manner, another election clerk, if the one so appointed resigns or is unable to perform his duties as such clerk. C.O.Y.T. c. 3, s. 4.

Duties of
election
clerk.

15. The election clerk shall assist the returning officer in the performance of his duties, and act in his stead as returning officer whenever the returning officer, after appointing such election clerk refuses or is unable to perform his duties.

Respon-
sibility of
election
clerks acting
as returning
officers.

2. All the provisions of this Ordinance in regard to returning officers shall apply to election clerks acting as returning officers.

3. The returning officer or election clerk shall not act as deputy returning officer or poll clerk in any polling place. C.O.Y.T. c. 3, s. 5.

Oath of
election clerk.

16. The election clerk before acting as such shall take the oath of office in form "D" in said Schedule 1 before the returning officer or any person authorized to administer an oath within the Territory; and a certificate as in form "E" in said schedule of his having taken such oath shall be delivered to him by the person before whom such oath is taken, which he shall cause to be forwarded to the Territorial Secretary. C.O.Y.T. c. 3, s. 6.

Penalties.

17. The election clerk when acting for or in the stead of the returning officer shall be subject to like penalties as the returning officer for violating any of the provisions of this Ordinance, but this shall not relieve the returning officer from any penalties to which he may render himself liable. C.O.Y.T. c. 3, s. 7.

POLLING DIVISIONS.

18. The returning officer shall with all reasonable speed after receiving the writ of election,—

Building for
hustings.

(1.) Fix upon and secure a suitable building in the locality in which the nomination is to be held for use as a hustings;

Buildings for
polling place.

(2.) Provide suitable and conveniently situated buildings for use as polling places;

(3.) Procure or cause to be procured, as many boxes (hereinafter called ballot boxes) as there are polling places within the District; Ballot boxes to be procured.

(4.) The ballot boxes shall be made of some durable material, shall be provided with a lock and key and shall be so constructed that the ballot paper can be introduced therein and not withdrawn therefrom unless the box is unlocked; Ballot boxes how made.

(5.) The name and number of the polling place at which the ballot box is to be used shall be plainly painted, or otherwise securely marked thereon, so that it may be easily distinguished from the ballot box of any other polling place; Name and number of polling place to be on the box.

(6.) If the returning officer fails to furnish ballot boxes in the manner herein provided, he shall incur a penalty of one hundred dollars in respect of every ballot box which he has failed to furnish in the manner prescribed. C.O.Y.T. c. 3, s. 8. No. 18 of 1904, s. 10. Penalty for failing to furnish ballot boxes.

19. At least seven days before the day fixed for the nomination of candidates, the returning officer shall provide and cause to be posted up in some conspicuous place in the immediate neighbourhood of each polling place a proclamation in form "F" in said Schedule 1, in which proclamation shall be set forth: Posting proclamation.

(a) The time and place at which the nomination is to be held;

(b) The place or building to be actually used;

(c) The time allowed for the nomination by this Ordinance;

(d) The date when the polls will be opened at the several polling places, if a poll is required, and the time during which such polls shall remain open;

(e) The numbers and names of the places at which the several polls shall be held. C.O.Y.T. c. 3, s. 9; No. 18 of 1904, s. 11.

POSTPONEMENT OF NOMINATION.

20. Whenever, from unforeseen accident, delay or otherwise, the proclamation cannot be posted up so as to leave the required time between the posting up of the proclamation and the nomination day, or whenever any candidate dies, after being nominated, and before the close of the polls, the returning officer shall fix another day for the nomination of candidates, which day shall be the nearest day conveniently possible after allowing the number of days required by section 19 of this Ordinance between the posting up of the proclamation and nomination day, and in every such case the returning officer shall proceed as directed in said section 19, and shall, with his return, make to the Territorial Secretary a special and full report under oath of the causes which occasioned the postponement of the election. C.O.Y.T. c. 3, s. 10. Nominations may be postponed by returning officer.

NOMINATIONS.

21. At any time before twelve o'clock noon of the day fixed for the nomination, any ten or more electors may nomi- Time and manner of nomination.

- nate a candidate by signing before any credible witness or witnesses, and causing to be filed with the returning officer a nomination paper in form "G" in said Schedule 1, and any vote given at the election for any person other than a candidate so nominated shall be null and void.
2. A nomination paper shall not be valid or be acted upon by the returning officer unless—
- (a) It is accompanied by an affidavit of some credible witness or witnesses that the persons whose signatures are appended to the nomination paper are severally known to such witness or witnesses and that they are, or will be, to the best of his knowledge and belief, electors severally entitled to vote at the election under this Ordinance;
- (b) It is accompanied by the consent in writing of the person therein nominated (except when such person is absent from the Territory, when such absence shall be stated in the nomination paper); and,
- (c) A sum of two hundred dollars is deposited in the hands of the returning officer at the time the nomination paper is filed with him.
3. The returning officer shall, the foregoing requirements of this section being complied with, give his receipt for the nomination paper, and the said receipt of the returning officer shall in every case be sufficient evidence of the production of the nomination paper, of the consent of the candidate and of the payment herein mentioned.
4. The returning officer shall accept the sum of money hereinbefore mentioned if it is tendered—
- (a) In gold coin;
- (b) In Dominion of Canada notes;
- (c) In the notes of, or accepted cheque on any bank chartered by the Parliament of Canada which, at the time, is redeeming its notes on demand; or
- (d) Partly in one and partly in another or others of the description of money herein mentioned; but he will not be obliged to accept such tender if any part of it consists of other descriptions of money than herein specified.
5. The sum so deposited by any candidate shall be returned to him in the event of his being elected, or of his obtaining a number of votes at least equal to one half the number of votes polled in favour of the candidate elected, as decided in the final count, who polls the smaller number of votes.
6. If such candidate has not obtained the number of votes in the next preceding subsection mentioned, the said deposit shall be transmitted by the returning officer to the Territorial Treasurer and by him deposited to the credit of the general revenue fund of the Territory. C.O.Y.T. c. 3, s. 11.

NOMINATION PROCEEDINGS.

Proceedings
at hustings.

22. Every returning officer shall on the date of nomination and at the place fixed as aforesaid, proceed to the hustings, which shall be at such a place that all the electors may have

free access thereto, and at the hour of eleven of the clock in the forenoon, shall proceed to read in an audible voice the nominations which he has received, and from time to time until twelve o'clock of the day shall so read further nominations as he receives them. C.O.Y.T. c. 3, s. 12.

23. At the hour of twelve o'clock the returning officer shall declare the nominations closed and shall announce in an audible voice the names of the several candidates. C.O.Y.T. c. 3, s. 13. Closing nominations.

24. If, at the close of the hour for receiving nominations only one candidate, or if there are two candidates to be elected, only two candidates remain in nomination, the returning officer shall then and there— Procedure where only one candidate is nominated.

(a) Declare the said candidate or candidates duly elected;

(b) Give to such candidate or each of such candidates or any agent of either of such candidates if the candidate is not present, a certificate that such candidate has been duly elected;

(c) Forward to the Territorial Secretary, a certificate in writing declaring such candidate or candidates duly elected; and all ballot boxes, poll books and other books, forms, materials and things sent to him to be used in the election and which have not been used. C.O.Y.T. c. 3, s. 14.

25. If at the close of the hour for receiving nominations more candidates than the number required to be elected remain in nomination, the returning officer shall announce the day upon which a poll will be held, and the day, hour and place at which the ballots will be counted, which must not be more than fourteen days after the polling. C.O.Y.T. c. 3, s. 15. Procedure where more than one candidate is nominated.

26. Any candidate nominated may withdraw at any time after his nomination and before the opening of the poll by filing with the returning officer a declaration in writing under oath to that effect, signed by himself, and stating that his withdrawal is *bona fide*, and not for the purpose of assisting or injuring the prospects of election of any other candidate; and any vote cast for a candidate who shall have so withdrawn shall be null and void, and in case after such withdrawal there should remain only the number of candidates to be elected then it shall be the duty of the returning officer to forthwith return as duly elected the candidate or candidates so remaining, and to proceed as directed in section 24 of this Ordinance. Candidate may withdraw his nomination.

Provided always that if a candidate withdraw at any time after his nomination he shall forfeit the money deposited by him and the returning officer shall transmit the same to the Territorial Treasurer as provided in section 21 of this Ordinance. C.O.Y.T. c. 3, s. 16. But will forfeit his deposit.

PROVIDING FOR THE POLLING.

27. Whenever a poll has been granted it shall be held on the fourteenth day after the day of nomination, and shall Date and hour of polling.

be opened at nine o'clock in the forenoon, and kept open until five o'clock in the afternoon, of the same day, and the votes at the several polling places shall be given between the said hours of that day.

Election notices.

28. Immediately after having granted a poll, the returning officer shall cause to be posted up with all reasonable speed, at all places where the proclamation of the election was posted up, and at least eight days before the day of voting, an election notice setting forth the following information:

- (a) The names of the several candidates;
- (b) The day and hours of the day on which votes will be received;
- (c) The day, hour and place at which the votes will be counted and the return declared. C.O.Y.T. c. 3, s. 18.

Information to electors.

29. The returning officer shall also cause to be posted up near to the aforesaid election notice copies of form "H" in said Schedule 1, containing information to electors. C.O.Y.T. c. 3, s. 19; No. 18 of 1904, s. 17.

Ballots to be printed.

30. Where a poll has been granted the returning officer shall forthwith cause to be printed such a number of ballot papers as will be sufficient for the purposes of the election and the number necessary for each polling place shall be bound or stitched in a book of convenient size and in such a manner that the counterfoils shall continue bound or stitched when the ballot papers are detached therefrom.

What to contain.

2. Every ballot paper shall contain the names of the candidates, arranged alphabetically in the order of their surnames, or if there are two or more candidates with the same surname, of their christian names, and the ballot papers may be in the form "H" given in said Schedule 1. C.O.Y.T. c. 3, s. 20.

Tendered ballot papers.

31. In addition to the ballot papers hereinbefore referred to, the returning officer shall cause to be printed such a number of other ballot papers—hereinafter called "tendered ballot papers"—to be used in the manner hereinafter directed, as will be sufficient for the purposes of the election. C.O.Y.T. c. 3, s. 21.

Colour of tendered ballot papers.

32. The tendered ballot papers shall be in the same form as the ballot papers hereinbefore referred to, but shall be of a different colour; and upon the back of every tendered ballot paper, and upon the face of the counterfoil attached thereto shall be printed the words, "Tendered Ballot Paper." C.O.Y.T. c. 3, s. 22.

DEPUTY RETURNING OFFICER.

Appointment of deputy returning officer.

33. For the purpose of taking the votes at an election, the returning officer shall by writing over his signature appoint a deputy returning officer for each polling place and shall thereby require the deputy returning officer to open and hold

the poll in such division at the time and place fixed in the election notice, and according to the provisions of this Ordinance.

2. Every deputy returning officer shall, before acting as such, take and subscribe before the returning officer, or any person authorized to administer oaths within the Territory, the oath in form "J" in said Schedule 1. Oath of deputy returning officer.

3. The returning officer shall, upon request, furnish each candidate, or his agent, with a list of the deputy returning officers throughout the District. C.O.Y.T. c. 3, s. 23. List of D.R.O. to be forwarded candidate.

34. The returning officer shall cause to be supplied to each deputy returning officer, at least one day before polling day, a copy of the list of voters for the polling division, the books, ballots, ballot boxes, pencils, and other material necessary under this Ordinance to the taking of a poll, and shall take the receipt of the deputy returning officer therefor. Election materials to be supplied deputy returning officers.

2. The articles above mentioned may be sent by special messenger, who shall act for the returning officer and for whose actions the returning officer shall be responsible, as though said actions were performed by himself. Transmission of material.

3. In case any of the copies of proclamation, notices, statements or other forms or articles (such as poll books, ballots, ballot boxes, envelopes, pencils, or other materials required under the provisions of this Ordinance) are not available, or are likely not to be available for use at the time and place required by this Ordinance, it shall be the duty of the returning officer, election clerk, deputy returning officer or poll clerk (as the case may be) to provide such copy of the necessary proclamations, notices, statements or other forms or articles (such as poll books, ballot boxes, ballots, envelopes, pencils or other material) as may be required at the time and place in which he is required to act under the provisions of this Ordinance, as nearly as may be according to the directions given in this Ordinance. Provision if not received at opening of poll.

4 The poll books to be supplied the Deputy Returning Officers shall be in form "L" in said Schedule 1 of this Ordinance. C.O.Y.T. c. 3, s. 24; No. 18 of 1904, s. 12; No. 10 of 1914, s. 2. Poll Book.

35. The deputy returning officer shall, before the hour for opening the polls on the election day, appoint, over his signature, a poll clerk to assist him in taking the votes, or to act in his stead if necessary, with all the powers and liabilities of the deputy returning officer, who, before acting as such, shall take the oath in form "K" in said Schedule 1, before the deputy returning officer, the returning officer, or any person authorized to administer oaths within the Territory. Poll clerk duties and oath.

2. Each deputy returning officer and poll clerk appointed under this Ordinance shall be a constable during the day of polling. C.O.Y.T. c. 3, s. 25. D.R.O. and poll clerk to be constables.

36. The deputy returning officer shall prepare a polling place suitable for the purposes of this Ordinance within the Place for polling.

building mentioned in the proclamation of the returning officer, if that is practicable and if not, then as near thereto as may be; and shall truly inform any elector, inquiring of him, the locality of such polling place. C.O.Y.T. c. 3, s. 26.

Proceedings at opening of poll.

Ballot boxes to be inspected and sealed.

Objections to be entered in poll book.

37. The deputy returning officer, or his poll clerk shall, within five minutes before the time appointed for opening the poll, publicly and audibly announce the time of day, and shall show the ballot box to the candidates, their agents or scrutineers, or, in their absence, to any electors present who may claim to act for any of the candidates, so that they may see that it is empty; and he shall then in their presence lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal; and shall allow the persons permitted hereunder to remain in the outer room of the polling place to affix their seals; and he shall then place the box in view of all those present, and shall keep it locked and sealed.

2. After locking and sealing the ballot box, he shall then, in the presence of the candidates, their agents or scrutineers, or in their absence, in presence of any electors present, who claim to act for any of the candidates, enter in the poll book any objections made to the hour of opening, or to the place of polling, or to the arrangements of the polling place, demanded to be entered either by a candidate, or his agent, or by any elector. C.O.Y.T. c. 3, s. 27.

POLLING PLACE.

Outer and inner rooms.

Division of room by screen.

38. The polling place shall have an outer room suitable for the accommodation of the persons or things required for taking the vote under this Ordinance, and opening therefrom, an inner room in which the voter may mark his ballot, screened from all observation. Provided, that where it is difficult or impossible to secure two rooms, as required, a single room divided by a screen or curtain, so that the interior of the two parts shall be completely hidden from each other, shall be sufficient. C.O.Y.T. c. 3, s. 28.

Poll book and ballot box to be kept in outer room. Inspection of poll book.

Position of ballot box.

39. In the outer room shall be kept the poll book and ballot box.

2. The poll book shall be open to inspection on demand, by any candidate, agent, or scrutineer, for a reasonable time, for the purpose of checking an entry.

3. The ballot box shall be kept in a conspicuous position during the voting so that the scrutineers may see the ballots as they are dropped in; and it shall not, during such voting, be touched by any person, except the deputy returning officer, or poll clerk acting for him, and only touched by him in such manner that the candidates, their scrutineers or agents, can observe it if present. C.O.Y.T. c. 3, s. 29.

Persons who may have access to inner room.

40. Except as hereinafter provided, no person shall have access to the inner room but the voter who is engaged in marking his ballot. C.O.Y.T. c. 3, s. 30.

41. In the said inner room of the polling place there shall be a table suitable for use in marking ballots; there shall be posted on the walls a copy of the information to electors provided in form "H" in said Schedule 1, and a copy of the election notice provided in section 18 of this Ordinance. Contents of inner room.

AGENTS AND SCRUTINEERS.

42. Every candidate shall be entitled to be represented at each polling place by an agent who shall produce to the deputy returning officer his appointment as agent signed by the candidate, or in case of his absence from the Territory, by two of the electors nominating such candidate, which shall be filed by the deputy returning officer. Agent of candidate at polling place.

2. The agent so appointed shall have the right to appoint, over his signature, one or more, but not exceeding two, scrutineers on behalf of his principal. Appointment of scrutineers. C.O.Y.T. c. 3, s. 32.

43. In addition to the deputy returning officer and his poll clerk, each candidate, his agent and one of his scrutineers, or in the absence of the agent, the two scrutineers, an interpreter, if one is required, during the time for which his services are required and no longer, a peace officer, if his services are required, and not otherwise, and the voter actually engaged in voting and no others, shall be permitted to remain in the outer room of the polling place. Persons who may remain in outer room of polling place. No. 33 of 1900, s. 33.

44. An elector may vote at any polling place; but no elector shall vote at more than one polling place. Where elector may vote. C.O.Y.T. c. 3, s. 34.

VOTING.

45. All persons whose names are registered on the list of voters for any polling division in any electoral district in force on the day of the polling at any election for any electoral district, shall be entitled to vote at any such election for such electoral district and no other persons shall be entitled to vote thereat, except as hereinafter provided. Persons whose names on list entitled to vote.

(a) Any person whose name is on the list of registered voters for any polling division in any electoral district shall, upon application therefor, be entitled to receive a certificate from the Returning Officer that his name is on the voters list for such Electoral District and that he wishes to vote at a polling place in said District, designating such polling place, other than at the polling place for which his name appears on the voters' list, provided that such application shall be made before the Returning Officer has delivered or forwarded the voters' list to the deputy returning officer for the polling place where such person desires to vote and upon producing and filing such certificate with the deputy returning officer at the polling place designated therein, such person shall, if otherwise qualified, be entitled to vote thereat and shall not be entitled to vote elsewhere in said Electoral District at said election. Returning Officer may give certificate of transfer of vote.

Name to be
erased from
list when
transfer
given.

(b) Upon giving any such certificate the Returning Officer shall erase the name of the voter to whom it is given from the voters' list where such name is registered, by drawing a line through such name and writing his initials and the word "certificate" opposite such name on the list. The Returning Officer shall keep a record and make return of all such certificates to the clerk of the Territorial Court, such record to show to whom each such certificate is granted, the polling place upon the list for which such name was registered and the polling place at which the certificate entitles such person to vote.

Certificates
of transfer
to be
returned
with
ballot box.

(c) All such certificates shall, before voting thereon, be deposited with the Deputy Returning Officer at the polling place where the same are used and shall be by such Deputy Returning Officer returned with the ballot box to the Returning Officer.

Form of
certificate.

(d) Said certificate to be given by the Returning Officer shall be in Form "U" hereto or to the like effect. No. 18 of 1904, s. 13; No. 10 of 1914, ss. 6 and 7.

To vote once
only and at
one election.

46. No person shall be entitled to vote or shall vote more than once at any election, and if elections are held in more than one polling district on the same day he shall only be entitled to vote once at such election. No. 11 of 1906, s. 46.

Agent to
have trans-
fer of vote.

47. Any voter who is named as the agent of any of the candidates for a polling station other than the one where he is entitled to vote may vote at such station upon the production of a certificate of the Returning Officer that he is entitled to vote at the election in the polling district to which such station belongs and shall not be entitled to vote elsewhere; but no such certificate shall entitle such voter to vote at such polling station unless he has been actually engaged as such agent at such station during the day of polling. No. 11 of 1906, s. 11.

Voter to
take oath M.

48. Every voter shall, before receiving a ballot paper, take and subscribe the oath of qualification set forth in form "M" in said Schedule 1, if required so to do by the deputy returning officer or by the agent of any candidate. C.O.Y.T. c. 3, s. 36; No. 18 of 1904, s. 14; No. 11 of 1906, s. 12.

Voter may be
required to
take oath N.

49. The deputy returning officer shall also, on the request of a scrutineer, or person acting as such, require any person tendering a vote to take and subscribe the oath contained in form "N" in said Schedule 1 after it has been read to him in an audible voice. C.O.Y.T. c. 3, s. 37.

Oaths to be
filed with D.
R.O.

50. All oaths taken and subscribed under sections 48 and 49 shall be filed by the deputy returning officer, who is hereby authorized to administer the same. C.O.Y.T. c. 3, s. 38.

Refusal to
take oath.

51. If a person who desires to vote refuses or fails to take and subscribe either of the oaths aforesaid when required to do so, the poll clerk shall write after the entry of his name

and place of residence in the poll book, the words, "Refused oath Form"—designating the oath refused by him—and the name of the person at whose request he was required to take such oath, and the person so refusing or failing to take such oath, shall at once leave the polling place and not enter it again, and shall not be allowed to vote at that polling place. C.O.Y.T. c. 3, s. 39.

52. If the person required to subscribe is unable to sign his name, he shall make his mark which shall be certified by the signature of the deputy returning officer. C.O.Y.T. c. 3, s. 40. Signature by marksman.

53. If the person desiring to vote is unable to understand the English language, or to swear to the oath form "M" in said Schedule 1, the deputy returning officer shall enter a remark to that effect opposite his name in the poll book, and shall allow him to retire from the polling place until a competent interpreter can be procured, who shall, after taking the oath provided in form "Q" in said schedule before the deputy returning officer, interpret the proceedings to each voter in whose case he is employed. Interpreter may be employed.

2. When an interpreter is employed, his name shall be entered in the poll book with the particulars of the case in which he acted, and any objections that may be made by any of the scrutineers or persons acting as such. C.O.Y.T. c. 3, s. 41. Entry in poll book.

54. Where the proper entries respecting the person so claiming to vote have been made in the poll book in the manner prescribed, the deputy returning officer shall sign his name or initials upon the back of the ballot paper and upon the counterfoil; and he shall not put upon the said ballot paper any figure or mark other than his name or initials. Initialling of ballot by D.R.O.

2. The deputy returning officer shall, if required by any candidate present or his agent, exhibit the name or initials signed by such deputy returning officer upon the back of the ballot paper before handing the ballot paper to the voter. D.R.O. to show initials if asked.

3. Any person desiring to vote may decline to receive a ballot paper which has not the name or initials of the deputy returning officer signed upon it. Voter may decline to receive ballot paper not initialled.

4. The ballot paper shall be detached from the counterfoil and delivered to such person. C.O.Y.T. c. 3, s. 42.

55. The counterfoil shall be retained in the book by the deputy returning officer, who shall write or otherwise mark upon the counterfoil the number prefixed to the name of such person in the poll book. C.O.Y.T. c. 3, s. 43. No. to be written on counterfoil.

56. The deputy returning officer may, and upon request shall, either personally or through his clerk, explain to the person offering to vote as concisely as possible the mode of voting. C.O.Y.T. c. 3, s. 44. D.R.O. to explain mode of voting.

Directions to voter.

57. Upon receiving from the deputy returning officer the ballot paper so prepared as aforesaid, the person receiving the same shall, forthwith, proceed into the compartment provided for the purpose, and shall then and therein mark his ballot paper in the manner mentioned in form "H" in said Schedule 1, by placing a cross "X" on the right hand side opposite the name of the candidate or candidates not exceeding the number of candidates to be elected for whom he desires to vote, or at any other place within the division which contains the name of such candidate or candidates; and he shall then fold the ballot paper across so as to conceal the names of the candidates and the mark or marks upon the face of such paper and so as to expose the initials of the deputy returning officer, and leaving the compartment shall, without delay, and without showing the front to any one, or so displaying the ballot paper as to make known to any person the name of the candidate or candidates for or against whom he has marked his vote, deliver the ballot paper so folded to the deputy returning officer, who shall, without unfolding the same, or in any way disclosing the names of the candidates or the mark or marks made by the elector, verify his own initials and at once deposit the same in the ballot box in the presence of all persons entitled to be present, and then present in the polling place; and the voter shall forthwith leave the polling place. C.O.Y.T. c. 3, s. 45.

No one but voter allowed in inner compartment.

58. While the voter is in a balloting compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or be in any position from which he can observe the mode in which the voter marks his ballot paper. C.O.Y.T. c. 3, s. 46.

Ballot paper not to be taken out of polling place.

59. No person who has received a ballot paper or tendered ballot paper from the deputy returning officer shall take the same out of the polling place, and any person having so received a ballot paper, who leaves the polling place without first delivering the same to the deputy returning officer in the manner prescribed, shall thereby forfeit his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks to the effect that such person received a ballot paper but took the same out of the polling place or returned the same declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" on the ballot paper and shall preserve it to be returned to the returning officer. C.O.Y.T. c. 3, s. 47.

Person tendering vote under name already voted.

60. If a person representing himself to be a particular elector whose name already appears in the poll book as having voted or as having refused to sign a statement, applies to vote, unless the deputy returning officer is aware that the person who already presented himself to vote in that name had a right to do so, and that the person now presenting himself to vote in the same

name has also a right to do so, or if directed to do so by any candidate, agent or scrutineer, he shall require him to sign statement provided in form "M" of said Schedule 1, and shall enter his name and residence in the poll book, and shall give him a ballot paper as provided in section 54 hereof. C.O.Y.T. c. 3, s. 48; No 18 of 1904, s. 18.

61. In case of an application by a person claiming to be entitled to vote who is incapacitated by blindness or other physical cause, or by inability to read, from marking his ballot paper, the deputy returning officer shall in the plain view of the candidates or their agents or scrutineers (if present) cause the vote of such person to be marked on a ballot paper for the candidate or candidates directed by such person and shall cause the ballot paper to be placed in the ballot box; and shall make a statement of the fact including the name of the candidate or candidates for whom the vote was cast opposite the voter's name on the poll book. C.O.Y.T. c. 3, s. 50.

Incapacitated person how to vote.

62. A person claiming to be entitled to vote who has inadvertently dealt with his ballot paper in such a way that it cannot conveniently be used as a ballot paper on delivering to the deputy returning officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the deputy returning officer shall be given another ballot paper in the place of the ballot paper so delivered up, and the deputy returning officer shall retain the spoiled ballot paper to be returned to the returning officer. C.O.Y.T. c. 3, s. 51.

Ballot paper spoiled before used.

CLOSE OF THE POLL.

63. At the hour of five o'clock in the afternoon the deputy returning officer shall declare the poll closed and shall not allow any more votes to be polled, except the vote of the person who may be in some part in the act of voting at that hour.

Time of close of poll.

2. Immediately after the last ballot, as above provided, has been placed in the ballot box the deputy returning officer shall fill up and securely seal the opening in the lid of the box through which the ballots were inserted. C.O.Y.T. c. 3, s. 52.

Sealing of ballot box.

COUNT BY DEPUTY RETURNING OFFICER.

64. Immediately after the closing of the poll the deputy returning officer shall enter in a book a certificate that his entries in the poll book are correct and shall also enter any objections that the candidates or their agents or scrutineers may desire to have entered as to the conduct of the poll or as to its hour of closing.

Entry of objections.

2. The deputy returning officer shall then open the ballot box and examine the ballot papers to ascertain if they are the ballot papers which he supplied, and such examination shall be made and completed before opening any of the ballot

Opening of ballot box and papers.

papers. If the number of ballot papers in the box exceeds the number of persons who voted, he shall without opening the ballot papers, examine the backs thereof, so far as it may be necessary to see his name and initials, and shall reject any papers not having thereon his name or initials. After such examination is completed to the extent necessary, he shall proceed to examine the ballot papers, or the ballot papers not rejected as the case may be, in order to count up the votes given for each candidate.

What ballot papers not to be counted.

3. Every ballot paper which has not been supplied by the deputy returning officer or on which votes are given to more than the number of candidates to be elected, or on which anything in addition to the initials or name of the deputy returning officer on the back is written or marked, by which the voter can be identified, shall be void and shall not be counted.

Objections to ballots to be noted in poll book.

4. The deputy returning officer shall make a note in the book of any objection made by a candidate, or by his agent, or by any elector present to any ballot paper found in the ballot box, and shall decide any question arising out of the objection, and the decision of the deputy returning officer shall be final, subject only to reversal on a recount or on petition questioning the election or return.

Objections to be numbered.

5. Every objection to a ballot paper shall be numbered and a corresponding number shall be placed on the back of the ballot paper, and shall be initialled by the deputy returning officer.

Rejected ballot papers.

6. The deputy returning officer shall indorse "Rejected" on every ballot paper which he may reject as invalid, and shall indorse "Rejection objected to" if any objection be made to his decision.

Votes to be counted.

7. The deputy returning officer shall then count up the votes given for each candidate upon the ballot papers not rejected, and make up a written statement as set out in form "L" in said Schedule 1, of the number of votes given to each candidate and of the number of ballot papers rejected and not counted by him, and the number of those rejected shall be entered in said poll book under the several heads following:

Statement to be entered in poll book.

- (a) Number of papers rejected as wanting signature or initials of the deputy returning officer;
- (b) Number of papers rejected as voting for more than the number of candidates to be elected;
- (c) Number of papers rejected as having a writing or mark by which voters could be identified;
- (d) Number of papers rejected as unmarked or void for uncertainty;

And the said statement shall also show the total number of persons who have voted at such polling place, and shall forthwith be signed by the deputy returning officer and poll clerk and such of the candidates or their agents as may be present and desire to sign it. C.O.Y.T. c. 3, s. 53.

Only two agents to be present.

65. No more than two agents or scrutineers for a candidate shall be entitled to be present at the same time at the counting of the votes. C.O.Y.T. c. 3, s. 54.

66. Every deputy returning officer shall, at the close of the poll certify over his signature in the poll book in full words, as indicated in form "L" aforesaid, the total number of persons who have voted at the polling place at which he has been appointed to preside. C.O.Y.T. c. 3, s. 55.

D.R.O. to sign certificate in poll book.

67. At the close of the poll the deputy returning officer on being requested to do so, shall deliver to each of the candidates or their agents, or in the absence of the candidates or agents, to the electors present representing the candidates respectively, a certificate of the number of votes given for each candidate, and of the number of rejected ballot papers, and he shall also forthwith make out the ballot paper account in the form required by section 59 of this Ordinance. C.O.Y.T. c. 3, s. 56.

D.R.O. to give the number of votes polled to candidates.

68. Every deputy returning officer, at the completion of the counting of votes, after the close of the poll, shall, in the presence of the agents of the candidates make up into separate packets, sealed with his own seal, and the seals of such agents of the candidates as desire to affix their seals and marked upon the outside with the proper letter of the alphabet and a short statement of the contents of the packet, as in this section mentioned, the date of the day of the election, the name of the deputy returning officer, and the name and number of the polling place:

D.R.O. to seal up ballots.

- (a) The used ballot papers which have not been objected to and have been counted;
- (b) The ballot papers which have been objected to but which have been counted;
- (c) The rejected ballot papers;
- (d) The unused ballot papers and the counterfoils of the ballot papers;
- (e) The spoiled ballot papers;
- (f) The tendered ballot papers;
- (g) The ballot papers given to voters who afterwards returned the same declining to vote.

2. After all the oaths have been taken and subscribed and all the entries made in the poll book as by this Ordinance required, the deputy returning officer shall in the presence of the candidates or their agents inclose the said poll book in a separate packet and write thereon the words "Poll Book," and also the date of the election, the name of the deputy returning officer and the name and number of the polling place. C.O. Y.T. c. 3, s. 57.

69. The deputy returning officer shall forthwith deliver the packets personally to the returning officer; and if he be unable to do so, owing to illness or other cause, he shall deliver the packets to a person chosen by him for the purpose of delivering the same to the returning officer and shall mention on the outside of the cover of each of the packets the name of the person to whom the same had been so delivered, and shall

D.R.O. to deliver packets to returning officer.

take a proper receipt therefor, and the person so chosen shall, after having delivered the said packet to such returning officer, make oath before him to the effect of form "O" in said Schedule 1. C.O.Y.T. c. 3, s. 58.

Poll book to contain statement.

70. The poll book shall contain a statement made by the deputy returning officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of (1) counted; (2) rejected; (3) unused; (4) spoiled; (5) tendered ballot papers; (6) ballot papers given to voters who afterwards returned the same declining to vote; and (7) ballot papers taken from the polling place; which statement shall be made in form "P" in said Schedule 1, and in this Ordinance referred to as the "Ballot paper account." C.O.Y.T. c. 3, s. 59.

Returning officer not to grant scrutiny.

71. No returning officer or deputy returning officer shall grant, make or enter into a scrutiny of the votes given at an election. C.O.Y.T. c. 3, s. 60.

COUNT BY RETURNING OFFICERS.

Custody of ballot box.

72. The returning officer shall have the custody of the ballot box from the time it leaves the hands of the deputy returning officer, and shall be subject to the penalty provided in section 106 of this Ordinance if it is opened by himself or any other person until the day and hour appointed for the counting of the votes, or, in case the Court is adjourned under section 73 of this Ordinance until the day and hour of such adjournment. C.O.Y.T. c. 3, s. 75.

Production of books and a time fixed for count.

73. The returning officer at the place and on the day and hour mentioned by him in his announcement on nomination day that a count would be held, shall appear and produce the poll books, statement sheets of the deputy returning officers, and the ballot boxes of the several polling places.

Adjournment of court.

2. If all the returns have not been received from the deputy returning officers on the day appointed, or if there is not one clear day between the day of receipt of the last return of the deputy returning officers, and the day appointed for the count, the returning officer may adjourn the court until a future day, and may again from time to time in the like case, adjourn from day to day until such returns are all in and until a time when one clear day has elapsed between the receipt of the last return of the deputy returning officers. C.O.Y.T. c. 3, s. 76. No. 18 of 1904, s. 10.

Record book.

74. The returning officer shall be provided with a suitable book to be called a "record book" in which he shall enter the particulars required by this Ordinance to be kept on record. C.O.Y.T. c. 3, s. 77.

Recount.

75. The returning officer, when the day and hour for counting the votes has arrived, whether according to his announcement on nomination day or in pursuance of any adjournment,

shall then appear at the place designated and produce the proper books and material specified in section 73 of this Ordinance and shall begin with polling place Number 1 and shall note in his record book the number of ballots shown by the deputy returning officer's report of the polling places to have been cast; and he shall then open the ballot box and count the number of ballots contained therein. C.O.Y.T. c. 3, s. 78.

76. If the number is not the same as that mentioned in the return of the deputy returning officer, he shall make a note of that fact. C.O.Y.T. c. 3, s. 79. Discrepancy in number.

77. He shall then count, without examination, and place in an open vessel the ballots which have been already counted by the deputy returning officer, and shall enter the number in his record book. C.O.Y.T. c. 3, s. 82. Good ballots.

78. He shall then count the spoiled ballots and enter the number in his record book; and shall examine them and shall place such as he considers make apparent the intent of the voter, and have been properly initialled by the deputy returning officer, among the ballots already counted by the deputy returning officer and shall enter the number in his record book; and shall keep separately and place in a securely sealed package those which he considers do not make apparent the intent of the voter, or are not properly initialled, and shall enter the number in his record book. C.O.Y.T. c. 3, s. 83. Spoiled ballots.

79. The returning officer, after mixing the ballots so that those put in last shall not be distinguishable, shall proceed to open the ballots and count the number cast for each candidate. C.O.Y.T. c. 3, s. 85. Count of votes.

80. In case a ballot is so marked that it is difficult or impossible to distinguish for which candidate or candidates it was intended to be counted, it shall be placed with the ballots which do not make apparent the intent of the voter mentioned in section 78 of this Ordinance. C.O.Y.T. c. 3, s. 86. Ballots that are illegibly marked.

81. When all the ballots contained in the ballot box have been counted, the returning officer shall announce the result and shall record the same in his record book; and shall proceed to seal up in separate parcels the counted ballots and the spoiled ballots; and these parcels with the ballots still the subject of appeal shall be returned to the ballot box, which the returning officer shall seal so that it cannot be opened without breaking the seal; and the candidates or their agents shall also be permitted to similarly affix their seals. C.O.Y.T. c. 3, s. 87. Announcement of results. Disposition of ballot papers.

82. The returning officer shall then proceed similarly with the ballot box and returns of the second polling place, and so on until all the ballots cast in the electoral district have been disposed of as hereinbefore provided. C.O.Y.T. c. 3, s. 88. Continuation of count.

DECLARATION OF ELECTION.

Declaration of result of polling.

83. The returning officer shall then declare elected the candidate, or if there are more than one candidate to be elected, the two candidates for whom the largest number of ballots have been counted, and shall deliver to all the candidates or to the agent of any candidate who may be present, if the candidate is not present, a written statement declaring the said candidate duly elected; and such statement shall specify the number of ballots counted for each candidate and the number of spoiled ballots.

Procedure in case of tie.

2. In case of a tie the returning officer shall give a casting vote, which shall be entered in his record book. C.O.Y.T. c. 3, s. 89; No. 18 of 1904, s. 15.

Ballot boxes, etc., to be delivered to Clerk of Court.

84. The returning officer shall then—

1. Cause all ballot boxes, poll books, record books, ballots and other materials or forms used at each polling place to be placed in the custody of the Clerk of the Territorial Court.

Certificate of election to be filed with Territorial Secretary.

2. Forward to the Territorial Secretary a certificate in writing specifying the names of the candidate or candidates declared by him elected.

Candidates deemed duly elected.

3. The candidate or candidates so certified as elected shall be deemed to be duly elected until and unless a judge upon recount as hereinafter provided shall declare another or other candidates elected. No. 10 of 1914, s. 3.

RECOUNT BY JUDGE.

Demand of recount.

85. Upon any candidate or his agent placing in the hands of the returning officer the sum of \$100, with a demand in writing for a recount of the ballots cast in one or more polling divisions, any judge of the Territorial Court shall, on application made to him as hereinafter mentioned, hold a recount.

\$100 to be deposited.

2. No application for a recount shall be entertained unless such application is accompanied by \$100 as provided in this section, and is made within fifteen days after the declaration of election by the returning officer.

Disposition of deposit.

3. The money deposited with a demand for a recount shall be disposed of by order of the judge in defraying the necessary expenses of holding the recount; and the remainder, if any, shall be returned to the person who deposited it.

Ballot box etc., to be subject to order of judge.

4. The ballot boxes, poll books, books of record and other materials or forms used at the polling place, respecting which the demand for a recount has been made, shall be subject to the order of the judge during such recount. C.O.Y.T. c. 3, s. 100; No. 18 of 1904, s. 16.

Time and place of recount.

86. Upon the party demanding a recount, or any person on his behalf, satisfying the judge by affidavit, verifying the demand, that a demand for a recount has been served on the returning officer as hereinbefore provided, and that the sum of \$100 has been deposited with such returning officer, as provided

in the next preceding section, the judge shall sign an appointment fixing a time and place at which such recount shall be held, and shall, in such appointment direct upon whom and in what manner such appointment shall be served. C.O.Y.T. c. 3, s 101.

87. The judge shall attend at the time and place so appointed and upon being satisfied by affidavit that his appointment has been duly served upon the persons directed by him to be served therewith he shall proceed with such recount. Procedure threat. Provided, however, that it may be open to any candidate or agent to show by evidence, either *viva voce* or upon affidavit, as the judge may direct, that the demand for a recount was not made or the sum of money was not deposited with the returning officer as provided by section 85 of this Ordinance or was not deposited within the time thereby prescribed; and upon the judge being satisfied that such demand was not so made, or that such money was not so deposited, he shall so find; and shall file with the said returning officer a written finding to that effect signed by him; and thereupon the said recount shall be abandoned. C.O.Y.T. c. 3, s. 102. Proviso if recount not properly demanded or security omitted.

88. If the judge proceeds with the recount he shall, in the presence of such of the candidates or their agents appointed as such in writing as may be present, open one of the ballot boxes regarding which a recount has been demanded and shall count the number of ballots contained therein; and shall note the number in a book and shall place the ballots in an open vessel. Count of ballots. C.O.Y.T. c. 3, s. 103.

89. The judge shall then proceed to examine and count the ballots for the several candidates as it appears to him to have been the intent of the several voters marking the ballots, rejecting only those by which the voter has not made his intent apparent or which have not been properly initialled. Examination and count of ballots. Illegal ballots. C.O.Y.T. c. 3, s. 104.

90. The judge shall enter in a suitable book the number of the polling places and the particulars regarding the ballots examined, and shall then return the ballots to the ballot box from which they were taken; and securely lock and seal the same; and shall cause it to be returned to the custody of the clerk of the Territorial Court. Particulars to be recorded. Disposition of ballots and boxes after recount. C.O.Y.T. c. 3, s. 105.

91. He shall then proceed similarly with each of the other ballot boxes regarding which a recount has been demanded. Other ballot boxes. C.O.Y.T. c. 3, s. 106.

92. The costs of the recount beyond the amount of the deposit required by section 85 of this Ordinance shall be charged to the general expenses of the election, according to such regulation as to fees and otherwise as may be prescribed from time to time by the Commissioner. Costs of recount. Election fees. C.O.Y.T. c. 3, s. 107.

Statement of
judge.

93. The judge shall prepare a statement showing—

(a) The total number of ballots which the return of the returning officer and the records of the count of appealed ballots, if such has been held, showed should be counted in the several classes in which they are comprised;

(b) The number of ballots actually counted by him;

(c) The number rejected; and

(d) The number counted for each candidate;

with a declaration of the election of the candidate, or if there are two candidates to be elected the two candidates receiving the largest number of the votes cast, which candidate or candidates shall forthwith be held duly elected; and such judge shall thereupon certify in writing to the Territorial Secretary the names of the candidate or candidates declared elected by him on such recount; and upon certificate being given such declaration shall be final and conclusive to all intents and purposes, subject to the provisions of *The Controverted Elections Ordinance*.

His
certificate.

In case return
altered no
liability on
person first
returned.

2. In case a candidate declared elected by the judge is other than the one declared elected by the returning officer no penalty or damages shall be incurred by the person at first declared elected by reason of any act done by him as duly elected representative.

In case of a tie.

3. The casting vote of the returning officer, if he has given one, shall not be counted by the judge in such recount unless there is a tie on the said recount, in which case the casting vote of the returning officer shall be counted as having been cast for the candidate for whom it was cast the first time he cast it.

Casting vote
if required.

4. If the returning officer has not given a casting vote and the recount of the judge results in a tie, the returning officer shall forthwith on the written request of the judge give a casting vote. C.O.Y.T. c. 3, s. 108.

MISCELLANEOUS.

No candidate
to resign
pending
proceedings.

94. No candidate shall be permitted to resign after the close of the polling until the question as to which candidate has been elected has been finally determined by virtue of the provisions of this Ordinance. C.O.Y.T. c. 3, s. 109.

Duty of court
to hear
proceedings
ended.

*

95. When all proceedings in any way affecting the election, including proceedings under *The Controverted Elections Ordinance*, if any, are included, the clerk of the Territorial Court to whom the ballot boxes, poll books, record books and statements made by voters were delivered under the provisions of section 90 of this Ordinance shall thereupon open the ballot boxes and destroy the ballots therein with fire. C.O.Y.T. c. 3, s. 110. -

Public notice
to be given of
candidate
returned.

96. The Territorial Secretary shall, as soon as he can conveniently do so, give public notice of the names of the candidates elected. C.O.Y.T. c. 3, s. 111.

* See errata slip immediately
before index.

FEES AND EXPENSES OF RETURNING OFFICERS, ETC.

97. Except as hereinbefore provided, the fees in tariff "A" in section 2 of said Schedule 1, mentioned in respect of the several matters therein contained, and no others, shall be allowed to the several officers and persons therein mentioned respectively, for the services and disbursements in the said schedule mentioned. C.O.Y.T. c. 3, s. 112.

Fees to officers.

98. Anything to the contrary in this Ordinance notwithstanding, the Commissioner may direct the payment out of the general revenue fund of such sums, over and above the amounts hereinbefore authorized, as may be required, to pay the expenses reasonably incurred by any person for services rendered under this Ordinance and also reasonable fees and allowances for any extraordinary service rendered by any person thereunder. C.O.Y.T. c. 3, s. 113.

Reasonable expenses for extraordinary services.

CORRUPT PRACTICES.

99. No person shall directly or indirectly by himself or by any other person on his behalf, do or commit any of the following acts:—

Acts prohibited.

(1.) Give, lend, or agree to give, or lend or offer or promise any money or valuable security, or promise to procure or endeavour to procure any money or valuable consideration to or for any voter or to or for any other person in order to induce any voter to vote or refrain from voting at any election.

Give, etc., consideration to induce voter to vote or refrain from voting.

(2.) Give or procure or agree to give or procure, or offer or promise any office, place or employment or promise to procure or endeavour to procure any office, place, or employment to or for any voter or to or for any other person in order to induce any voter to vote or refrain from voting at any election.

Give place or employment to induce voter to vote.

(3.) Make any gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member of the Territorial Council or the vote of any voter at any election.

Make gift to procure return of person.

(4.) Advance or pay or cause to be advanced or paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended for any of the purposes mentioned in the preceding parts of this section, or knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended for any of the said purposes.

Advance money for above purpose.

(5.) Make use of or threaten to make use of any force, violence or restraint, or inflict or threaten the infliction by himself or by or through any other person of any injury, damage, harm, or loss, or in any manner practise intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election or by abduction, duress or by any fraudulent device or contrivance impede, prevent or otherwise interfere with the free exercise of the franchise of any

Use threats to induce voter to vote.

voter or thereby compel, induce or prevail upon any voter either to give or refrain from giving his vote at any election.

Penalty. 6. Any person convicted of a breach of this section shall be liable to a penalty not exceeding \$500. C.O.Y.T. c. 3, s. 114.

Candidate not to pay expenses of voters.

100. No candidate shall, by himself, or by or with any other person, or by any other ways or means on his behalf at any time, either before or during election, directly or indirectly, give or provide or cause to be given or provided, or be accessory to the giving or providing, or pay wholly or in part any expense incurred for any meat, drink, refreshment, or provision to or for any person in order to be elected, or for being elected, or for the purpose of influencing such person, or any other person, to give or refrain from giving his vote at such election; and any such candidate convicted of contravening this section shall be liable to a penalty not exceeding \$500. C.O.Y.T. c. 3, s. 115.

Penalty.

Candidate not to pay for horse hire.

101. No candidate shall, nor shall any person on his behalf hire, promise to pay or pay for any horse, team, carriage, or other vehicle to convey any voter or voters to or from the poll, or to or from the neighbourhood thereof at any election, or pay or promise to pay the travelling or other expenses of any voter in going to or returning from any election, and any person convicted of contravening this section shall be liable to a penalty not exceeding \$500. C.O.Y.T. c. 3, s. 116.

Penalty.

Election shall be voided for illegal acts of candidate.

102. If any court, judge, or other tribunal sitting or holding an inquiry under *The Controverted Elections Ordinance* reports to the Territorial Secretary that any candidate at an election has by himself or by his agent, whether with or without the actual knowledge and consent of such candidate committed any act in contravention of sections 99, 100 and 101 of this Ordinance the election of such candidate, if he has been elected, shall be an undue election and shall be void and shall be set aside and a new election shall take place to fill the vacancy so created, unless such court, judge or other tribunal certifies under section 21 of said *Controverted Elections Ordinance* that another candidate was duly elected at such election in the stead of the candidate whose election is so voided. C.O.Y.T. c. 3, s. 117.

Illegal acts of voter.

103. No person shall, before or during any election, directly or indirectly, himself or by any other person in his behalf, do or commit any of the following acts:—

Receive consideration to vote.

1. Receive, agree, contract or ask for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;

Receive money to induce another person to vote.

2. Receive or ask for any money or valuable consideration for having voted or refrained from voting or for having induced any other person to vote or refrain from voting at any election;

Hire horse to candidate.

3. Hire or offer to hire any horse, team, carriage or other vehicle to any candidate or to any agent of any candidate for the purpose of conveying any voter or voters to or from the polling place or to or from the neighbourhood thereof;

(4.) Any person convicted of a breach of this section shall be liable to a penalty not exceeding \$500. C.O.Y.T. c. 3, s. 118. Penalty.

104. Any person appointed as returning officer, election clerk, deputy returning officer or poll clerk who wilfully fails to carry out any of the duties imposed upon him by this Ordinance or who wilfully contravenes any of its provisions shall be liable to a fine not exceeding \$500 and costs or to imprisonment for a term not exceeding one year, or both. Failure of officials to carry out duty.
Penalty.

2. If any person fails to return to the deputy returning officer the ballot paper handed to him by the deputy returning officer, as provided in section 57 of this Ordinance or hands to the deputy returning officer any paper other than the ballot paper as provided in the said section or by any means places or causes to be placed in the ballot box any ballot paper other than as provided in the said section or by any means takes or causes to be taken from the ballot box any ballot paper except as directed under the provisions of this Ordinance or defaces or destroys any ballot paper after it has been initialled or stamped by the deputy returning officer except as provided in section 62 of this Ordinance, shall be liable to the penalty provided in the first part of this section. C.O.Y.T. c. 3, s. 119. Improper conduct of voter.

105. Unless in this Ordinance otherwise provided any other person than those mentioned in the next preceding section who wilfully contravenes any of the provisions of this Ordinance or attempts in any way to hinder its provisions from being carried out, shall be liable to a fine not exceeding \$500 and costs or to imprisonment for a term not exceeding three months, or both. C.O.Y.T. c. 3, s. 120. Improper conduct of other persons.

106. If the number of ballots found in the ballot box at any polling place at the count by the deputy returning officer is not the same as the number shown by the poll book of that polling place to have been cast, the deputy returning officer or poll clerk, shall, if such discrepancy is due to either of them, be liable to a fine of \$100 and costs or to imprisonment for a term not exceeding three months, or both. C.O.Y.T. c. 3, s. 121. Discrepancy in number of ballots.
Penalty.

107. Any person who attempts to violate the secrecy of the ballot by marking a ballot in a peculiar manner or by showing it to any one after it has been marked, or instigating any voter to peculiarly mark or to show his marked ballot shall be liable to a fine not exceeding \$500 and costs or to imprisonment for a term not exceeding three months, or both. C.O.Y.T. c. 3, s. 122. Violation of secrecy of ballot.
Penalty.

108. Every one who at an election under this Ordinance does any of the following acts, that is to say:

(a) Applies to vote in the name of some other person, whether such name is that of a person living or dead or of a fictitious person; or

(b) Having voted once at any such election, applies again to vote at the same election in his own name, is guilty of an offence Voting more than once.

and liable to a penalty not exceeding \$500 and costs or imprisonment for a term not exceeding six months, or both. C.O.Y.T. c. 3, s. 123.

Recovery
of penalties.

109. Penalties under this Ordinance may be recovered on summary conviction before two Justices of the Peace. C.O.Y.T. c. 3, s. 124.

No liquor to
be sold.

110. On polling day no intoxicating liquor shall be sold before the hour of six o'clock in the evening, and any person contravening the provision of this section shall be subject to a fine not exceeding \$500, with costs, or to imprisonment for a term not exceeding six months, or to both. C.O.Y.T. c. 3, s. 125.

SCHEDULE 1.

FORM A.

Schedules. Oath of Returning Officer—Sec. 13.

I, the undersigned
returning officer for the Electoral District of
solemnly swear that I will act faithfully in that capacity without
partiality, fear, favour or affection. So help me God.

Sworn before me at _____ in the } Returning Officer.
Yukon Territory, this _____ }
day of _____ A.D., 19 _____ }

Signature of officer, administering oath.

FORM B.

Certificate of Returning Officer having taken oath of office—
Sec. 13.

I, the undersigned, hereby certify that on the _____ day
of the month of _____, 19 _____
the returning officer for the Electoral District of _____
took and subscribed before me the oath of office in such case re-
quired of a returning officer by section 3 of the Ordinance res-
pecting elections.

In testimony whereof I have delivered to him this certificate.

Signature of officer, administering oath.

FORM C.

Commission of Election Clerk—Sec. 14.

To _____ (set forth his addition and residence.)
 Know you that in my capacity of returning officer for the
 Electoral District of _____ I have appointed and do
 hereby appoint you to be my election clerk to act in that
 capacity according to law at the election for the said Electoral
 District, to be holden under the Ordinance respecting elections.
 Given under my hand this _____ day of
 in the year _____

Returning Officer.

FORM D.

Oath of Election Clerk—Sec. 16.

I, the undersigned
 appointed election clerk for the Electoral District of
 solemnly swear that I will act faithfully in my said capacity
 as election clerk and also in that of returning officer, if required
 to act as such, according to law, without partiality, fear,
 favour or affection. So help me God.

Election Clerk.

Sworn before me at _____ in the }
 Yukon Territory, this _____ }
 day of _____, A.D., 19 _____ }

Signature of officer administering oath.

FORM E.

Certificate of Election Clerk having taken the oath of office
—Sec. 16.

I, the undersigned, hereby certify that on the
 day of _____ election clerk for Electoral District of
 _____ took and subscribed before me the oath of
 office required in such case of an election clerk, by section 6
 of the Ordinance respecting elections.

In witness whereof I have delivered to him this certificate
under my hand.

Returning Officer.

Or signature of any other officer administering oath.
70263—21

FORM F.

Proclamation of Returning Officer—Sec. 19.

PROCLAMATION.

Yukon Territory,
To wit:

Public notice is hereby given to the electors of the Electoral Division of _____ aforesaid, that in obedience to the Ordinance respecting elections, I require the presence of said electors at _____ (here describe with reasonable certainty the building or place where nomination is to take place) in the _____ of _____ in said Electoral District, on the _____ day of the month of _____ 19____, from eleven o'clock in the forenoon until twelve o'clock noon for the purpose of nominating one (or two persons as the case may be) to represent them in the Territorial Council of said Yukon Territory; and that in case more than one candidate or two candidates, if two candidates are to be elected, remain in nomination the poll will be opened and held on the _____ day of the month of _____

19____, from the hour of nine o'clock in the forenoon until the hour of five o'clock in the afternoon, in each of the following polling places, that is to say:

Polling place No. 1— _____ —at _____ —
(clearly describe the polling station).

(And so continue for all the other polling places in the Electoral District).

Of which all persons are hereby required to take notice and govern themselves accordingly.

Returning Officer.

FORM G.

Nomination paper—Sec. 21.

We, the undersigned electors of the Electoral District of _____ nominate (name, residence and addition of the person nominated and present location, if absent from the Yukon Territory) as a candidate at the election now about to be held of a member (or two members as the case may be) to represent the said District in the Yukon Territorial Council. (If the persons nominated are absent from the Yukon Territory it must be stated here).

Witness our hands this day of 19
 (Signature with residence and additions.)
 Signed by the above subscribing electors before me,

Witness or Witnesses.

I, the said
 nominated in the foregoing nomination paper, hereby consent
 to such nomination.

Signed in the presence of

Name of Candidate.

Name of Witness to candidate's signature.

FORM H.

Information to Electors—Sec. 29.

“Every natural born or naturalized male British subject in the Territory who has attained the full age of twenty-one years and continuously resided in such Territory for a period of not less than twelve months shall be entitled to vote in the polling division of the electoral district for which his name is entered upon the list of voters and not elsewhere.”

The voter is to vote for not more than one, or if there are two candidates to be elected, two candidates.

The voter is to go into the compartment provided and, with the pencil provided in the compartment, place a cross on the right hand side, opposite the name of the candidate or candidates, not exceeding the number to be elected for whom he votes, thus X.

The voter is then to fold up the ballot paper so as to show the name or initials of the deputy returning officer signed on the back, and leaving the compartment shall, without showing the front of the paper to any person, deliver such ballot so folded to the deputy returning officer, and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the deputy returning officer, who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more than the number of candidates to be elected, or places any mark on the paper by which he may be identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place or deposits in the ballot box any other paper than the one given to him by the deputy returning officer, he shall be subject to a fine of \$500 and costs, or imprisonment for any term not exceeding one year, or both.

(In the following form of ballot paper given for illustration, the candidates are John Doe, Richard Roe, Geoffrey Stiles and John Stiles, and the voter has marked his ballot in favour of Richard Roe and John Stiles.)

ELECTION FOR THE ELECTO- RAL DISTRICT OF No. ON POLL BOOK.	1	DOE, John Doe, Forty-Mile, Miner.	
	2	ROE. Richard Roe, Bonanza Creek, Miner.	X
	3	STILES, Geoffrey Stiles, Dawson, Advo- cate.	
	4	STILES, John Stiles, White Horse, Mer- chant.	X

FORM J.

Oath of Deputy Returning Officer—subsec. 2, sec. 33.

I, the undersigned _____ appointed Deputy Returning Officer for Polling Place No. _____ of the Electoral District of _____, do solemnly swear, (or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully in my said capacity of Deputy Returning Officer without partiality, fear, favour, or affection. So help me God.

Deputy Returning Officer.

Sworn before me at _____, in the }
Yukon Territory, this }
day of _____ A.D., 19 }

Signature of officer administering oath.

FORM K.

Oath of Poll Clerk—Sec. 35.

I, the undersigned _____ appointed Poll Clerk for
polling place No. _____ of the Electoral District of
do solemnly swear, (or if he is one of the persons permitted
by law to affirm in civil cases, do solemnly affirm), that I will
act faithfully in my capacity of poll clerk and also in that
of deputy returning officer if required to act as such according
to law, without partiality, fear, favour or affection. So help
me God.

Poll Clerk.

Sworn before me at _____ in the }
Yukon Territory, this _____ }
day of _____ A.D., 19 _____ }

Signature of officer administering oath.

FORM L—POLL BOOK. (Sec. 34.)

Yukon Territory Electoral District of
of the Election held on the

day of
Polling Place No
A. D. 19

No.	Name of Voter.	Occupation of Voter.	Residence of Voter.	Sworn Form M.	If Oath demanded on behalf of whom.	Write the word "Sworn" or "Refused to Swear" as the case may be.	Write the word "Voted" if Ballot is placed in Ballot Box.	Remarks as to employment of Interpreter, Spoiled Ballot Papers, Blind Persons, &c.	Remarks at opening of poll.
									Remarks as to the conduct of poll, examination of inner room, etc.

I, _____, Deputy Returning Officer (or Poll Clerk acting as Deputy Returning Officer) for Polling Place No. _____, hereby certify and declare: That the entries appearing in this poll book are correctly made; That the number of ballots cast at the polling place No. _____, on this _____ day of _____, 19____, according to the provisions of the Ordinance Respecting Elections was _____; That I have opened the ballot box for the aforesaid polling division in the presence of _____ and have counted the ballots therein and that there were _____ ballots therein; That I have counted the number of objected ballots therein, and that there were _____ such ballots therein; That I have counted the number of unobjected ballots therein and that there were _____ such ballots; That I opened and examined the said unobjected ballots and that _____ were so marked that the intent of the voter using such ballots had not been made plain; That of the unobjected ballots cast by which the intent of the voter had been made plain _____ have been counted as having been cast for _____ one of the candidates at this election (and so on until the unspoiled and unobjected ballots cast have been counted for the candidates for whom they were cast).
(Signatures) _____ C. D., Deputy Returning Officer.
Dated at _____ this _____ day of _____, 19____

Summary of count of ballots.
Objected ballots.....
Spoiled ballots.....
Counted for (each candidate).....
Total ballots counted.....

FORM M—Sec. 48.

I, _____, of _____, in the Yukon Territory, do solemnly swear that I am a natural born (or naturalized) male British subject of the full age of twenty-one years. That I have been for a period of twelve months immediately prior to this date a resident of and domiciled within the Yukon Territory, and that I have been for a period of one month immediately prior to the said date, a resident of and domiciled within the Electoral District of _____ and that I have not voted before at this Election at this or any other polling place. So help me, God.

Sworn before me at _____
 in the Yukon Territory, the _____
 day of _____, 191_____

(Signature and office of Officer Administering the Oath.)

FORM N.

Oath that voter has received no bribe or other consideration for his vote—Sec. 49.

I, _____, do solemnly swear that I have not received anything nor has anything been promised me, nor have I asked for anything directly or indirectly, either to induce me to vote at this election or for loss of time, travelling expenses, hire of team or for any other service connected therewith, and that in the casting of my vote at this election I am not impelled or influenced by fear or by expectation of favour. So help me God.

Sworn before me at _____ }
 in the Yukon Territory, this _____ }
 day of _____ A.D. 19 _____ }

Signature of officer administering oath.

FORM O.

Oath by messengers where the deputy returning officer is unable to deliver packet to the returning officer.—Sec. 69.

I, _____, solemnly swear that I am the person to whom _____ deputy returning officer for the polling place No. _____ Electoral District of _____ delivered the election packets for the said polling place to be delivered to returning officer for the said electoral

district, in consequence of the said deputy being unable through illness or some other cause to deliver the same personally to the returning officer; that the packets that I have this day delivered to the said Returning Officer are all the packets I so received; that I have not opened any of them, and that they have not been opened by any other person since I have received them from the deputy returning officer. So help me, God.

Sworn before me at
in the Yukon Territory, this
day of A.D., 19

Signature of officer administering Oath.

Note.—Where the deponent is one of the persons permitted by law to affirm in civil cases, he may solemnly affirm.

FORM P.

Ballot paper account.—Section 70.

- Received from Returning Officer,
- Ordinary ballot papers..... _____
- Tendered ballot papers..... _____
- Manner in which ballot papers dealt with:
- 1 No. counted, packets A and B..... _____
- 2 No. rejected, packet C..... _____
- 3 No. unused, packet D..... _____
- 4 No. spoiled, packet E..... _____
- 5 No. tendered ballot papers, packet F..... _____
- 6 No. ballot papers given to voters who afterward returned same declining to vote, packet G..... _____
- 7 No. declaration of "inability to read" and "physical incapacity" and all certificates received by deputy returning officer, packet H..... _____
- 8 No. of ballot papers taken from the polling place..... _____

(Signed)

Deputy Returning Officer.

Dated this _____ day of _____ A.D., 19

Note.—The several "packets" mentioned above are those referred to in section 57 of this Ordinance.

FORM Q.

Interpreter's Oath—Sec. 53.

I, _____ do solemnly swear (or if he is one of the persons permitted by law to affirm in civil cases, do solemnly affirm) that I will well, truly and faithfully interpret all such instructions and information necessary to enable any voter to cast his vote at this election, as I may be directed by the deputy returning officer to communicate to such voter, and that I will not say or communicate anything to any voter to induce him to vote for or to refrain from voting for any particular candidate. So help me God.

Sworn before me at _____ Signature
 Yukon Territory, this _____ in the }
 day of _____, A.D. 19 _____ }

Signature of Deputy Returning Officer.

FORM R.

Revisor's Oath—Sec. 2.

I, the undersigned _____ appointed revisor for the polling district No. _____ (or as the case may be) of the Electoral District of the Yukon Territory, solemnly swear (or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully in my said capacity of revisor without partiality, fear, favour or affection; so help me God.

(Signature)

CERTIFICATE OF A REVISOR HAVING TAKEN THE OATH OF OFFICE.

I, the undersigned, hereby certify that on the _____ day of the month of _____ revisor for the polling district No. 1 (or as the case may be) of the Electoral District of _____ took and subscribed the oath (or affirmation) of office, required in such case of revisor, by *The Election Ordinance*.

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature)

C. D.,

Justice of the Peace.

Or A. B.,
 Returning Officer.

FORM S.

LIST OF VOTERS.

Sec. 4.

Electoral District of the Yukon Territory, Polling Division
No. 1 (or as the case may be.)

No.	Name.	Occupation. or addition.	Residence.	Remarks.

I certify that the foregoing is a true copy of the voters' list in polling division No. 1 (or as the case may be) of the Electoral District of the Yukon Territory, as prepared by me for use in the election of a member (or members, as the case may be) for the Yukon Council for the said electoral district now pending.

(Signature) I. J.,
Revisor.

(Here the revisor shall make any addition to the list which he finds necessary).

I certify that the foregoing is a correct list of the voters in polling division No. 1 (or as the case may be) of the Electoral District of the Yukon Territory as revised (or if no correction is made, as finally approved) by me this day of
19

(Signature) I. J.,
Revisor.

FORM T.

Statutory declaration—Sec. 5.

I, (name of person) of (residence)
(occupation) do solemnly declare as follows:

1. I am desirous of having my name added to the list of voters for (name the division) (or, if made by an Agent, I am agent of) (name) (residence) (occupation) (and am desirous as above).

2. I am (or he is) a British Subject (by birth or by naturalization as the case may be).

3. I have (or he has) attained the full age of twenty-one years.

4. I have been a resident of and domiciled within the Yukon Territory for a period of not less than twelve months immediately prior to this date.

5. I have been a resident of and domiciled within polling division (here describe division) for one month immediately preceding this date.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me at
in the Yukon Territory, this
day of

, 19

No. 10 of 1914, ss. 4 and 5.

SCHEDULE 1—SECTION 2.

TARIFF A.

Fees for Election Services—Sec. 97.

1. The Returning Officer, where no poll is held.....	\$100 00
2. Election Clerk, where no poll is held.....	25 00
3. Returning Officer where poll is held.....	200 00
4. Election Clerk, where poll is held.....	75 00
5. Deputy Returning Officer.....	15 00
6. Poll Clerk.....	10 00
7. Deputy Returning Officer and Justice of the Peace sitting as Court of Revision, per day, each....	10 00
8. Each Officer, for every mile necessarily travelled in discharge of his duties.....	25
9. *Rent of house for Nomination.....	
10. *Rent of house for Polling Station.....	
11. *Rent of house for Court of Revision.....	
12. *Rent of house for count by Returning Officer.....	

*Actual cash not to exceed ten dollars for any one item.

FORM U.

Certificate Transferring Vote—Sec. 45.

This certifies that the name A. B. is on the list of registered voters for Polling Division in the Electoral District of for the Yukon Council Election now being held, and that the said A. B. has applied for a certificate to vote at Polling Place in said Electoral District which is hereby granted.

Dated.

Returning Officer for said Electoral District.

No. 10 of 1914, s. 8.

SCHEDULE 2—FORM A.

WRIT OF ELECTION—Sec. 12.

To _____ of _____ in the Electoral District of _____ in the Yukon Territory:

Whereas the Commissioner of the Yukon Territory has seen fit under and by virtue of the provisions of the Ordinance respecting elections to order the issue of a writ of election for the said Electoral District of _____ addressed to you, whom he has been pleased to select to perform the duties of Returning Officer;

You are therefore commanded that you do cause election to be made, according to law, of a member (or two members as the case may be) to serve in the Council of the Yukon Territory for the said Electoral District of _____ that you do cause the nomination of candidates at such election to be held at _____ in the said Electoral District on _____ the _____ day of _____ next; and that you do cause the name (or names) of such member, (or members) when so elected, to be certified to me, on the _____ day of _____

Given under my hand and the seal of said Territory at Dawson in the said Yukon Territory this _____ day of _____ 19 _____

Territorial Secretary.

INDORSEMENT.

Received the within writ on the _____ day of _____ 19 _____

Returning Officer.

repealed

CHAP. 29.

An Ordinance to Secure Compensation for Personal Injuries Suffered by Workmen in Certain Cases.

SHORT TITLE.

1. This Ordinance may be cited as the "Employers' Liability Ordinance." No. 5, 1908, s. 1. Short title.

2. Unless otherwise declared or indicated by the context, wherever any of the following words or expressions occur in this Ordinance, they shall have the meanings hereinafter expressed, that is to say: Interpretation.

- (1) The expression "superintendence" shall, unless a contrary intention appears, be construed as meaning such general superintendence over workmen as is exercised by a foreman or person in like position to a foreman, whether the person exercising superintendence is or is not ordinarily engaged in manual labour; "Superintendence."
- (2) The expression "employer" shall, unless a contrary intention appears, include a body of persons, corporate or unincorporate, and also the legal personal representatives of a deceased employer, and the person liable to pay compensation under section 5 of this Ordinance; "Employer."
- (3) The expression "workman" does not include a domestic or menial servant, but, save as aforesaid, means any railway servant, and any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner or otherwise engaged in manual labour, whether under the age of twenty-one years, or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this Ordinance, be expressed or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour; "Workman."
- (4) The expression "railway servant" shall mean and include a railway servant and tramway servant; "Railway Servant."
- (5) The word "packing" shall mean a packing of wood or metal or some other equally substantial and solid material, of not less than two inches in thickness, and which, where filled in, shall extend to within two inches of the crown of the rails in use on any railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid. No. 5, 1908, s. 2. "Packing."

Workmen entitled to compensation in following cases.

3. Where, after the commencement of this Ordinance, personal injury is caused to a workman—

- (1) By reason of any defect in the condition or arrangement of the ways, works, dredges, machinery, plant, buildings, or premises connected with, intended for, or used in the business of the employer or by reason of any defect in the construction of any stages, scaffolds or other erections erected by or for the employer, or in the materials used in the construction thereof; or
- (2) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence; or
- (3) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, which such injury resulted from his having so conformed; or
- (4) By reason of the act or omission of any person in the service of the employer done or made in obedience to the rules or by-laws of the employer, or in obedience to particular instructions given by the employer or by any person delegated with the authority of the employer in that behalf; or
- (5) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal points, locomotive, engine, machine or train upon a railway or tramway; or
- (6) By reason of the negligence of any telegraph operator or train despatcher in the service of the employer;

the workman, or, in case the injury results in death, the legal personal representatives of the workman, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of, nor in the service of the employer nor engaged in his work. No. 5, 1908, s. 3.

Certain defects in railways to be deemed negligence.

4. Where within this Territory personal injury is caused to a workman employed on or about any railway—

- (1) By reason of the lower beams or members of the superstructure of any highway, or other overhead bridge, or any other erection or structure over said railway, not being of a sufficient height, from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight car then running on such railway, and the bottom of such lower beams or members; or
- (2) By reason of the space between the rails in any railway frog, extending from the point of such frog backwards to where the heads of such rails are not less than five inches apart, not being filled in with packing; or
- (3) By reason of the space between any wing-rail and any railway frog, and between any guard-rail and any

other rail fixed and used alongside thereof as aforesaid, and between all wing-rails where no other rail intervenes (save only where the space between the heads of any such wing-rail where no other rail intervenes as aforesaid, is either less than one and three-quarters of an inch or more than five inches in width) not being at all times during every month of April, May, June, July, August, September and October, filled in with packing: such injury shall be deemed and taken to have been caused by reason of a defect within the meaning of subsection (1) of section 3 of this Ordinance. But nothing in this section contained shall be taken or construed as in any respect or for any purpose restricting the meaning of said subsection. No. 5, 1908, s. 4.

5. Where the execution of any work is being carried into effect under any contract, and

- (a) The person for whom the work or any part thereof is done, owns or supplies any ways, works, dredges, machinery, plant, stages, scaffolds or the materials therefor, buildings, or premises used for the purpose of executing the work; and
- (b) By reason of any defect in the condition or arrangement of such ways, works, dredges, machinery, plant, stages, scaffolds, or the materials therefor, buildings or premises, personal injury is caused to any workman employed by the contractor or by any sub-contractor; and
- (c) The defect or failure to discover or remedy the defect arose from the negligence of the person for whom the work or any part thereof is done, or of some person being in his service and entrusted by him with the duty of seeing that such condition or arrangement is proper;

If the person for whom the work is done owns the plant he is liable in certain cases.

the person for whom the work, or that part of the work, is done shall be liable to pay compensation for the injury as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Ordinance: Provided always that any such contractor or sub-contractor shall be liable to pay compensation for the injury as if this section had not been enacted, so however, that double compensation shall not be recoverable for the same injury;

2. Nothing in this section contained shall affect any rights or liabilities of the person for whom the work is done and the contractor or sub-contractor (if any) as between themselves. No. 5, 1908, s. 5.

6. In an action against an employer under this Ordinance, a workman shall not, be reason only of his continuing in the employment of the employer with knowledge of the defect, negligence, act or omission, which caused his injury, be deemed to have voluntarily incurred the risk of the injury. No. 5, 1908, s. 6.

Knowledge of defect alone not a bar to workman's rights.

Workman not entitled to compensation under certain circumstances.

7. A workman shall not be entitled under this Ordinance to any right of compensation or remedy against the employer in any of the following cases, that is to say:

(1.) Under subsection (1) of section 3, unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person entrusted by him with the duty of seeing that the condition or arrangement of the ways, works, dredges, machinery, plant or premises are proper, or that no defect exists in the construction of any stages, scaffolds or other erections erected by or for the employer, or in the materials used in the construction thereof;

(2) Under subsection (4) of section 3, unless the injury resulted from some impropriety or defect in the rules, by-laws or instructions therein mentioned; provided, that where a rule or by-law has been approved, or has been accepted as a proper rule or by-law, either by the Commissioner in Council, or under and pursuant to any provision in that behalf of any Ordinance of the Council of the Yukon Territory, or Act of the Parliament of Canada, it shall not be deemed for the purposes of this Ordinance to be an improper or defective rule or by-law;

(3) In any case where the workman knew of the defect or negligence which caused his injury, and failed, without reasonable excuse, to give or cause to be given, within a reasonable time, information thereof to the employer or the person in superintendence, unless he was aware that the employer or such superior already knew of the said defect or negligence. No. 5, 1908, s. 7.

Compensation not to exceed three years' wages or \$2,500.

8. The amount of compensation recoverable under this Ordinance shall not exceed either such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment within this territory, or the sum of two thousand five hundred dollars, whichever is larger; and such compensation shall not be subject to any deduction or abatement, by reason, or on account, or in respect of any matter or thing whatsoever, save such as is specially provided for in section 11 of this Ordinance. No. 5, 1908, s. 8.

Notice of injury within six months.

9. An action for the recovery under this Ordinance of compensation for an injury shall not be maintainable against the employer of the workman unless notice in writing that injury has been sustained is given by a person entitled to recover compensation or by any one authorized in writing by such person, within six months, and the action is commenced within nine months from the occurrence of the accident causing the injury, or in case of death, within fifteen months from the time of death. No. 5, 1908, s. 9.

10. No contract or agreement made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Ordinance for compensation for an injury; When workman can contract out of ordinance.

- (1) Unless for such workman entering into or making such contract or agreement there was other consideration than that of his being taken into or continued in the employment of the defendant; nor
- (2) Unless such other consideration was, in the opinion of the court or judge before whom such action is tried, ample and adequate; nor
- (3) Unless, in the opinion of such court or judge, such contract or agreement, in view of such other consideration, was not on the part of the workman improvident, but was just and reasonable;

and the burthen of proof in respect of such other consideration and of the same being ample and adequate, as aforesaid, and that said contract was just and reasonable and was not improvident, as aforesaid, shall, in all cases, rest upon the defendant: Provided always, that notwithstanding anything in this section contained, no contract or agreement whatsoever made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Ordinance of compensation for any injury happening or caused by reason of any of the matters mentioned in section 4 of this Ordinance. No. 5, 1908, s. 10.

11. There shall be deducted from any compensation awarded to any workman or representatives of a workman, or persons claiming by, under, or through a workman in respect of any cause of action arising under this Ordinance, any penalty or damages or part of a penalty or damages, which may in pursuance of any Act of the Parliament of Canada or Ordinance of the Council of the Yukon Territory, have been paid to such workman, representatives, or persons in respect of the same cause of action; and where an action has been brought under this Ordinance by any workman, or the representatives of any workman, or any persons claiming by, under, or through such workman for compensation in respect of any cause of action arising under this Ordinance, and payment has not previously been made of any penalty or damages, or part of a penalty or damages under any such Act of the said Parliament, or Ordinance of the said Council, in respect of the same cause of action, such workman, representatives or persons shall not, so far as the said Council has power so to enact, be entitled thereafter to receive in respect of the same cause of action, any such penalty or damages, or part of a penalty or damages, under any such last-mentioned Ordinance. No. 5, 1908, s. 11. Effects of this ordinance on workman's rights under other acts or ordinances.

12. (1) Notice in respect of any injury under this Ordinance shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the Notice of injury, how to be given.

employer, or if there is more than one employer, upon one of such employers;

(2) The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served;

(3) The notice may also be served by post, by a registered letter, addressed to the person on whom it is to be served at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when a letter containing the same would be received in the ordinary course of post, and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered;

(4) When the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office, or if there be more than one office, any one of the offices of such body;

(5) A notice under this section shall be deemed sufficient if in the form or to the effect following:

Form of
notice.

To A. B. of (here insert employer's address)

or to the Company (or as the case may be).

Take notice that on the day of

19 , C. D., of (here insert address of injured person), a workman in your employ, sustained personal injury (add " of which he died," if such be the case) and that such injury was caused by (state shortly the cause of the injury, e.g., the fall of a beam).

Date,

Yours, etc.,

X. Y.

No. 5, 1908, s. 12.

Notice of
intention to
rely for de-
fence on
want of no-
tice, or not
being
employer.

13. If the defendant in any action against an employer for compensation for an injury sustained by a workman in the course of his employment intends to rely for a defence on the insufficiency of notice, or on the ground that he was not the employer of the workman injured, he shall, not less than seven days before the hearing of the action or such other time as may be fixed by the rules regulating the practice of the court in which the action is brought, give notice to the plaintiff of his intention to rely on that defence, and the Court may, in its discretion, and upon such terms and conditions as may be just in that behalf, order and allow an adjournment of the case for the purpose of enabling such notice to be given and subject to any such terms and conditions, any notice given pursuant to and in compliance with the order in that behalf, shall, as to any such action and for all purposes thereof, be held to be a notice given pursuant to and in conformity with sections 9 and 12 of this Ordinance. No. 5, 1908, s. 13.

Court may
direct to

14. When in any action under this Ordinance compensation is awarded in the case of death of a workman for an injury

sustained by him in the course of his employment, the amount recovered after deducting the costs not recovered from the defendant, may, if the Court or Judge before whom the action is tried so directs, be divided between the wife, husband, parent and child of the deceased in such shares as the Court or Judge with or without assessors, as the case may be, or if the action is tried by a jury, as the jury may determine. No. 5, 1908, s. 14.

whom damages shall be paid.

15. Notwithstanding anything contained in this Ordinance an action under sections 3, 4 and 5 of this Ordinance shall lie against the legal personal representatives of a deceased employer. No 5, 1908, s. 15.

Liability extends to legal representatives of deceased employer.

16. In any action brought under this Ordinance the particulars of demand or statement of claim shall state in ordinary language the cause of the injury, and the date at which it was sustained, and the amount of compensation claimed; and where the action is brought by more than one plaintiff, the amount of compensation claimed by such plaintiff and where the injury of which the plaintiff complains shall have arisen by reason of the negligence, act or omission of any person in the service of the defendant, the particulars shall give the name and description of such person. No 5, 1908, s. 16.

Statement of claim.

17. (1) Upon the trial of any action for the recovery of compensation under this Ordinance before a judge without a jury, one or more assessors may be appointed by the Court or Judge for the purpose of ascertaining the amount of compensation and the remuneration (if any) to be paid to such assessors shall be fixed and determined by the Judge at the trial;

How assessor may be applied for.

(2) Any person who shall, as hereinafter provided, be appointed to act as an assessor in such action, shall be qualified so to act;

(3) In any such action a party who desires assessors to be appointed shall, eight clear days at least before the day for holding the Court at which the action is to be tried, file an application stating the number of assessors he proposes to be appointed, and the names, addresses, and occupations of the persons who may have expressed their willingness in writing to act as assessors. If the applicant has obtained the consent of the other party to the persons named being appointed, he shall file such consent with his application;

(4) Where the application for the appointment of assessors has been made by one party to an action only, he shall, five clear days at least before the day for holding the Court at which the action is to be tried, serve a copy of the application so filed, upon the other party, who may then either file an application for assessors, or file objections to one or more of the persons proposed;

(5) An application for the appointment of assessors may be in the form following or to the like effect, namely: In the Territorial Court of the Yukon Territory.

Form of application.

"The Employers' Liability Ordinance."

Between

Plaintiff,

—and—

Defendant.

The plaintiff (or defendant) applies to have an assessor (or assessors) appointed to assist the Court in ascertaining the amount of compensation to be awarded to the plaintiff, should the judgment be in his favour, and he submits the names of the following persons, who have expressed their willingness in writing to act as assessors should they be appointed. (Here set out the names, addresses and occupations of the persons above referred to). (If the other party consent to the appointment, add the following):

The defendant (or plaintiff) consents to the appointment of any of the persons above named to act as assessors in this action, as appears by his consent thereto filed herewith.

Dated this

day of

A. B.

The above named plaintiff

(or as the case may be.)

(6) Where separate applications are filed by the parties no objections to the persons proposed shall be made by either party, but the Court or Judge may appoint from the persons named in each such application one or more assessor or assessors provided that the same number of assessors be appointed from the names given in such applications respectively;

(7) Where application for the appointment of assessors is granted the Court or Judge shall appoint such of the persons proposed for assessors as by the Court or Judge may be deemed fit, subject to the provisions contained in this Ordinance;

(8) In any such action where an application for the appointment of assessors has been filed, the Court or Judge may, at any time prior to the trial thereof, nominate one or more additional persons to act as assessors in the action. Where no application for assessors has been made, the Court or Judge may appoint any one or more persons to act as assessor or assessors in the action before or on the trial of the action;

(9) If at the time and place appointed for the trial all or any of the assessors appointed shall not attend, the Court or Judge may either proceed to try the action with the assistance of such of the assessors, if any, as shall attend, or may adjourn the trial generally, or upon any terms which the Court or Judge may think fit, or may appoint any person who may be available and who is willing to act, and who is not objected to, or who, if objected to is objected to on some insufficient ground or the Court or Judge may try the action without assessors;

(10) Every person requiring the Court or Judge to be assisted by assessors shall, at the time of filing his application, deposit therewith the sum of five dollars for each assessor proposed and a further sum of five dollars for each assessor nominated by him and acting on each day of said trial after the first day, and such payments shall be considered as costs in the action, unless otherwise ordered by the Court or Judge: Provided, that where a person proposed as an assessor shall have in writing agreed and consented that he will not require his remuneration to be so deposited, no deposit in respect of such person shall be required;

(11) Where an action shall be tried by the Court or Judge with the assistance of any assessors in addition to or independently of any assessors proposed by the parties, the remuneration of such assessors shall be borne by the parties or either of them, as the Court or Judge shall direct;

(12) If after an assessor has been appointed the action shall not be tried, the Court or Judge shall have power to make an allowance to him in respect of any expense or trouble which he may have incurred by reason of his appointment, and direct the payment to be made out of any sum deposited for his remuneration;

(13) The assessors shall sit with and assist the Court or Judge when required with their opinion and special knowledge for the purpose of ascertaining the amount of compensation, if any, which the plaintiff shall be entitled to recover. No. 5, 1908, s. 17.

18. (1) Where several actions shall be brought under this Ordinance against a defendant in the same Court in respect of the same negligence, act or omission, the defendant shall be at liberty to apply to the Judge that the said actions shall be consolidated;

Consolidation of actions.

(2) Applications for consolidation of actions shall be made upon notice to the plaintiffs affected by such consolidation;

(3) In case several actions shall be brought under this Ordinance against a defendant in the same Court in respect of the same negligence, act or omission, the defendant may, on filing an undertaking to be bound so far as his liability for such negligence, act or omission, is concerned by the decision in such one of said actions as may be selected by the Court or Judge, apply to the Court or Judge for an order to stay the proceedings in the actions other than in the one so selected, until judgment is given in such selected action;

(4) Applications for stay of proceedings shall be made upon notice to the plaintiffs affected by stay of proceedings or *ex parte*;

(5) Upon the hearing of any application for consolidation of actions or for stay of proceedings, the Court or Judge shall have power to impose such terms and conditions and make such order in the matter as may be just;

(6) If any order shall be made by a Court or Judge upon an *ex parte* application to stay proceedings it shall be competent to the plaintiffs affected by such order to apply to the Court or Judge (as the case may be) upon notice or *ex parte*, to vary or discharge the order so made and upon such last-mentioned application such order shall be made as the Court or Judge shall think fit, and the Court or Judge shall have power to dispose of the costs occasioned by such order or orders as may be deemed right;

(7) In case a verdict or judgment in the selected action shall be given against the defendant, the plaintiffs in the actions stayed shall be at liberty to proceed for the purpose of ascertaining and recovering their damages and costs;

(8) A defendant may, by notice to the opposite party to be given or served at least six days before the day appointed for the trial of the action, admit the truth of any statement of his liability

for any alleged negligence, act or omission as set forth or contained in the plaintiff's statement or particulars of claim in the action, and after such notice given the plaintiff shall not be allowed any expense thereafter incurred for the purpose of proving the matters so admitted;

(9) Where two or more persons are joined as plaintiffs under subsection (1) of this section, and the negligence, act or omission which is the cause of action shall be proved, the judgment shall be for all the plaintiffs, but the amount of compensation, if any, that each plaintiff is entitled to shall be separately found and set forth in the judgment, and the amount of costs awarded in the action shall be ordered to be paid to such person and in such manner as the Court or Judge may think fit. Should the defendant fail to pay the several amounts of compensation and the costs awarded in the action, execution may issue as in an ordinary action, and should the proceeds of the execution be insufficient, after deducting all costs, to pay the whole of the amounts awarded, a dividend shall be paid to each plaintiff, calculated upon the proportion of the amount which shall have been awarded to the respective plaintiffs to the total amount realized after the deduction of all the costs of the action as aforesaid. No. 5, 1908, s. 18.

Rules of
Court to
prevail.

19. In any action brought to recover compensation under this Ordinance the forms and methods, and the rules and orders in force in the Territorial Court of the Yukon Territory shall, subject to and save as otherwise provided by the terms and provisions of this Ordinance, apply to and regulate all matters of pleading, practice and procedure in such action, and notwithstanding anything in this Ordinance contained, the forms and methods and the pleadings, practice and procedure in any such action shall conform to and be regulated by any rules or order in that behalf hereafter lawfully and duly made or prescribed with respect to actions brought in said Court. No. 5, 1908, s. 19.

CHAP. 30.

An Ordinance respecting Witnesses and Evidence.

1. This Ordinance may be cited as *The Evidence Ordinance*. Title. No. 5, 1904, s. 1.

- 2.** In this Ordinance unless the context otherwise requires,
- (a) The expression "witnesses" includes parties to an action when entitled or compellable to be examined; Interpretation "Witness."
 - (b) The expression "Commissioner" includes a commissioner appointed for taking affidavits, and also a commissioner and any other person specially authorized under this Ordinance or *The Judicature Ordinance* or the rules of the Territorial Court to take examinations, depositions, affirmations or answers; "Commissioner."
 - (c) The expression "Court" includes any person having by law or consent of parties authority to receive evidence. "Court."
- No. 5, 1904, s. 2.

3. Evidence of any statute of the Imperial Parliament, or the Parliament of Canada, or of any province, colony or territory forming part of Canada or of any ordinances of this territory or of any territory of Canada, may be given in any court by the reproduction of a copy of such statute or ordinance purporting to be printed and published by the King's Printer or the Government Printer for Great Britain or Canada, or for such province, colony or territory. Evidence of any British or Colonial statute given by production of copy printed by King's Printer. No. 5, 1904, s. 3.

PUBLIC DOCUMENTS.

4. Imperial proclamations, orders in council, treaties, orders, warrants, licenses, certificates, rules, regulations, or other Imperial official records, acts, or documents, may be proved:

- (a) In the same manner as the same are from time to time provable in any Court in England; or
- (b) By the production of a copy of *The Canada Gazette*, or a volume of the Acts of the Parliament of Canada purporting to contain a copy of the same, or a notice thereof; or
- (c) By the production of a copy thereof, purporting to be printed by the King's Printer for Canada or for the Yukon Territory. Imperial proclamations, orders in council, etc. proved in same manner. As in courts in England. By production of Canada Gazette or volume of Acts of Canada. By production of copy printed by King's Printer. No. 5, 1904, s. 4.

5. Evidence of any proclamation, order, regulation, or appointment made or issued by the Governor General or by the Governor General in Council, or by or under the authority of any minister or head of any department of the Government of Canada, may be given in any Court of justice in the Yukon Territory and in all or any legal proceedings of any kind in the Yukon Territory, in any one of the modes hereinafter mentioned, that is to say: Evidence of any proclamation, order, etc., made by Governor General may be given.

By production of *Canada Gazette* or volume of Act.

By production of a copy printed by King's Printer.

By production of a copy certified by clerk of King's Privy Council.

- (a) By the production of a copy of *The Canada Gazette* or of a volume of the Acts of Parliament of Canada, purporting to contain a copy of such proclamation, order, regulation or appointment, or a notice thereof;
- (b) By the production, in case of any proclamation, order, regulation or appointment, of a copy thereof purporting to be printed by the King's Printer of Canada; or
- (c) By the production in case of any proclamation, order, regulation or appointment, made or issued by the Governor General or by the Governor General in council, of a copy or extract purporting to be a true copy thereof by the clerk or assistant, or acting clerk of the King's Privy Council for Canada; and in the case of any order, regulation or appointment made or issued by or under the authority of any minister or head of a department by the production of a copy thereof, or extract therefrom, purporting to be certified as true by such minister or by his deputy or acting deputy, or by the secretary, or acting secretary of the department over which he presides. No. 5, 1904, s. 5.

Evidence of any proclamation, order, etc., made by a Lieutenant Governor may be given.

6. Evidence of any proclamation, order, regulation or appointment made or issued by the Lieutenant Governor or Lieutenant Governor in Council of any of the provinces or territories of Canada, or by or under the authority of any member of the executive council, being the head of any department of the Government of such province or territory or by the Commissioner of the Yukon Territory, may be given in any Court of justice in the Yukon Territory and in all or any legal proceedings of any kind in the Yukon Territory, in any one of the modes hereinafter mentioned, that is to say:

By production of copy printed by King's Printer.

By production of Official Gazette.

By production of copy certified by clerk of executive council.

- (a) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the King's Printer of the Yukon Territory, or by the Government Printer for the province or territory;
- (b) By the production of a copy of the Official Gazette for the province or territory, purporting to contain a copy of such proclamation, order, regulation or appointment or a notice thereof;
- (c) By the production of a copy or extract of such proclamation, order, regulation or appointment certified to be a true copy by the clerk or assistant clerk or acting clerk of the executive council or by the head of any department of any such provincial or territorial government or by his deputy or acting deputy, as the case may be. No. 5, 1904, s. 6.

Any order signed by Secretary of State received in evidence.

7. Any order in writing signed by the Secretary of State of Canada, and purporting to be written by command of the Governor General, shall be received in evidence as the order of the Governor General. No. 5, 1904, s. 7.

8. Any order in writing signed by the Territorial Secretary of the Yukon Territory and purporting to be written by command of the Commissioner of the Yukon Territory shall be received in evidence as the order of the Commissioner. No. 5, 1904, s. 8.

Any order signed by the Territorial Secretary received in evidence.

9. Proclamations, treaties and other acts of state of any foreign state, or of any British colony may be proved by the production of a copy purporting to be sealed with the seal of the foreign state or British colony to which the original document belongs. No. 5, 1904, s. 9.

Proclamations, etc., of foreign states proved by production of copy sealed.

OFFICIAL DOCUMENTS.

10. All copies of official and other notices, advertisements and documents printed in *The Canada Gazette* or in *The Yukon Gazette* shall be *prima facie* evidence of the original and of the contents thereof. No. 5, 1904, s. 10.

Production of Gazette containing notices, etc., *prima facie* evidence.

11. In every case in which the original record could be received in evidence,

When original record can be received in evidence.

(a) A copy of any grant, map, plan, report, letter, or official or public document, belonging to or deposited in any department of the Government of Canada, of this territory, or of any province or territory of Canada, purporting to be certified under the hand of any officer or person in whose custody such grant, map, plan, report, letter, or official or public document is placed, and

Copy certified to by officer shall be received.

(b) A copy of a document by law, rule, regulation or proceeding or of any entry in any register or other book of any municipal or other corporation created by charter or statute of Canada or of this territory, or of any province or territory of Canada, purporting to be certified under the seal of the corporation and the hand of the presiding officer, clerk, or secretary thereof,

Certificate under seal of Corporation.

shall be received in evidence in any Court without proof of the seal of the corporation or of the signature, or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. No. 5, 1904, s. 11.

12. Every certificate granted by the Treasury Board under the fourteenth section of Chapter thirty-one of the Acts of Canada for the fifty-third year of Her Majesty's reign, 1890, entitled *An Act Respecting Banks and Banking*, shall, on proof of the signature subscribed thereto, be received as evidence of the contents of such certificate, and that the same was granted by such Treasury Board. No. 5, 1904, s. 12.

Certificate granted by Treasury Board under Sec. 14, Ch. 31, S. C. 53 Vic., to be received as evidence.

13. A copy of any entry in any book kept in any department of the Government of Canada, or of this territory, shall be received as evidence in any Court of such entry, and of the matters, transactions, and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such department, that the entry

Copy of entry in any departmental book proved by oath of officer to be received in evidence.

was made in the usual and ordinary course of business of such department, and that such copy is a true copy thereof. No. 5, 1904, s. 13.

Contents of books, etc., of public nature may be proved by certificate of officer.

14. Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no other statute exists which renders its contents provable by means of a copy, a copy thereof or extract therefrom shall be received in evidence in any Court, provided it is proved that it is a copy or extract purporting to be certified to be true by the officer to whose custody the original has been entrusted. No. 5, 1904, s. 14.

DOCUMENTS IN COURTS.

Copy of Court documents, etc., certified by officer received in evidence.

15. A copy of any document, writing, or proceeding, filed in any Court in this territory, shall be received as evidence to the same extent as the original, if it is certified under the seal of the Court, or by the proper officer, under his hand.

Copy of judgments certified by officer, sufficient proof thereof.

2. A copy of any order for judgment, or of the entry of the judgment in the docket of judgments, certified under the hand of the proper officer, shall be sufficient proof of the judgment in any Court without the production of any record or other proceeding in the action. No. 5, 1904, s. 15.

Evidence of proceeding in any court may be given by production of certified copy thereof.

16. Evidence of any proceeding or record whatsoever of, in, or before any Court in the United Kingdom, or the Supreme or Exchequer Courts of Canada, or any Court, or before any justice of the peace, or any coroner, in any province or territory of Canada, or any Court in any British colony or possession, or any Court of Record of the United States of America, or of any state of the United States of America, or of any other foreign country, may be given in any action or proceeding by a certified copy thereof, purporting to be under the seal of such Court, or under the hand or seal of such justice or coroner, as the case may be, without any proof of the authenticity of such seal, or of the signature of such justice or coroner, or other proof whatever; and if any such Court, justice, or coroner has no seal; or so certifies, then by a copy purporting to be certified under the signature of a judge or presiding magistrate of such Court, or of such justice or coroner, without any proof of the authenticity of such signature, or other proof whatsoever. No. 5, 1904, s. 16.

SHIPS' TITLES.

Registration of a ship proved by copy certified to by custodian of original.

17. Every register of, or declaration made in respect to, any British ship, in pursuance of any of the Acts relating to the registry of British ships, may be proved in any Court, either by the production of the original, or by a copy thereof, purporting to be certified under the hand of the person having the custody of the original.

2. Every register, or copy of register, and every certificate of registry granted under any of the Acts relating to the registry of British vessels, and purporting to be signed as required by law, shall be received in evidence in any Court as presumptive proof of all the matters contained or recited in such register, when the register, or such copy thereof as aforesaid, is produced, and of all the matters contained or recited in, or indorsed upon, such certificate of registry when such certificate is produced. No. 5, 1904, s. 17.

Register or copy and certificate of registry granted and signed as required shall be received in evidence as presumptive proof thereof.

DOCUMENTS ADMISSIBLE IN ENGLAND.

18. Every document which is admissible in evidence of any particular in any Court of justice in England, or Ireland, without proof of the seal, or stamp, or signature, authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be received in evidence to the same extent, and for the same purposes, in any Court without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same. No. 5, 1904, s. 18.

Documents received in courts of England and Ireland without proof of signature, etc., to be received in same manner in any Court.

TOWNSITES AND GRANTS.

19. The plan of any townsite, or the plan of partition, allotment or location of any Crown grant of land in this territory, may be proved in any Court by the production,

Plans of townsites or of partition of land proved

(a) Of a copy of any such plan, certified by the Crown Timber and Land Agent to be a copy of the original plan, or of the duplicate original plan, or the certified copy of the plan on file in his department; or

by production, of. Copy certified by Crown Timber and Land Agent. Copy certified by Registrar of Registration District.

(b) Of a copy of any such plan on file in the Land Titles' Office for any of the Yukon Land Registration Districts in which such townsite or land granted is, in whole or in part, situated, provided such copy is certified by the Registrar of any of such Land Registration Districts to be a true copy of the original plan (or of such duplicate or certified copy) on file in his department.

2. Every such plan on file in such registry office which bears the certificate of the Crown Timber and Land Agent or of the Assistant Gold Commissioner or of the Director of Surveys or of any former Crown Timber and Land Agent, Assistant Gold Commissioner or Director of Surveys, to the effect that such plan is an original plan returned to the said respective offices, shall be presumptive evidence that the same is the original plan so returned.

Plans on file in registry office certified to, presumptive evidence.

3. Every such plan or copy shall be received in evidence without proof of the report or other proceedings taken in respect to the partition, location or allotment of such townsite or grant.

Plans accepted without proof of report.

4. The report, allotment, or other document in respect to any townsite, or in respect to the partition, allotment, or location of any grant of land, may be proved in any Court by the pro-

Any document in respect to townsite or

land proved by copy certified.

Five days' notice to be given.

duction of a copy, certified by the proper officer having custody of the same, to be a true copy of the original document on file in his department.

5. If there is comprised in any such plan or document more than one lot of the original lots, it shall be sufficient to produce in evidence an extract, representing or having reference to the lot in question, certified to be a true extract, provided that the party intending to produce the same has, five days before the trial, given to the party against whom it is intended to be produced notice of such intention. No. 5, 1914, s. 19.

Duplicate original deposited in Crown Timber office certified by agent to be received. Plan filed in said offices and referred to in duplicate original deemed to be plan referred to.

20. A copy of any duplicate original of a grant or patent from the Crown deposited in the Crown Timber and Land Office, or in the Land Titles' Office, certified by the agent or Registrar at said office, shall be received in evidence in any Court to the same extent as the original grant or patent.

2. If any such duplicate original contains a reference to any plan, and there is on file in such office a plan corresponding to the description in, or meeting the requirements of, the said duplicate original, such plan shall be deemed to be the plan referred to in such duplicate original, notwithstanding the same is not annexed to such duplicate original.

DEEDS, WILLS, AND OTHER DOCUMENTS.

Copy of deeds, etc., in Land Titles Office certified by Registrar accepted. Copy of probate of will certified by Territorial Clerk accepted in evidence.

21. A copy of any deed, or any document on file in the Land Titles' Office certified under the hand of the Registrar or proved to be a true copy taken therefrom shall be taken in evidence in place of the original. No. 5, 1904, s. 21.

22. The probate of a will, or a copy thereof, certified under the hand of the clerk of the Territorial Court, or proved to be a true copy of the original will, when such will shall have been probated, shall be received as evidence of the original will; but the Court may, upon due cause shown upon affidavit, order the original will to be produced in evidence, or may direct such other proof of the original will as under the circumstances appears necessary or reasonable for testing the authenticity of the alleged original will and its unaltered condition, and the correctness of the prepared copy.

2. This section shall apply to wills and the probate and copies of wills proved elsewhere than in this territory, provided that the original wills have been deposited, and the probate and copies granted in Courts having jurisdiction over the proof of wills and administration of intestate estates, or the custody of wills. No. 5, 1904, s. 22.

Section shall apply to wills, etc., proved outside the territory.

Five days' notice to be given.

23. A party intending to avail himself of the next two preceding sections shall give notice in writing, of such intention to the opposite party at least five days before the trial, with a schedule of the deeds, documents or wills so intended to be given in evidence, and the books wherein the same are registered; but the judge may dispense with such notice if he is satisfied that no injustice has been done by the want thereof. No. 5, 1904, s. 23.

24. Every bill of sale or other document filed in the office of the Gold Commissioner, may be proved in any Court by the production of a copy thereof certified under the hand of the Gold Commissioner or Assistant Gold Commissioner. No. 5, 1904, s. 24.

Bill of sale etc., in Gold Commissioner's office proved by copy certified.

25. The registration of any deed, or other document registered in the Land Titles' Office, may be proved in any Court by the production of the certificate of registry signed by the Registrar, indorsed on such deed or document, or upon any certified copy of such deed or document. No. 5, 1904, s. 25.

Registration of any deed, etc., in Land Titles Office, etc., proved by certificate of Registrar.

26. The registration of any bill of sale or other document registered in the Gold Commissioner's Office, may be proved in any Court by the production of the certificate of registry signed by the Gold Commissioner or any person authorized to sign on his behalf, indorsed on such bill of sale or document, or upon any certified copy of such bill of sale or document. No. 5, 1904, s. 26.

Registration of any deed etc., in G. C.'s office proved by certificate of G. C.

27. A deed, bill of sale or other document executed out of the territory, as well in foreign countries as in British dominions, shall be received in evidence in any Court, if such deed, bill of sale or other document, is accompanied by such certificate of execution as is required to obtain registration thereof in the Land Titles' Office within the Territory. No. 5, 1904, s. 27.

Documents executed outside Territory.

28. The production in any Court of any protest, wherever made, under the hand or seal of one or more Notaries Public, of a bill of exchange or promissory note, shall be *prima facie* evidence of the making of such protest, and of the statements therein contained. No. 5, 1904, s. 28.

Production of protest by notary public of bill of exchange, etc.

29. Any note, memorandum, or certificate at any time made by a notary, or firm of notaries, in Canada, in the handwriting of such notary, or a member of such firm, signed by such notary or firm at the foot of or embodied in any protest, or in a regular register of official acts kept by such notary or firm, shall be *prima facie* evidence in the Yukon Territory of the fact of notice of non-acceptance or non-payment of a bill of exchange or promissory note having been sent or delivered at the time, and in the manner stated in such note, certificate or memorandum. No. 5, 1904, s. 29.

Any note, etc., made by notary *prima facie* evidence of non-acceptance, etc., of bill of exchange etc.

30. In any action or other proceeding where a party intends to prove a telegraphic message, he may give notice to the opposite party, at least five days before the trial or other proceeding, that he intends, at such trial or proceeding, to give in evidence as proof of the contents of the original telegraphic message, the message received by him from the telegraph office, and such message so received, shall be received as such proof in any Court, provided the party so receiving the same proves that it was received at the telegraph office of the place to which it purports to be addressed. No. 5, 1904, s. 30.

Five days' notice.

MODE OF PROVING.

No proof of handwriting or official position required.

31. No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this ordinance, to the truth of any copy of or extract from any proclamation, order, regulation, appointment, book, grant, map, plan, will, deed, or other document; and any such copy or extract may be in print or in writing or partly in print and partly in writing. No. 5, 1904, s. 31.

Not necessary to prove by attesting witness where attestation not necessary.

32. It shall not be necessary to prove by the attesting witness, any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto. No. 5, 1904, s. 32.

Comparison of disputed writing with genuine permitted.

33. Comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine, shall be permitted to be made by witnesses, and such writing and the evidence of witnesses respecting the same, may be submitted to the Court and jury as evidence of the genuineness or otherwise of the writing in dispute. No. 5, 1904, s. 33.

COMPETENCY OF WITNESSES.

No person incompetent witness through crime or interest.

34. No person shall be an incompetent witness by reason of incapacity from crime or from interest. No. 5, 1904, s. 34.

Parties to action and their wives or husbands competent and compellable witnesses.

35. On the trial of any action, matter, or proceeding in any Court, the parties thereto, and the persons in whose behalf any such action, matter, or proceeding is brought, or instituted, or opposed, or defended, and the husbands and wives of such parties and persons, shall, except as hereinafter excepted, be competent and compellable to give evidence, according to the practice of the Court, on behalf of either or any of the parties to the action, matter or proceeding: Provided, that in any action, or proceeding in any Court, by or against the heirs, executors, administrators, or assigns of a deceased person an opposite or interested party to the action shall not obtain a verdict, judgment, award, or decision therein on his own testimony, or that of his wife, or both of them, in respect to any dealing, transaction, or agreement with the deceased, or in respect to any act, statement; acknowledgement, or admission of the deceased, unless such testimony is corroborated by other material evidence. No. 5, 1904, s. 35.

Corroboration required in case representatives of deceased persons.

Preceding section not to apply to action in consequence of adultery.

36. Nothing in the next preceding section shall apply to any action, suit, or proceeding in any Court instituted by the husband or wife in consequence of adultery. No. 5, 1904, s. 36.

Witness not obliged to answer self-incriminating questions, etc.

37. Nothing in this Ordinance contained shall render any person compellable to answer any question tending to subject him to criminal proceedings, or to prosecution for any penalty.

2. Nothing in this Ordinance contained shall render any person who, in any criminal proceeding, is charged with the commission of any offence under the Ordinances of the Territory, or the wife or husband of the person so charged, compellable to give evidence against the person so charged. No. 5, 1904, s. 37.

No person charged with offence, or husband or wife a compellable witness.

38. No husband shall be compellable to disclose any communication made to him by his wife during the marriage; and no wife shall be compellable to disclose any communication made to her by her husband during marriage. No. 5, 1904, s. 38.

Husband and wife not compelled to disclose communications.

ATTENDANCE OF WITNESSES.

39. No person shall be obliged to attend or give evidence in any action, before any Court, unless he is tendered his legal fees for such attendance and necessary travel. No. 5, 1904, s. 39.

Witnesses not obliged to attend court if fees are not paid.

EXAMINATION OF WITNESSES.

40. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character; but he may, in case the witness, in the opinion of the judge, proves adverse, contradict him by other evidence, or, by leave of the judge, prove that he has made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he made such statement. No. 5, 1904, s. 40.

Party not allowed to impeach credibility of his own witness.

41. If a witness, upon cross-examination as to a former statement made by him relative to the subject-matter of a cause, and inconsistent with his present testimony, does not distinctly admit that he made such statement, proof may be given that he did in fact make it; but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he made such statement. No. 5, 1904, s. 41.

If witness on cross-examination denies having made statement, proof may be given that he did make it.

42. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject-matter of the cause, without such writing being shown to him, but if it is intended to contradict such witness by the writing, his attention shall, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him: Provided, always that it shall be competent for the judge, at any time during the trial, to require the production of the writing for his inspection; and he may thereupon make such use of it for the purposes of the trial as he thinks fit. No. 5, 1904, s. 42.

Witness may be cross-examined as to previous statement in writing but if intended to contradict, writing must be first shown him.

Witness may be questioned as to whether he has been convicted of any crime.

43. A witness in any cause may be questioned as to whether he has been convicted of any crime; and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove such conviction; and a certificate, containing the substance and effect only (omitting the formal part) of the indictment and conviction for the offence, purporting to be signed by the clerk of the Court or other officer having custody of the records of the Court in which the witness was convicted, or by the deputy of such clerk or officer shall, upon proof of the identity of the person, be sufficient evidence of the conviction, without proof of the signature or official character of the person appearing to have signed the same. No. 5, 1904, s. 43.

ADMINISTERING OATHS AND AFFIRMATIONS.

If witness objects to taking oath he may affirm.

44. Every person, upon objecting to being sworn and stating as the ground of such objection either that he has no religious belief, or that the taking of an oath is contrary to his religious belief, shall be permitted to make his solemn affirmation instead of taking an oath, in all places and for all purposes where an oath is or shall be required by law, which affirmation shall be of the same force and effect as if he had taken the oath.

Form of affirmation.

2. Every such affirmation shall be as follows: "I, A. B., do solemnly, sincerely and truly declare and affirm," and then proceed with the words of the oath prescribed by law, omitting any words of imprecation or calling to witness. No. 5, 1904, s. 44.

Who may administer oath.

45. Every Court, judge, justice, officer, commissioner, arbitrator, or other person now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence, may administer an oath to any witness legally called before such Court, judge, justice, officer, commissioner, arbitrator, or other person respectively, and administer an affirmation to any witness who is exempted from taking an oath. No. 5, 1904, s. 45.

OATHS, AFFIDAVITS, ETC., ABROAD.

By whom oaths, etc., may be administered outside of the Territory.

46. Oaths, affidavits, affirmations, or declarations administered, sworn, affirmed or made out of the territory before some one of the following persons:

- (a) A commissioner authorized by the laws of the Yukon Territory to take affidavits in and for any of the courts of this Territory;
- (b) A commissioner authorized to administer oaths in the Supreme Court of Judicature in England or Ireland;
- (c) A judge of the Supreme Court of Judicature in England or Ireland;
- (d) A judge of the Court of Sessions or the Justiciary Court in Scotland;

- (e) A judge of any of the county Courts of Great Britain or Ireland;
- (f) A judge of any Court of record or of supreme jurisdiction in any colony or possession belonging to the Crown of Great Britain, or any dependency thereof, or in any foreign country;
- (g) The mayor or chief magistrate of any city, borough, or town corporate, in Great Britain or Ireland, or in any colony of His Majesty, or in any foreign country, and certified under the common seal of such city, borough, or town corporate;
- (h) If made in the British possessions of India, any magistrate or collector certified to be such under the hand of the Governor of any such possession;
- (i) If made in Quebec, a judge or prothonotary of the Superior Court or clerk of the Circuit Court, or a Judge of Sessions;
- (j) A notary public, and certified under his hand and official seal wherever made;
- (k) Consul General, Consul, Vice-Consul, Pro-Consul, or Consular Agent of His Majesty exercising this function in any foreign place or any person acting as such;

shall, for the purposes of, and in or concerning any cause, matter or thing depending or to be had in any Court in the Territory, be as valid and effectual, and shall be of like force and effect to all intents and purposes, as if such oath, affidavit, affirmation or declaration had been administered, sworn, affirmed or made in this Territory before a Commissioner for taking affidavits therein, or other competent authority of the like nature.

2. Any document purporting to have affixed, impressed, or subscribed thereon, or thereto,

- (a) The signature of any such commissioner;
- (b) The signature of such judge, and the seal of the Court of which he is a member;
- (c) The seal of the corporation and the signature of such mayor;
- (d) The signature of such chief magistrate or governor as aforesaid;
- (e) The official seal and signature of such prothonotary, clerk, Consul General, Consul, Vice-Consul, Pro-Consul, Consular Agent, or any person acting as such, or notary public, the testimony of such oath, affidavit, affirmation or declaration having been administered, sworn, affirmed, or made by or before him, or for any other purpose authorized by this Ordinance,

shall be admitted in evidence without proof of such signature, or seal and signature, being the signature or the seal and signature which they respectively purport to be, or of the official character of such person. No. 5, 1904, s. 46.

Document having signature of commissioner, etc., to be received without proof of signature.

DECLARATIONS AND ACKNOWLEDGEMENTS IN HIS MAJESTY'S DOMINIONS.

Declarations made under Imperial Act, Chap. 62 of 5-6 William IV effective in Territory.

47. Declarations made in conformity with, and which have legal effect and operation in the place where the same are made under and by virtue of an Act of the Imperial Parliament passed in the fifth and sixth years of the reign of his late Majesty King William the Fourth, Chapter sixty-two, relating to the abolition of oaths in certain cases, and of any Act in amendment thereof, shall have the same operation and effect in this Territory as if authenticated under oath before the same officers before whom the declaration had been made, and as if these officers had been authorized to administer such oaths. No. 5, 1904, s. 47.

Acts, deeds, etc., in British possessions with form of proof required where made to have same force in this Territory.

48. Acts, deeds, evidence, acknowledgements, and declarations, now or hereafter done, made, taken or proved in Great Britain or Ireland, or in any of His Majesty's possessions, with those forms of proof and authentication which are the legal mode of proof and authentication in those places, shall have the same force and effect in this Territory as if sworn to before the same persons or officers by and before whom the proof and authentication may be made, and as if those persons or officers had power to administer an oath. No. 5, 1904, s. 48.

If any competent tribunal issues commission to take evidence in territory a judge may order witnesses and production of documents.

49. Where a Court or tribunal of competent jurisdiction in any part of His Majesty's dominions, or in any foreign country, in some proceeding before it, issues or authorizes a commission or order for obtaining the testimony of some person being within this Territory, or the production of papers therein, it shall be lawful for the Territorial Court, or a judge, if satisfied of the authenticity of the commission or order, and the propriety of the examination or production, by order to direct the examination of the persons whom it is desired to examine and the production of papers, when required, in the manner prescribed in the commission or order for examination, or in such other manner, and before such person, and with such notice, as the Court or a judge directs. No. 5, 1904, s. 49.

repealed

CHAP. 31.

An Ordinance exempting certain Property from Seizure and Sale under Execution.

SHORT TITLE.

1. This Ordinance may be cited as *The Exemptions Ordinance*. Short title.

EXEMPTIONS.

2. The following real and personal property of an execution debtor and his family is hereby declared free from seizure by virtue of all writs of execution, namely: Exemption from seizure.

1. The necessary and ordinary clothing of himself and his family;

2. Furniture, household furnishings, dairy utensils, swine and poultry to the extent of five hundred dollars;

3. The necessary food for the family of the execution debtor during six months, which may include grain and flour or vegetables and meat either prepared for use or on foot;

4. The books of a professional man;

5. The tools and necessary implements to the extent of five hundred dollars used by the execution debtor in the practice of his trade or profession;

6. The house and buildings occupied by the execution debtor, and also the lot or lots on which the same are situate according to the registered plan of the same to the extent of fifteen hundred dollars. C.O.Y.T. c. 25, s. 2.

GENERAL.

3. The execution debtor shall be entitled to a choice from the greater quantity of the same kind of articles which are hereby exempted from seizure. Debtor's choice. C.O.Y.T. c. 25, s. 3.

4. Nothing in this Ordinance shall exempt from seizure any article except the food, clothing and bedding of the execution debtor and his family, the price of which forms the subject matter of the judgment upon which the execution is issued. Articles forming consideration of judgment. C.O.Y.T. c. 25, s. 4.

5. In case of the death of the execution debtor, his property exempt from seizure under execution shall be exempt from seizure under execution, against his personal representative if the said property is in the use and enjoyment of the widow and children or widow or children of the deceased and is necessary for the maintenance and support of said widow and children or any of them. Rights of family of deceased debtor. C.O.Y.T. c. 25, s. 5.

Absconding
debtors.

6. The provisions of section 2 hereof shall not apply to any case where the debtor has absconded or is about to abscond from the Territory, leaving no wife or family behind. C.O. Y.T. c. 25, s. 6.

revised
CHAP. 32.

An Ordinance respecting Factors and Agents

SHORT TITLE.

1. This Ordinance may be cited as *The Factors Ordinance*. Short title. C.O.Y.T. c. 36, s. 1.

INTERPRETATION.

2. For the purposes of this Ordinance—

1. The expression "mercantile agent" means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale or to buy goods or to raise money on the security of goods; Interpretation.
"Mercantile agent."

2. A person is to be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or in his behalf;

3. The expression "goods" includes wares and merchandise; "Goods."

4. The expression "document of title" includes any bill of lading, dock warrant, warehousekeeper's certificate or warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize either by indorsement or delivery the possessor of the document to transfer or receive goods thereby represented; "Document of title."

5. The expression "pledge" includes any contract pledging or giving a lien or security on goods whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability; "Pledge."

6. The expression "person" includes any body of persons corporate or incorporate. C.O.Y.T. c. 36, s. 2. "Person."

DISPOSITIONS BY MERCANTILE AGENTS.

3. Where a mercantile agent is with the consent of the owner, in possession of goods or of the documents of title to goods any sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business of a mercantile agent shall subject to the provisions of this Ordinance be as valid as if he were expressly authorized by the owner of the goods to make the same; Powers of mercantile agents respecting disposition of goods.

Provided that the person taking under the disposition acts in good faith and has not at the time of the disposition notice that the person making the disposition has not authority to make the same.

2. Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title

to goods any sale, pledge or other disposition which would have been valid if the consent had continued, shall be valid notwithstanding the determination of the consent;

Provided that the person taking under the disposition has not at the time thereof notice that the consent has been determined.

3. Where a mercantile agent has obtained possession of any document of title to goods by reason of his being or having been with the consent of the owner in possession of the goods represented thereby or of any other documents of title to the goods his possession of the first-mentioned documents shall for the purposes of this Ordinance be deemed to be with the consent of the owner.

4. For the purposes of this Ordinance the consent of the owner shall be presumed in the absence of evidence to the contrary. C.O.Y.T. c. 36, s. 3.

Effect of
pledge of
documents
of title.

4. A pledge of the documents of title to goods shall be deemed to be a pledge of the goods. C.O.Y.T. c. 36, s. 4.

Pledge for
antecedent
debt.

5. Where a mercantile agent pledges goods as security for a debt or liability due from the pledgor to the pledgee before the time of the pledge, the pledgee shall acquire no further right to the goods than could have been enforced by the pledgor at the time of the pledge. C.O.Y.T. c. 36, s. 5.

Rights
acquired by
exchange of
goods or
documents.

6. The consideration necessary for the validity of a sale, pledge or other disposition of goods in pursuance of this Ordinance may be either a payment in cash or the delivery or transfer of other goods or of a document of title to goods or of a negotiable security or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods or of a document of title to goods or of a negotiable security the pledgee shall acquire no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange. C.O.Y.T. c. 36, s. 6.

Agreements
through
clerks, etc.

7. For the purposes of this Ordinance an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent. C.O.Y.T. c. 36, s. 7.

Provisions as
to consignors
and
consignees.

8. Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale or has shipped the goods in the name of another person and the consignee of the goods has not had notice that such person is not the owner of the goods the consignee shall in respect of advances made to or for the use of such person have the same lien on the goods as if such person were the owner of the goods and may transfer any such lien to another person.

2. Nothing in this section shall limit or affect the validity of any sale, pledge or disposition by a mercantile agent. C.O. Y.T. c. 36, s. 8.

DISPOSITIONS BY BUYERS AND SELLERS OF GOODS.

9. Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same. C.O.Y.T. c. 36, s. 9.

Disposition
by seller
remaining in
possession.

10. Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner. C.O.Y.T. c. 36, s. 10.

Disposition
by buyer
obtaining
possession.

11. Where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration the last mentioned transfer shall have the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the transfer of bill of lading has for defeating the right of stoppage *in transitu*. C.O.Y.T. c. 36, s. 11.

Effect of
transfer of
documents on
vendor's lien
or right of
stoppage
in transitu.

SUPPLEMENTAL.

12. For the purposes of this Ordinance the transfer of a document may be by indorsement or where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer then by delivery.

Mode of
transferring
documents.

13. Nothing in this Ordinance shall authorize an agent to exceed or depart from his authority as between himself and his principal or exempt him from any liability civil or criminal for so doing.

Liability of
agent.

2. Nothing in this Ordinance shall prevent the owner of goods from recovering the goods from an agent or assignee under an assignment for the benefit of creditors at any time before the sale or pledge thereof or shall prevent the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the

Saving for
rights of
true owner.

agent would by law be entitled to retain the goods or the documents of title thereto or any of them by way of lien as against the owner or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

3. Nothing in this Ordinance shall prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same or any part of that price subject to any right of set-off on the part of the buyer against the agent. C.O.Y.T. c. 36, s. 13.

Saving for common law powers of agent.

14. The provisions of this Ordinance shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Ordinance. C.O.Y.T. c. 36, s. 14.

LIABILITY OF AGENT OF NON-RESIDENT PRINCIPAL.

Person acting as agent to be liable unless full name, etc. of principal disclosed.

15. Any one acting either as an agent, partner or otherwise in any trading, business or calling in the Yukon Territory, for or on behalf of any person, partnership, association or company, not having his or their principal place of business in the Yukon Territory, or not having a regular place of business in the Yukon Territory, is hereby declared to be and shall be held to be personally liable upon any contract, transaction or obligation whatsoever which may be entered into, made, or incurred in the Yukon Territory for, or in the course of business, trade or calling of such person, partnership, association or company, unless he or they have previously disclosed the full name and residence of such person, and if a partnership, the full names and residences of the partners composing said partnership, and if an association or a company, the principal place of business of that association or company, by a declaration to be made, in all cases, to that effect, and registered at the registration office according, or in addition to whatever may be already required by any law or Ordinance in force in this Territory concerning the registration of trading, partnership, association or company. C.O.Y.T. c. 36, s. 15.

Execution may issue against principal as well as agent.

16. Upon any judgment obtained against any such person acting as such agent, partner or otherwise, based upon a contract, transaction or obligation entered into, made or incurred for, or on behalf of any such person, partnership, association or company; execution may be issued upon and satisfied out of the assets of such person, agent or partner, as well as out of the assets of such person, partner, association or company. C.O.Y.T. c. 36, s. 16.

CHAP. 33.

An Ordinance respecting Fast Driving.

1. Any person riding or driving in or through the streets or highways of any town, village or assemblage of dwellings in the Yukon Territory at a rate or pace greater than six miles an hour shall be liable to a penalty not exceeding \$50 and costs, to be recovered summarily before a justice of the peace. C.O.Y.T. c. 69, s. 1. Fast driving prohibited.

2. The provisions of this Ordinance shall apply to the driving of dogs. C.O.Y.T. c. 69, s. 2. Penalty to apply to dogs.

3. The fire department of towns, villages or assemblages of dwellings shall not be subject to the provisions of this Ordinance. C.O.Y.T. c. 69, s. 3. Not to apply to fire departments.

CHAP. 34.

An Ordinance respecting Ferries.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Yukon Ferries Ordinance*. C.O.Y.T. c. 8, s. 1.

INTERPRETATION.

Interpreta-
tion.

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

“Ferry.”

(1) The term “Ferry” or “Ferries” means any scow, barge or boat used for the purpose of carrying passengers, freight, vehicles, or animals across any river or other body of water;

“Licensee.”

(2) The term “Licensee” means any person or persons holding a license to operate a ferry in accordance with the provisions of this Ordinance. C.O.Y.T. c. 8, s. 2.

LICENSES.

Commis-
sioner
to issue
licenses.

3. Subject to the provisions of this Ordinance the Commissioner may at any time issue a license to any person or persons for the establishment and operation of a ferry or ferries on any river, stream or other body of water in the Territory, granting the exclusive right to maintain and operate the said ferry or ferries within the limits specified in such license and upon such terms as to him may seem fit. C.O.Y.T. c. 8, s. 3.

Terms of
license.

4. No license shall be granted for—

(a) A longer term than one year;

(b) A greater limit than one half mile up and one half mile down the stream, measured along the stream from the point at which the ferry is operated as specified in the license;

(c) Any ferry of which the scow, barge or boat is not of sufficient capacity to carry safely one wagon containing two thousand pounds, together with two horses or other draught animals attached thereto. C.O.Y.T. c. 8, s. 4.

Tolls.

5. The maximum rate of tolls which may be charged for each crossing by means of a licensed ferry shall be fixed from time to time by the Commissioner, and in every ferry license granted the maximum rate of tolls which can be collected shall be specified. C.O.Y.T. c. 8, s. 5.

Fee for
license.

6. The fee to be paid by a licensee on receiving a ferry license as hereinbefore provided shall be \$75. C.O.Y.T. c. 8, s. 6.

Hours.

7. Licensed ferries shall be run at all hours of the day and night (Sundays included) at which they are required, unless in

cases in which loss of life or injury to or loss of property is likely to result therefrom; but in every case in which a ferry is used after nine o'clock in the evening or before six o'clock in the morning, double the rates specified in the license for such ferry may be charged. C.O.Y.T. c. 8, s. 7.

8. Notwithstanding anything contained in this Ordinance, no toll shall be charged for children going to or returning from school, and in no case shall His Majesty's mail be obstructed or charged more than the rates that may be charged according to the terms of the license between the hours of six o'clock in the morning and nine o'clock in the evening. C.O.Y.T. c. 8, s. 8.

No toll to be charged school children and mails.

9. If the water in any stream, river or other body of water upon which the license for the operation of a ferry has been issued, becomes too shallow to permit of such ferry being operated, the licensee shall provide and keep a small boat or canoe with which he shall transfer foot passengers and their baggage across such stream, river or other body of water, and for such service the licensee shall be allowed to charge the fees prescribed in his license for like services by means of the ferry. C.O.Y.T. c. 8, s. 9.

Licensee may run boat in shallow water.

10. The immediate approaches to every ferry shall be kept in such order and condition by the licensee as is necessary to make the ferry accessible at all times for loaded vehicles and animals attached thereto without danger or injury. C.O.Y.T. c. 8, s. 10.

Licensees to keep approaches in order.

11. A ferry on any stream, river, or other body of water that may be fordable at any time, shall not be used to block up or injure such ford or fords or the landing therefrom, nor shall the licensee do any act which will make the ford of any such stream, river, or other body of water, more difficult or dangerous than it would otherwise have been. C.O.Y.T. c. 8, s. 11.

Ferry not to block ford.

12. Every ferry license granted shall specify the kind and size of scow, barge, or boat to be used in such ferrying, the limits of the stream, river, or other body of water within which such ferry is to be operated, the period of time covered by such license, the conditions, the non-fulfilment of which shall subject the license to cancellation; and the provisions, reservations and liabilities provided by this Ordinance shall apply to every such license. C.O.Y.T. c. 8, s. 12.

License to specify size of scow conditions, &c.

13. Every person holding a ferry license shall keep at all times, posted up in a conspicuous place on such ferry, a schedule certified by the Commissioner, showing the authorized ferry rates for the different hours of crossing. C.O.Y.T. c. 8, s. 13.

Schedule of fees to be kept posted.

14. The Commissioner may from time to time appoint such person as he sees fit to inspect and report on the condition of any ferry, or with reference to the complaint of any person

Commissioner may appoint inspector.

using or desiring to use such ferry; and if at any time the person or persons holding the ferry license fail to comply with the written instructions of the Commissioner by neglecting to repair any scow, barge or boat used in connection with such ferry, or to provide a new scow, barge or boat in place of any one considered as being unsafe, or by not providing safe and sufficient immediate approaches to such ferry, he or they shall forfeit his or their license. C.O.Y.T. c. 8, s. 14.

Offences.

15. Any licensee using insulting language to, or illtreating any person using or desiring to use such ferry, or wilfully injuring any property in transit across such ferry, shall be guilty of an offence, and shall be liable upon summary conviction thereof to a penalty not exceeding \$100, and in default of payment thereof to be imprisoned for any period not exceeding three months, and shall also forfeit his license for such ferry.

Penalty.

Penalty for violating terms of license.

2. Upon any licensee being convicted before a justice of the peace of violating any of the terms or conditions of his license or of this Ordinance, he shall be liable on summary conviction thereof to a penalty not exceeding \$50, and in default thereof to imprisonment for any period not exceeding one month and shall be further liable to forfeit his license under the directions of the Commissioner. C.O.Y.T. c. 8, s. 15.

Conviction not to be a bar to civil suit.

16. No conviction, as provided by the next preceding section, shall be a bar to the ordinary civil suit for damages by the person upon whose complaint the conviction was obtained. C.O.Y.T. c. 8, s. 16.

Fees received for licenses to go to general revenue fund.

17. All money received for ferry licenses, fees or bonuses, under this Ordinance, shall be deposited to the credit of the general revenue fund of the Yukon Territory. C.O.Y.T. c. 8, s. 17.

Licensee liable for damages.

18. Every person holding a ferry license shall be liable for all damages that may occur to persons or property, while using such ferry, resulting from any carelessness of such licensee or his agent or from any insufficiency in the strength or suitability of any of the appliances used in connection with the ferry. C.O.Y.T. c. 8, s. 18.

Penalty for running ferry without license.

19. Any person taking, carrying or conveying, across any stream, river or other body of water, any person or personal property, or any vehicle or animal, in any scow, barge, or boat, or on any raft or other contrivance, for hire or reward, or hindering or interfering with any licensee in any way, shall be guilty of an offence, and upon summary conviction thereof shall be liable to a penalty of not exceeding \$100 for each such offence, and in default of payment to imprisonment for any period not exceeding three months. C.O.Y.T. c. 8, s. 19.

Penalty for refusing to pay tolls.

20. If any person using an authorized ferry refuses to pay the authorized toll or rates chargeable for ferrying himself or his property, the licensee of such ferry may forthwith seize any

property in the possession of the offender then being ferried and hold the same, and such person shall be guilty of an offence, and upon summary conviction thereof shall be liable to a penalty of \$50, and in default of payment thereof to imprisonment for a period not exceeding two months; and the property so seized shall be liable for payment of the fine and the tolls and the costs of the prosecution, and may be sold under distress warrant to satisfy such charges. C.O.Y.T. c. 8, s. 20.

CHAP. 35.

An Ordinance respecting the Investigation of
Accidents by Fire.

Magistrate
empowered to
inquire into
cause of fires.

1. Any justice of the peace may subject to the provisions hereinafter contained institute an inquiry into the cause or origin of any fire and whether it was kindled by design or was the result of negligence or accident and act according to the result of such inquiry. C.O.Y.T. c. 33, s. 1.

No inquiry to
be held
except on
reasonable
suspicion.

2. No justice of the peace shall institute an inquiry into the cause or origin of any such fire until a sworn statement in writing has been made before him that there is reasonable suspicion that such fire was the result of culpable or negligent conduct or design or occurred under such circumstances as in the interests of justice and for the due protection of property require an investigation. C.O.Y.T. c. 33, s. 2.

Examination
of witnesses.

3. For the purpose of any inquiry under this Ordinance such justice of the peace shall summon and bring before him all persons whom he deems capable of giving information or evidence touching or concerning such fire and shall examine such persons on oath and shall reduce their examinations to writing and return the same to the Commissioner. C.O.Y.T. c. 33, s. 3.

Penalty for
not
attending
as witness.

4. If any person having been duly summoned as a witness to give evidence upon any such inquiry does not after being openly called three times appear and give evidence at such inquiry the justice of the peace shall be empowered to impose upon the person so making default such fine as he thinks fit not exceeding \$10; and such justice of the peace shall make out and sign a certificate containing the name, residence, trade or calling of such person together with the amount of the fine imposed and the cause of such fine and shall cause a copy of such certificate to be served on the person so fined personally or by leaving it at his residence within seven days after holding such inquiry and if the same is not paid within the space of seven days after such certificate has been served as aforesaid a warrant of distress shall be issued by the justice of the peace to be levied on the goods and chattels of such offender and in default of such distress or if such distress proves insufficient such justice of the peace may commit the offender to prison for any term not exceeding twenty-one days. C.O.Y.T. c. 33, s. 4.

Justice may
fine person
causing fire.

5. If upon such investigation, it is made to appear to the satisfaction of the justice of the peace before whom such investigation is held, that any such fire was caused by the culpable or negligent conduct of any person, he shall have power to summon

such person before him, and, upon summary conviction, to impose upon such person a fine not exceeding \$500 and costs, including those of the investigation, to be allowed upon the same scale as on a summary conviction. C.O.Y.T. c. 33, s. 5.

CHAP. 36.

An Ordinance for the Prevention of Fires.

Quantities of explosives that may be kept in one place.

1. No person shall keep on any premises a larger quantity of gunpowder or other explosive than twenty-five pounds unless the same is stored at least one hundred feet from any building, nor shall any greater quantity than one hundred pounds be kept within any fire limits nor within one mile from the centre thereof. C.O.Y.T. c. 67, s. 1.

Quantities of kerosene that may be kept in one place.

2. No person shall keep on any premises a greater quantity of kerosene than one hundred and twenty gallons or a greater quantity of gasoline than forty gallons, unless the same is stored at least sixty-five feet from any building. C.O.Y.T. c. 67, s. 2.

Fire not to be set within fifty feet of building.

3. No person shall set out fire within fifty feet of any building; provided, nevertheless, that a blacksmith may build a fire within fifty feet of his shop for the purposes of his trade. C.O.Y.T. c. 67, s. 3.

Ashes not to be deposited in wooden vessel.

4. No person shall deposit ashes in any wooden vessel unless it is lined with metal. C.O.Y.T. c. 67, s. 4.

Space to be left between stovepipe and partition.

5. There shall be a space of at least nine inches between any stovepipe and partition or floor through which it passes unless such stovepipe is surrounded in such partition or floor by a thimble of brick, cement or concrete at least two inches in width and of the full thickness of such partition or floor, or by a metal safety flue with an air space of at least three inches.

Distance of stovepipe from wall.

2. At least twelve inches shall intervene between any stovepipe in use and the partition or wall nearest thereto. C.O.Y.T. c. 67, s. 5.

Houses over one story to have ladder on roof.

6. Every proprietor of any house more than one-story high, with a roof having a pitch greater than one foot in three shall keep a ladder on such roof near the chimney thereof. C.O.Y.T. c. 67, s. 6.

Commissioner may establish fire districts.

7. The Commissioner may by proclamation published in the *Yukon Official Gazette* and in one newspaper published in the district affected by such proclamation (if there is one published in said district), establish fire limits within the boundaries of which no person shall erect, or after a date therein named, maintain any building or structure of any description constructed or partly constructed, as to its outer walls and roof, of any material other than wood, brick, stone or metal, and any building or other structure erected or maintained contrary to this section may after a notice to that effect has been posted on such building for five days, be pulled down and destroyed without

compensation by any person under direction of the officer for the time being commanding the Royal Northwest Mounted Police in said district. C.O.Y.T. c. 67, s. 7.

8. Any person guilty of a violation of any of the provisions of this Ordinance shall be liable on summary conviction, to a penalty not exceeding fifty dollars and costs, and in default of payment to imprisonment for a period not exceeding three months. C.O.Y.T. c. 67, s. 8. Penalty.

9. In this Ordinance the expression "village" shall extend to and include any collection of not less than five inhabited or occupied buildings which are not more than one hundred feet apart, and will apply only to towns or villages outside of Dawson. No. 10, 1907, s. 1. "Village" defined.

10. No person shall hereafter place any stove or range in any house or building in any village, without leaving twenty inches clear from any woodwork, immediately above such stove or range and fourteen inches from any woodwork opposite the sides, unless the same is covered by a zinc guard backed with asbestos, and will leave a clear open space between such range or stove. Floors under all stoves shall be protected by a covering of incombustible material. No. 10, 1907, s. 1. Space to be left between stove and woodwork.

11. All ovens, furnaces or stoves shall be properly connected with a chimney of brick, stone or metal, extending at least three feet clear of any roof and all stove pipes where passing through any floor, wall, partition or roof shall be protected with a thimble of metal having an air space of at least four inches and having a metal core built in same, such core to be at least one-half an inch larger than the stove pipe passing through it, and said thimble shall be the full width of floor, wall, partition or roof through which it passes. No. 10, 1907, s. 1. Provision for stove connections with chimney, etc.

12. No stove pipe shall pass through any attic, garret or loft, unless the same be protected by a regulation thimble, extending from the ceiling below such attic, garret or loft to the required distance above the roof. No. 10, 1907, s. 1. Provisions when pipe passes through loft, etc.

13. The standard weight of metal for stove pipes shall be: inside or interior pipes, number 24 gauge steel. Exposed or exterior, number 24 gauge galvanized steel; all of which must be properly guyed and riveted and so constructed as to admit of their being scraped, brushed or cleaned. No person shall maintain, use or permit to be used within the village any pipe or pipes of a lighter weight than number 24 gauge steel, and all such pipe of a lighter weight may be condemned by any member of the Royal Northwest Mounted Police specially detailed for that purpose or by any other person named by the Commissioner, and may be removed or destroyed upon the order of a Stipendiary Magistrate having jurisdiction in the village. No. 10, 1907, s. 1. Standard weight of metals for stove pipes.

Stove pipes,
etc., to be
kept in
repair.

14. All persons shall keep their chimneys and stove pipes in good repair and have the same properly cleaned once a month. No. 10, 1907, s. 1.

Power to
inspect.

15. Any member of the Royal Northwest Mounted Police specially detailed for that purpose or any other person named by the Commissioner, may at any time during day time, enter any inhabited or occupied building in any village to inspect the same regarding the provisions of this Ordinance. No. 10, 1907, s. 1.

Ordinance
not to apply
to Dawson.

16. This Ordinance shall not apply to the City of Dawson. C.O.Y.T. c. 67, s. 9.

repealed

CHAP. 37.

An Ordinance for the Prevention of Prairie and Forest Fires.

SHORT TITLE.

1. This Ordinance may be cited as *The Forest Fires Ordinance*. Short title. C.O.Y.T. c. 74, s. 1.

PROVISIONS AGAINST KINDLING FIRES.

2. Any person who shall either directly or indirectly, personally or through any servant, employee or agent— Causing fires.

1. Kindle a fire and let it run at large on any land not his own property;

2. Permit any fire to pass from his own land; or

3. Allow any fire under his charge, custody or control or under the charge, custody or control of any servant, employee or agent to run at large,

shall be guilty of an offence and shall on summary conviction thereof be liable to a penalty of not less than \$25 and not more than \$500 and in addition to such penalty shall be liable to civil action for damages at the suit of any person whose property has been injured or destroyed by any such fire. C.O.Y.T. c. 74, s. 2; No. 3, 1912, s. 1. Penalty.

CAMP OR BRANDING FIRES.

3. Any person who kindles or is a party to kindling a fire in the open air for camping or branding purposes and who leaves the same without having extinguished it shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$500. C.O.Y.T. c. 24, s. 3; No. 3, 1912, s. 2. Camp or branding fires, extinguishment.

CLEARING LAND.

4. No person shall directly or indirectly, personally or by any servant, agent or employee kindle on any land a fire for the purpose of guarding property, burning stubble or brush, or clearing land, or for the purpose of burning the limbs of trees to be used for firewood or timber unless the land on which the fire is started is at the time it is started completely surrounded by a fireguard not less than twenty feet in width consisting of land covered with snow or water or so worn, graded, ploughed, burned over or covered with water as to be free of inflammable matter, and any person kindling a fire for such purpose shall during the whole period of its continuance cause

it to be guarded by three adult persons provided with proper appliances for extinguishing prairie or forest fire.

2. Any person contravening this section shall be guilty of an offence and be liable on summary conviction thereof to a penalty not exceeding \$500.

Written permission of Commissioner required.

3. No person shall kindle any such fire as is herein mentioned without first having obtained the written permission of the Commissioner of the Yukon Territory, or some person appointed by him for that purpose. C.O.Y.T. c. 74, s. 4. No. 7, 1904, s. 1.

FIRES BY RAILWAY EMPLOYEES.

Railway companies and employees.

5. Nothing in this Ordinance shall prevent any railway company or its employees from burning over the land held by it under its right of way and the land adjoining the same to an extent not exceeding three hundred feet in width on each side of the centre line of the railway.

2. Every person causing, commencing or in charge of such burning shall cause the same during the whole period of its continuance to be watched and guarded by at least four men provided with suitable appliances for extinguishing prairie or forest fire and in default thereof shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$500.

3. This section shall not relieve any person from liability under this Ordinance if any fire so started shall escape or run at large. C.O.Y.T. c. 74, s. 5. No. 3, 1912, s. 4.

SPRING BURNING.

Fires before 7th May.

6. Nothing herein contained shall prevent any person from kindling fire before the 7th day of May in any year for the purpose of clearing any area of land not exceeding three hundred and twenty acres if such land is completely surrounded by a fire guard not less than ten feet in width consisting of land covered with snow or water or being so worn, graded, ploughed, burned over or covered with water as to be free from inflammable matter.

2. Any person so kindling a fire shall cause it to be guarded during the whole period of its continuance by three adult persons provided with proper appliances for extinguishing prairie fire and should such fire be left without being so guarded or be allowed to escape such person shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$500. C.O.Y.T. c. 74, s. 6. No. 3, 1912, s. 6.

PROSECUTIONS.

Burden of proof.

7. It shall not be necessary that any prosecutor or complainant shall in any information or complaint for an offence under this Ordinance negative any exemption, exception, proviso or condition herein contained or prove any such negative

at the hearing or trial, but the accused person may prove the affirmative thereof in his defence if he wishes to avail himself of it. C.O.Y.T. c. 74, s. 7.

RIGHT OF ACTION PRESERVED.

8. Nothing in this Ordinance shall bar or prevent any person from bringing any action against any person to which he is otherwise entitled. C.O.Y.T. c. 74, s. 8. Right of action preserved.

FIRE GUARDIANS.

9. The Commissioner may appoint fire guardians having the powers of constables to enforce the provisions of this Ordinance and all justices of the peace, and all members of the Royal Northwest Mounted Police force shall be *ex officio* fire guardians. C.O.Y.T. c. 74, s. 9. Fire guardians.

10. Any fire guardian may order any grown-up male person under sixty years of age (other than postmasters, railway station agents, members of the medical profession, telegraph operators, conductors, engineers, brakemen, firemen or trainmen) residing or then being within ten miles of a prairie fire or within fifteen miles of a bush fire to proceed at once to the locality of such fire and assist in extinguishing it; and any person neglecting or refusing without lawful excuse to obey any such order shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$5. C.O.Y.T. c. 74, s. 10. Powers of fire guardians.

11. Upon the conviction of any person or persons for any contravention of this Ordinance one-half of the fine imposed shall, upon payment by the person convicted, be paid to the prosecutor or complainant. No. 3, 1912, s. 6. One-half fine payable to prosecutor.

CHAP. 38.

An Ordinance regulating the Exportation of Foxes.

Short title. **1.** This Ordinance may be cited as *The Fox Protection Ordinance*. No. 8, 1914, s. 1.

INTERPRETATION.

Interpretation.

2. In this Ordinance the following expressions have the meaning assigned to them in this Section unless the context otherwise requires:

"Person" or "party."

(a) The word "person" or "party" shall include any person or party, persons or parties or any body corporate or politic, partnership, company or society and the heirs, executors, administrators or other legal representatives of such persons to whom or which the context is capable of applying.

"Penalty" includes "fine" and imprisonment.

(b) The word "penalty" with reference to an offence under this Ordinance includes any fine to which the offender may be liable under this Ordinance and also any imprisonment which under the provisions hereof may be imposed in default of the payment or satisfaction of such fine and also to all forfeitures provided for under the provisions of this Ordinance. No. 8 of 1914, s. 2.

Close season for foxes under one year.

3. No one shall hunt, take, kill, shoot at, wound, injure or molest in any way between the first day of April and the first day of June any fox under one year of age. No. 8 of 1914, s. 3.

Registration and permit to export.

4. Every person who at the date of the coming into force of this Ordinance is the owner of any live fox or foxes in captivity within the Yukon Territory shall not later than two months thereafter file with the Territorial Secretary at Dawson or some person at Whitehorse to be appointed by the Commissioner a statement in writing under oath containing the name of the owner thereof and the number of foxes owned by him with a description of each of such foxes and such person shall thereupon be entitled to a permit from the Commissioner or some person appointed by him for the purpose at Whitehorse authorizing such person to export and ship such foxes to any place without the Territory. No. 8 of 1914, s. 4.

Exportation of foxes not born in captivity.

5. No person, corporation, railway company, express company or other common carrier shall at any time or in any manner export or cause to be exported or carried or have in possession for the purpose of exporting or carrying out of the limits of this Territory any live fox ~~not born in captivity or any other live fox which has not been in captivity for a period of at least two years, but no live foxes of any kind shall be exported from the Territory except in pursuance and by virtue of a permit from the Commissioner or some person at Whitehorse to be appointed by the Commissioner for that purpose.~~ No. 8 of 1914, s. 5.

Permit of Commissioner.

Statutory declaration required.

6. Before any permit for exporting any live fox is granted there shall be filed with the person issuing such permit a statutory declaration by the owner of such fox or his agent that such

see schedule

fox has either been born in captivity or has been in captivity for at least two years. Such declaration to specify the kind and colour of each fox to be exported. The fee for each permit issued shall be \$5. *for each fox* No. 8 of 1914, s. 6. Fee.

7. Every person, corporation, railway company, express company, or other common carrier shall, on production of such permit by the holder thereof, be entitled to carry without the Territory the foxes in such permit described. Such permit to be taken up by them and forwarded to the Territorial Secretary. No. 8 of 1914, s. 7. Permit entitles to export.

8 Every one is guilty of an offence and liable to the penalty hereinafter provided who at any time hereafter in any part of the Territory, without the consent of the owner or caretaker of a ranch or enclosure where foxes or other fur-bearing animals are kept in captivity for breeding purposes, shall approach or enter upon the private grounds of the owner or owners of the said animals within a distance of twenty-five yards from the outer fence or enclosure within which the pens or dens of the said animals are located and upon which said fence notice forbidding trespassing on the said premises is kept posted so as to be plainly discernible at the said distance of not less than twenty-five yards, provided a public highway does not run closer than twenty-five yards. No. 8 of 1914, s. 8. Approaching within 25 yards of enclosure where foxes are kept an offence.

PENALTIES.

9. Every person who violates any of the provisions of this Ordinance is liable on summary conviction thereof to a penalty as follows: Penalties

(a) Any person who commits an offence under or against the provisions of Section 5 of this Ordinance to a penalty of not less than ~~\$50 and not exceeding \$200~~ and in default of payment or satisfaction, to suffer imprisonment for a period not exceeding six months, with or without hard labour. subst.

(b) Any person who commits an offence under or against the provisions of section 3 or section 8 of this Ordinance to a penalty of not less than \$10 and not exceeding \$100 and in default of payment or satisfaction to suffer imprisonment for a period not exceeding three months, with or without hard labour.

(c) In addition to the penalty provided in subsections "a" and "b" hereof, all foxes found being exported or shipped from the Territory or which have been taken within the prohibited period in violation of the provisions of sections 3 and 5 of this Ordinance, shall, on conviction of any person so taking, exporting or shipping the same, be forfeited to and become the property of the Yukon Government. No. 8 of 1914, s. 9. Confiscation of foxes being unlawfully exported.

10. Every fee, fine or penalty recovered under this Ordinance shall be paid into the office of the Territorial Treasurer. No. 8 of 1914, s. 10. Fees, etc., to be paid to Treasurer.

11. All fines, penalties, fees and moneys recovered or paid under any of the provisions of this Ordinance shall form part of the general revenue fund of the Territory. No. 8 of 1914, s. 11. Fees, etc., form part of general revenue.

revised

CHAP. 39.

An Ordinance respecting the Preservation of Game.

SHORT TITLE.

1. This Ordinance may be cited as *The Yukon Game Ordinance*.

Interpreta-
tion.

2. The names by which the beasts and birds mentioned in this Ordinance are therein described include their young and males and females.

"Game
guardian."

1. The expression "game guardian" means a game guardian appointed under the subsequent provisions of this Ordinance.

Seasons.

2. The time within which beasts and birds may be hunted and killed under this Ordinance is called the "Open Season," and the time within which such hunting and killing is prohibited is called the "Close Season." C.O.Y.T. c. 72, s. 1. No. 6 of 1908, s. 1.

Buffalo or
bison not to
be killed.

3. Except as hereinafter provided, buffalo or bison shall not be hunted, taken, killed, shot at, wounded, injured, or molested in any way, at any time of the year. C.O.Y.T. c. 72, s. 2.

4. Except as hereinafter provided, the following beasts and birds shall not be hunted, taken, killed, shot at, wounded, injured, or molested in any way during the following times of the year, respectively:

Close season.

1. Musk ox, elk or wapiti, moose, caribou, deer, mountain sheep or mountain goats, between the first day of March and the first day of September in each year.

2. Grouse, partridge, ptarmigan, pheasants and prairie * chickens, between the fifteenth day of January and the first day of October in each year.

3. Wild swans, wild ducks, and wild geese, snipe, sandpipers or cranes, between the first day of June and the tenth day of August in each year.

Number of
animals to
be killed.

4. No one person shall have the right to kill during the Open Season, except as hereinafter provided, more than two elk or wapiti, two moose, two musk-oxen, six deer, six caribou, two mountain sheep and two mountain goats, and no females shall be killed at any time except as provided by section 21 of this Ordinance.

Persons
killing
animals
to report.

5. Any person who kills any of the above beasts shall report himself at the Mounted Police detachment on his way to Dawson or the creeks, and declare his name, the number of beasts killed and the place where he killed them.

Traders to
keep date of
purchasing
meat.

6. Any person purchasing the meat of any of the above beasts for trading purposes shall keep a register showing the name of the person or persons from whom it was so purchased, the quantity and kind purchased, and also the date of purchase.

* See errata slip immediately
before index.

7. All members of the Royal Northwest Mounted Police shall be ex-officio "game guardians" under this Ordinance, and the Commissioner may appoint other guardians as he sees fit. Any game guardian may call upon any person at any time found in the possession of game to state when, where and from whom it was obtained, and whenever he has reason to suspect that any person is illegally in the possession of game, he shall have the right to inspect any bag or other receptacle, vehicle or other means of transportation in which he supposes it to be, and any person refusing, molesting or obstructing the said game guardian in the accomplishment of such duties, is liable upon summary conviction to a penalty not exceeding \$100 and costs, and in default of payment to imprisonment not exceeding one month. C. O. Y.T. c. 72, s. 3. No. 12, 1903, s. 1. No. 5, 1905, s. 5.

R. N. W. M. P. to be game guardians.

5. The Commissioner in Council may from time to time, when they deem it necessary or expedient so to do, alter by resolution, any of the times fixed by sections 3 and 4 of this Ordinance. C.O.Y.T. c. 72, s. 4.

Close season may be extended.

6. No person who is not a resident of this Territory shall have the right to hunt, take, kill, shoot at or carry away any of the beasts mentioned in this Ordinance unless he is possessed of a license to that effect, signed by the Commissioner of the Yukon Territory or any person appointed by him for that purpose, which license shall be granted only upon payment of a fee of one hundred dollars (\$100), which will form part of the General Revenue Fund of the Territory. No. 6 of 1908, s. 4 No. 1 of 1909 s. 1.

Non-residents of Territory to obtain license.

7. All persons obtaining a license under the next preceding section shall, before leaving the Territory, be required to make oath before a game guardian that they have not violated any of the provisions of this Ordinance giving any particulars with relation thereto that may be required by the game guardian. No. 6 of 1908, s. 4.

Licenses to make declaration.

8. Except as hereinafter provided no eggs in the nests of any of the birds above mentioned, or in the nest of any other species of wild fowl, shall be taken, destroyed, injured or molested at any time of the year. C.O.Y.T. c. 72, s. 5.

Eggs not to be taken.

9. Notwithstanding anything in sections 2, 3, 4 and 5 of this Ordinance, the beasts and birds mentioned in those sections may be lawfully hunted, taken or killed, and eggs of any of the birds or other wild fowl so mentioned may be lawfully taken:

Exceptions.

1. By explorers, surveyors, prospectors, miners or travellers who are engaged in any exploration, survey or mining operations or other examination of the Territory, and are in actual need of the beasts, birds or eggs for food.

2. By any person who has a permit to do so granted under the subsequent provisions of this Ordinance. C.O.Y.T. c. 72, s. 6.

Game not to
be taken by
certain
contrivances.

10. None of the contrivances for taking or killing wild fowl, known as batteries, swivel guns or sunken punts, shall be used at any time of the year, to take, destroy, or kill any of the birds mentioned in this Ordinance, or any other species of wild fowl. C.O.Y.T. c. 72, s. 7.

Not to be
poisoned.

11. None of the birds and beasts mentioned in this Ordinance shall be taken, or killed, at any time of the year by the use of poison or poisonous substances, or pits or falls.

No poison
to be used.

2. It shall be unlawful for any person to use poison or poisonous substances for the purpose of taking or killing any birds or beasts of any kind whatsoever, and the fact that any person places any poison or poisonous substances in such a position that it may be reached or taken by any bird or beast, shall be proof that it was used for such purpose and shall be deemed an offence against the provisions of this Chapter. C.O.Y.T. c. 72, s. 8. No. 5, 1905, s. 1.

Dogs not to
be used.

12. No dog shall be used at any time of the year for hunting, taking, running, killing, injuring or in any way molesting buffalo or bison, or during the close season, any of the other beasts, or any of the birds mentioned in this Ordinance. C.O.Y.T. c. 72, s. 9.

Indians not to
be employed.

13. No one shall enter into any contract or agreement with or employ any Indian or other person, whether such Indian or person is an inhabitant of the country to which this Ordinance applies or not, to hunt, kill, or take contrary to the provisions of this Ordinance, any of the beasts and birds mentioned in this Ordinance, or to take contrary to such provisions, any eggs. C.O.Y.T. c. 72, s. 10.

Offences.

14. Every one is guilty of an offence who violates any of the foregoing provisions of this Ordinance, and is liable on summary conviction thereof to a penalty as follows:

1. For the violation of any provisions with regard to musk oxen, buffalo or bison, elk, wapiti, moose, or deer, to a penalty of not more than \$500.

2. And for the violation as to any other of the provisions of this Ordinance to a penalty of not more than \$100.

3. And he is also liable in every case to pay the costs of conviction. C.O.Y.T. c. 72, s. 11.

Enforcement
of penalties.

15. The authority making the conviction may order that in default of payment of the penalty and the costs of conviction forthwith, or within such times as he orders, either:

1. The penalty and costs shall be levied by distress and sale of the goods and chattels of the person convicted, and that, if sufficient goods and chattels cannot be found the person convicted shall be imprisoned for a period of not more than three months, unless the penalty and costs are sooner paid, or:

2. The person convicted shall be imprisoned for a period of not more than three months, unless the penalty and costs are sooner paid.

3. When, because of the distance, or for want of means of conveyance or communication, or for any other cause, it is not practicable to confine such person in the nearest jail or other place of confinement, the convicting authority shall have power to confine him in any suitable building which is more convenient and nearest to the place of trial, and to take all reasonable necessary precautions to prevent his escape therefrom during the term for which he has been convicted. C.O.Y.T. c. 72, s. 12.

16. In all cases of a conviction under this Ordinance one-half of the fine shall be paid to the informer and one-half shall form part of the General Revenue Fund of the Territory. No. 6 of 1908, s. 5. One-half of fine paid to informer.

17. Any beast, bird or eggs in respect of which any conviction has been made under this Ordinance shall be held to be thereby confiscated, and the authority who has made the conviction may make such disposal of them as he thinks fit, except to sell or barter the same. C.O.Y.T. c. 72, s. 14. On conviction game to be confiscated.

18. Possession shall be constituted as follows, namely: Possession.

1. Possession at any time of the year of a buffalo or bison dead or alive, or any part of a buffalo or bison; or

2. Possession at any time of the year of eggs of any of the birds mentioned in this Ordinance, or of eggs of any other species of wild fowl; or

3. Possession during the close season of any other beast mentioned in this Ordinance, or of any part of any such beast, or of any birds mentioned in section 3, shall be deemed *prima facie* evidence of the killing or taking of the beast, bird or eggs, as the case may be, contrary to the provisions of this Ordinance. Provided however, that this section shall not be construed to prevent the exposure and offering of for sale the carcasses, or any part of them, of beasts killed during the open season, for a period of sixty days after the beginning of the close season. C.O.Y.T. c. 72, s. 15.

19. Any justice of the peace, when he considers it necessary to do so, may appoint a constable or constables to apprehend and arrest any person who has done, or who he has reason to believe has done anything in contravention of any of the provisions of this Ordinance; and any such constable shall, upon apprehending and arresting, bring him for trial without any unnecessary delay before the nearest authority having the right and power to convict under this Ordinance, and shall produce any beast, or bird or eggs or any part of any such beast or bird found in the possession of such person at the time of his apprehension, contrary to the provisions of this Ordinance. C.O.Y.T. c. 72, s. 16. Justice may appoint constable.

20. Any justice of the peace, upon proper information that there is reason to suspect that a breach of any of the provisions of this Ordinance has been committed, or that any beast, Justice may issue search warrant.

bird or eggs, in respect of which such a breach has been committed, or any part of any beast or bird in respect of which such a breach has been committed, is likely to be in any tent, or on any premises, or on board of any vessel, or at any other place, may by warrant under his hand authorize any constable to enter and search any such place, and if found, to seize any such beast, bird or eggs, or any such part of any beast or bird, to be dealt with afterwards according to the provisions of this Ordinance. C.O.Y.T. c. 72, s. 17.

Permits to
kill for
scientific
purposes.

21. The Commissioner or any officer or person duly authorized by him may issue a permit to any person to take or kill, for scientific purposes or for food, or to take with a view to domestication, any number, to be fixed by the Commissioner of each of the said beasts, or birds, except buffalo and bison, or to take eggs not exceeding twelve of each of any of the said birds, or of any other species of wild fowl. Every such permit shall set forth in detail the name, address or calling of the person to whom it is granted, the object for which it is granted, the number of each species or eggs which it is intended such person may kill or take, and the period of time during which the permit is to be in force. C.O.Y.T. c. 72, s. 18. No. 6 of 1908, s. 6.

Game
guardian.

22. The Commissioner may appoint one or more game guardians for the purpose of carrying out the provisions of this Ordinance. C.O.Y.T. c. 72, s. 19.

To take oath.

23. Every game guardian so specially appointed, before acting as such guardian, shall take and subscribe before any judge, notary public or justice of the peace, in and for the Yukon Territory, or before any person specially deputed by the Commissioner the following oath:

I., A.B., a game guardian, in and for the Yukon Territory, do solemnly swear that, to the best of my judgment, I will faithfully, honestly and impartially fulfil, execute and perform the office and duty of such game guardian according to the true intent and meaning of the Ordinance respecting the preservation of game in the Yukon Territory and of all regulations made or to be made thereunder. So help me God. C.O.Y.T. c. 72, s. 20.

Remunera-
tion.

24. The remuneration of game guardians, constables and any other person or persons employed to perform any duties imposed by this Ordinance, or any regulations under it, shall be determined by the Commissioner in Council. C.O.Y.T. c. 72, s. 21.

Rules and
regulations.

25. The Commissioner may from time to time make such rules and regulations, not inconsistent with the provisions of this Ordinance, for the carrying out of the true intent and meaning thereof as are found necessary or deemed expedient by him, and may amend or alter such rules and regulations, or any one of them from time to time as is found necessary or deemed expedient. C.O.Y.T. c. 72, s. 22.

26. Any person who kills any of the beasts or birds mentioned in this Ordinance and does not use the meat thereof for food himself or cause the same to be used for food, or does not offer the same for sale in some market within the Yukon Territory, shall be liable to a penalty not exceeding \$500 and in default of payment to imprisonment for a period not exceeding three months. C.O.Y.T. c. 72, s. 24.

Meat to be used for food or sold.

27. Every person who has in his possession without lawful excuse, during the close season, any beast, bird, or eggs, killed or taken during such close season, shall be liable on summary conviction to a penalty not exceeding \$500 and in default of payment to imprisonment for a period not exceeding three months. No. 5, 1905, s. 2.

Penalty for having game in possession.

28. With the exception of section 3 hereof, this Ordinance shall not apply to Indians who are inhabitants of the Yukon Territory. C.O.Y.T. c. 24, s. 25.

Ordinance not to apply to Indians.

29. No person shall be allowed to export from the Territory except as herein provided. No. 6 of 1908, s. 7.

Exportation.

30. No trophies shall be allowed to be exported until the same have been declared to a game guardian with particulars as to when and where killed. No. 6 of 1908, s. 8.

Exportation of trophies.

31. It shall be the duty of game guardians to issue licenses and permits for the export of trophies under this Ordinance. No. 6 of 1908, s. 9.

Licenses and permits for export.

32. The Commissioner may, by proclamation, set aside any portion of the Territory from the operation of this Ordinance for such period of time as he desires in order to provide sustenance for isolated camps, and when any locality is so set aside under this section, the Commissioner may license one or more hunters to hunt for said district under such restrictions as he deems necessary. No. 6 of 1908, s. 10.

Commissioner may set aside portion of Territory from operation of Ordinance.

repealed

CHAP. 40.

An Ordinance respecting the Public Health.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Yukon Health Ordinance*. C.O.Y.T. c. 9, s. 1.

INTERPRETATION.

Interpretation. **2.** In this Ordinance, unless the context otherwise requires, the expressions hereinafter mentioned shall have and include the following meanings:

"Local Board." **1.** "Local Board" means the Board of Health for any city or town;

"Owner." **2.** "Owner" means the person for the time being receiving the rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person, or who would so receive the same if such lands and premises were let;

"House." **3.** "House" includes hospitals, schools, factories and other buildings, huts and tents used for human habitation or work, whether such use is permanent or temporary and whether the same are stationary or movable;

"Street." **4.** "Street" shall include every highway, road, square, lane, court, alley and passage, whether a thoroughfare or not. C.O. Y.T. c. 9, s. 2.

MEDICAL HEALTH OFFICER.

Commissioner may appoint medical Health Officer. **3.** The Commissioner of the Yukon Territory may appoint one or more duly qualified medical practitioner or practitioners to act as Medical Health Officer or Officers for the Yukon Territory or any part thereof. No. 6, 1912, s. 1.

Medical Health Officer make regulations. Penalty. **4.** The Medical Health Officer with the approval of the Commissioner may from time to time make sanitary regulations for the prevention of infectious and contagious diseases, for the relief of persons suffering therefrom and for the burial of persons who have died thereof, and such orders may be enforced by penalties therein expressed, not to exceed four hundred dollars for any one offence. Such regulations shall be published in the *Yukon Official Gazette*, and the production of any copy of the *Yukon Official Gazette* containing any such regulation shall be *prima facie* evidence of the making, date and contents thereof. C.O. Y. T. c. 9, s. 4.

5. The Medical Health Officer may by such sanitary regulations provide: May make regulations.

1. For the frequent and effectual cleansing of the streets, yards and outhouses by the owners or occupiers of houses and tenements adjoining thereto, or by the local health authorities; for clearing streets and

2. For the removal of nuisances; removing nuisances

3. For cleansing, purifying, ventilating and disinfecting houses, churches, buildings and places of assembly, railway stations, steamboats, railway carriages and cars, as well as other public conveyances by the owners or the persons having the care thereof; cleaning houses, etc.

4. For regulating, in order to prevent the spread of infectious disease, the entry or departure of boats or vessels running between points in the Yukon Territory at the different ports or places in said Territory and the landing of passengers or cargoes from such boats or vessels, or from railway carriages or cars or scows, and receiving passengers or cargoes on board the same; preventing spread of disease.

* 5. For the sale and speedy burial of the dead and the conduct of funerals, for the purpose of preventing the spread of infectious diseases as aforesaid; burial of dead

6. For supplying medical aid and accommodation and medicine and such other articles as are deemed necessary for regulating any epidemic, endemic or contagious disease; supplying medical aid

7. For preventing or mitigating such epidemic, endemic or contagious disease in such other manner as to him seems expedient; preventing disease.

8. For the compulsory vaccination in the Yukon Territory or in any part or section thereof, or in any city or town; compulsory vaccination.

9. For the expense of the vaccination of such persons as are unable to pay therefor; vaccinating indigents

10. For prescribing the periods of quarantine and the formulæ of disinfection; fixing periods of quarantine

11. For securing the enforcement of this Ordinance by local boards. C.O.Y.T. c. 9, s. 5. enforcing ordinance by local board

6. The Commissioner may declare any area or district or any steamboat, boat or vessel running between points in the Yukon Territory in quarantine because of the existence therein or thereon of any contagious or infectious disease, and may appoint any medical practitioner as health officer, and may appoint a sanitary inspector or sanitary inspectors for such district or steamboat during the continuance of such quarantine and may, subject to the provisions of this Ordinance, prescribe their powers, duties and remuneration. C.O.Y.T. c. 69, s. 6. commissioner may establish quarantine.

LOCAL BOARDS.

7. In every city or town the Council shall be the Board of Health. C.O.Y.T. c. 9, s. 7. Town council be the local board.

8. The Local Board shall have power to make, revoke, renew and alter sanitary orders, rules and regulations, including those set out in the schedule hereto in so far as the same affect the district over which said Local Board has jurisdiction, not in- Powers of local board.

* See errata slip immediately before index.

May make regulation for
preventing disease
supplying medical aid
domestic quarantine
cleaning dwellings
burial of dead
cleaning building by owners
removing nuisances
establishing infectious disease hospital
appointing sanitary police
doing work at the cost of person required to do it
collection of amount by distress
Penalties.

consistent with any orders, rules or regulations of the Medical Health Officer in relation to any of the following classes of subjects, that is to say:

1. For the prevention or mitigation of any infectious epidemic, endemic or contagious disease prevalent in the city or town, in such manner as is deemed expedient;

2. For supplying accommodation, medical aid and medicines and such other articles as are deemed necessary;

3. For domestic quarantine and for preventing the admission of persons to, or the departure of persons from any infected building, house or place within the city or town and for detaining persons or things and closing up shops, dwelling houses and buildings that have been exposed to infection, for inspection and disinfection until the danger of infection is passed;

4. For the cleansing, purifying, ventilating and disinfecting of dwellings, hotels, saloons, schools, churches, public buildings and places of assembly, carriages, cars and boats, and conveyances coming into or landing passengers in the city or town by the owners, occupiers or agents or persons having charge of the same;

5. For the reporting of all cases of disease and the safe and speedy interment of the dead, and the conduct of funerals;

6. For the frequent and effectual cleansing of public and private buildings, yards and outhouses, by the owners, occupiers, tenants or agents of the same;

7. For the removal of nuisances or anything declared by the Local Board to be detrimental to the public health;

8. For the establishment, management and maintenance of an infectious disease hospital, the isolation of patients out of the hospital and their removal to and detention in the same;

9. For the appointment of sanitary police, to be paid by the city or town for the purpose of carrying out and enforcing the regulations and orders of the Local Board;

11. For the doing of any work, matter or thing at the cost and expense of any person or corporation who has been ordered or required by the Local Board to do the same and has neglected or refused to do so, and for collecting and recovering the amount so expended by distress and sale of goods or property of the person or corporation so neglecting or refusing, or by action at law or otherwise.

12. The Local Board may fix penalties for the violation of any such sanitary orders, rules or regulations not exceeding \$100 and costs for any offence. C.O.Y.T. c. 9, s. 8.

SANITARY INSPECTORS.

Commissioner appoint officers.

9. The Commissioner may appoint such other officers to be known as sanitary inspectors as he deems necessary to assist the Medical Health Officer in carrying out the provisions of this Ordinance. Every sanitary inspector shall perform such duties under this Ordinance and the regulations made thereunder as may from time to time be required by the Medical Health Officer. C.O.Y.T. c. 9, s. 9.

10. The Medical Health Officer and the sanitary inspectors shall be paid such salaries as may from time to time be fixed by the Commissioner. C.O.Y.T. c. 9, s. 10. Fix salaries.

POWERS OF MEDICAL HEALTH OFFICER.

11. The Medical Health Officer may, in the day time, as often as he thinks necessary, enter into and upon any premises and examine such premises. If upon such examination he finds that the premises are in a filthy or unclean state, or that any matter or thing is there which in his opinion may endanger the public health, he may order the owner or occupant of the premises to cleanse the same and to remove what is so found there. C.O.Y.T. c. 9, s. 11. Powers of
medical
Health
Officer.

12. The Medical Health Officer may also enter in and upon any house, outhouse or premises, in the day time, or into any car, steamboat, stage or other conveyance at any time, for the purpose of making inquiry and examination with respect to the state of health of any person therein; and may also cause any person found therein infected with a dangerously contagious or infectious disease to be removed to some hospital or other proper place; but no such removal shall take place unless such person can be removed without danger to life, and unless such removal is necessary in order to guard against the spread of such disease to the adjoining house or houses. C.O.Y.T. c. 9, s. 12. May enter
premises.

13. In case the owner or occupant of any house or premises neglects or refuses to obey the orders given by the Medical Health Officer, such officer may call to his assistance all constables and peace officers, and such other persons as he thinks fit, and may enter into such dwelling or premises and cleanse the same, and execute or cause to be executed therein the regulations made under this Ordinance, and remove therefrom and destroy whatsoever it is necessary to remove or destroy for the preservation of the public health. C.O.Y.T. c. 5, s. 13. May call
police to his
assistance.

14. Where under the provisions of this Ordinance the Medical Health Officer removes any dirt, filth, refuse or other thing which is likely to endanger the public health or to become or cause a nuisance or which is or is causing a nuisance, such dirt, filth, refuse or other thing shall be subject to the disposition of the Medical Health Officer, and the owner of such shall have no claim in respect thereof. C.O.Y.T. c. 5, s. 14. Owners have
no claim to
filth removed

15. Whenever any physician knows that any person whom he is called upon to visit is infected with small-pox, scarlet fever, diphtheria, typhoid fever, bubonic plague or cholera, such physician shall (subject in case of refusal or neglect to the penalties hereinafter provided) within twenty-four hours give notice thereof to the Medical Health Officer. C.O.Y.T. c. 5, s. 15. Physician to
notify health
officer of
infectious
disease.

Medical Health Officer to put up notice.

16. The Medical Health Officer within six hours after he shall have received a notice of the existence of scarlet fever, diphtheria, small-pox, cholera or bubonic plague, in any house, shall affix or cause to be affixed by the head of the household or by some other person near the entrance of such house a card at least twelve inches square stating that such disease exists in said house. No person shall remove such card without the permission of the Medical Health Officer. C.O.Y.T. c. 5, s. 16.

Medical Health Officer may inspect food.

17. Any Medical Health Officer or sanitary inspector may at all reasonable times inspect any animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetables, grain, bread, flour, milk, or other article of food exposed for sale or deposited in any place for the purpose of sale, or for preparation for sale, and intended for food for man, the proof that the same was not exposed or deposited for any such purpose, or was not intended for food for man, resting with the party charged; and if any such animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetables, grain, bread, flour, milk or other article of food appears to such Medical Health Officer or inspector to be diseased, or unsound or unwholesome or unfit for food for man, he may seize and carry away the same in order that he may cause it to be destroyed or so disposed of as to prevent it from being exposed for sale or used for food for man;

Penalty.

2. The person to whom the same belongs, or did belong at the time of exposure for sale, or in whose possession or on whose premises the said food was found, shall be liable to a penalty not exceeding \$100 for every animal, carcass, or fish, or piece of meat, flesh or fish, or any poultry or game or for the parcel of fruit, vegetables, grain, bread, flour, or for the milk so condemned, or for every other parcel or package of food; or at the discretion of the convicting justice without the infliction of a fine to imprisonment for a term not exceeding three months. C.O.Y.T. c. 9, s. 17.

May call police to his assistance.

18. Any Medical Health Officer or sanitary inspector may, when obstructed in the performance of his duty, call to his assistance any constable, or other person he thinks fit, and it shall be the duty of every such constable or other person so called upon to render, such assistance. C.O.Y.T. c. 9, s. 18.

May do thing at expense persons required.

19. Whenever the Medical Health Officer has any authority to direct that any matter or thing should be done by any person or corporation, he may also, in default of its being done, direct that such matter or thing shall be done at the expense of the person or corporation in default, and may recover the expense thereof with costs by action or distress. C.O.Y.T. c. 9, s. 19.

Power of Health Officer in quarantine district.

20. Where any steamboat, boat or vessel is quarantined or a quarantine district is established a health officer or sanitary inspector shall have power:

To prevent departure of persons.

1. To prevent the departure or removal of any person or thing from said steamship, boat or vessel, or of persons or conveyances from or into any such locality.

2. To detain persons or conveyances who or which have been exposed to infection or contagion for inspection; and may order the cleansing, purifying, and disinfecting thereof and anything contained therein at the expense of the owner, occupier, or the person having the care and control thereof, and may order the detention for this purpose of any steamboat, railway carriage or car and any public conveyance and anything contained therein and any person travelling thereby as long as may be necessary to ensure that all danger of infection is past. C.O.Y.T. c. 9, s. 20.

To detain persons and conveyances.

21. Every milk vendor shall permit all his milch cows and cow byres and all dairies and other places in which milk is kept or sold for general use, to be inspected by the Medical Health Officer or whoever he may desire to do so, and no vendor of milk shall keep any milk intended for sale or which may be afterwards sold or offered for sale in the Yukon Territory, in any place where such milk is likely to become unwholesome or liable to produce disease either by reason of adulteration, contamination with sewage, absorption of disease germs, infection of cows, uncleanness or any other recognized cause, or in any place condemned by the Medical Health Officer. No. 5, 1907, s. 1.

Inspection of cows, dairies, etc.

22. The Medical Health Officer may destroy any cow affected with any infectious or contagious disease. No. 5, 1907, s. 1.

May destroy diseased cows.

23. The Medical Health Officer or sanitary inspector may establish a nuisance ground within the immediate vicinity of any town or village in the Territory, within which all garbage and refuse shall be deposited in accordance with regulations made by the Medical Health Officer. No. 2, 1908, s. 1.

Nuisance ground may be established by Health Officer.

24. The Medical Health Officer or sanitary inspector may change any nuisance ground from time to time as occasion may require. No. 2, 1908, s. 1.

Nuisance ground may be changed.

APPOINTMENT OF LOCAL HEALTH OFFICER.

25. Every city or town may appoint a health officer, and, subject to the provisions of this Ordinance, may prescribe his powers, duties, and remuneration, and the clerk of the council of such city or town shall file a notice of such appointment with the Commissioner within fourteen days thereafter. C.O.Y.T. c. 9, s. 21.

City may appoint local Health Officer.

26. Every health officer of a city or town shall before the third day of every month report to the Commissioner in the form A in the schedule to this Ordinance, the number of cases of contagious or infectious disease and of typhoid fever arising within the limits of such city or town during the preceding month. C.O.Y.T. c. 9, s. 22.

Health Officer to report.

May compel removal of inhabitant.

27. Whenever a disease of a fatal or malignant character is discovered to exist in any house and such house is situated in an unhealthy or crowded place or is in a filthy or neglected state or is inhabited by too many persons, the health officer having jurisdiction in the place in which it is situate may compel the inhabitants of such house to remove therefrom and may place them in some more healthful situation under good shelter until measures can be taken for the immediate cleansing, ventilation, purification or disinfection of such house. C.O.Y.T. c. 9, s. 23.

PRECAUTIONS AGAINST CONTAGION.

28. Any person who—

Penalty for refusing to cause disinfection.

1. Having reason to believe that he or any person over whom he has control whether as parent, guardian or master, or captain of a steamboat; or that anything within his possession has become infected and who does or causes or permits to be done any act whereby any other person is or may become exposed to infection, or who refuses or neglects to cause such disinfection of any such person or thing as is herein prescribed; or who,

Allowing person to enter infected house.

2. Being occupant of any infected house causes or permits to enter therein any person who is not a medical practitioner or other necessary attendant on the sick or a person acting under instructions from any health officer; or who,

Entering quarantine district without permission.

3. Not being an inmate of any infected house or a resident of any quarantined steamboat or district or a medical practitioner or other necessary attendant on the sick, or a person acting under instructions from any health officer, knowingly enters any infected house or steamboat; or who,

Physician for not disinfecting clothes.

4. Being a physician in attendance on any infected person fails to take such precautions as to disinfection of his person and clothing as are prescribed by the Medical Health Officer; or who,

Nurse not disinfecting.

5. Being a nurse or other person charged with the care or nursing of any infected person or of any person ill of typhoid fever refuses or neglects to take such measures respecting the disinfection and disposal of the discharges from any such person as are prescribed by the Medical Health Officer; or who,

Owner offering house not disinfected.

6. Being owner or tenant of any infected house either by himself or his agent knowingly offers for sale or hire such house or any part thereof without first causing it to be disinfected as prescribed by the Medical Health Officer, and for the purposes of this section a house shall be deemed to be let for hire to any part of which any person is admitted as a boarder or lodger; or who,

Allowing child in infected house to attend school.

7. Being the parent or guardian of any pupil in attendance at any school residing in any house which has become infected, or the proprietor of any house which has become infected at which any child is boarded or lodged, thereafter allows such pupil to attend any school without first delivering to the teacher of such school a medical practitioner's certificate certifying to the fact that the disinfection prescribed by the Medical Health

Officer has been done under his direction both as to the person and clothing of the child and the house at which it is boarded or lodged, shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$50 and costs;

Provided that any healthy adult inmate of any house infected with measles or scarlet fever may under the direction of a medical practitioner be disinfected as to his person and clothing as prescribed by the Medical Health Officer and thereupon be allowed to change his place of abode; and,

Provided that any inmate of any infected house may do whatever is necessary to procure medical or other aid in any emergency.

(2.) The medical practitioner in attendance or any health officer may order the removal of any infected person or thing to any hospital, pest house or any isolated building or tent provided for the purpose. C.O.Y.T. c. 9, s. 24.

29. Any person who knowingly, without permission from the Medical Health Officer or a local board in the place to which such person is brought,

1. Brings into the Territory any person ill of any infectious or contagious disease, dangerous to the public health, or

2. Lands in any part of the Territory any person so ill from any vessel or ship, shall be liable to a penalty of not less than one hundred or more than four hundred dollars. C.O.Y.T. c. 9, s. 25.

30. When any person becomes sick of small-pox, malignant cholera, diphtheria, typhoid fever, scarlet fever or any infectious disease, in any house, vessel or other place, in the Territory, the proprietor or other person in charge or possession of such house, vessel or place, shall display in some conspicuous place thereon a yellow flag or a placard, not less than twelve inches square, and shall keep the same displayed during the prevalence of any such infectious disease. C.O.Y.T. c. 9, s. 30.

31. Any medical practitioner attending any person ill of typhoid fever not within the limits of any city or town shall inspect the premises where such person resides and if he should have reason to believe that the water supply thereof has become contaminated by reason of any cesspool or privy pit being adjacent thereto he shall forthwith notify the owner or occupant of such premises to cause immediate removal of the contents thereof, and the subsequent disinfection and filling up with earth of such cesspool or privy pit.

2 Any medical practitioner refusing or neglecting to comply with the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$10 and costs.

3. Any person refusing or neglecting to obey any order or notice given pursuant to the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$10 and costs. C.O.Y.T. c. 9, s. 27.

PENALTIES.

Penalty.

32. Any person who violates any provision of this Ordinance or any regulation made by the Medical Health Officer thereunder, shall be liable for every such offence to a penalty not exceeding \$100 and costs.

Penalty for continued offence.

2. Where any person has been convicted of an offence under this Ordinance, or under any regulation of the Medical Health Officer in force thereunder, and such offence is in the nature of an omission or neglect, or is in respect of the existence of a nuisance or other unsanitary condition, which it is such person's duty to remove, or is in respect to the erection or construction of anything contrary to the provisions of this Ordinance, or of any regulation of the Medical Health Officer in force thereunder, then in case the proper authority in that behalf gives reasonable notice to such person to make good such omission or neglect or to remove such nuisance or unsanitary condition, or to remove the thing which has been erected or constructed contrary to this Ordinance or to its regulations, and default is made in respect thereof, the person offending may be convicted for such default, and shall be liable to the punishment as was, or might have been imposed for the original offence, and so on from time to time as often as after another conviction a new notice is given and the default continues; and in the case of a third or subsequent conviction, it shall not be necessary in the information, conviction or other proceedings to make any reference to any conviction except the first, or to any notice except that in respect of which the proceedings are then being taken. C.O.Y.T. c. 9, s. 28.

Penalty for destroying notice.

33. Any person defacing, destroying or removing any notice provided for by this Ordinance before the disinfection herein provided for has been done shall be guilty of an offence and be liable on conviction thereof to a fine not exceeding \$10 and costs. C.O.Y.T. c. 9, s. 29.

Penalty for refusing to obey order of health officer.

34. Any person who neglects or refuses to obey any order given to him by a health officer, medical practitioner or sanitary inspector in pursuance of the provisions of this Ordinance shall be guilty of an offence and on summary conviction thereof be liable to a penalty not exceeding \$100 with costs. C.O.Y.T. c. 9, s. 30.

Penalty for obstructing health officer.

35. Whoever assaults, obstructs, molests or hinders any health officer, constable or other person in the execution of any duty or exercise of any power conferred upon him by this Ordinance shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding \$25 and costs. C.O.Y.T. c. 9, s. 31.

EXPENDITURE UNDER ORDINANCE.

Payment out of general revenue.

36. The Commissioner may order the payment of any fee, allowance or other remuneration for services rendered or sup-

plies furnished under the provisions of this Ordinance out of the general revenue fund. C.O.Y.T. c. 9, s. 32.

37. Where the necessity and urgency for so doing is established to the satisfaction of the Commissioner by reason of the inability of any person or the friends of any person who may be suffering from any infectious or contagious disease to provide for such person the medical aid, accommodation, and such other services or articles necessary to mitigate or prevent the spread of any such disease the Commissioner may in his discretion authorize the Medical Health Officer or any other person to provide such medical aid, accommodation or other service or article as may be required for such person, and the cost of the same may be defrayed out of the general revenue fund. C.O. Y.T. c. 9, s. 33.

Payment for necessary and urgent expenditure.

DISEASE OUTSIDE THE TERRITORY.

38. When any part of the Territory becomes exposed to any contagious, infectious or epidemic disease then existing in any place outside the Territory, the Commissioner may declare that such disease exists in such place as aforesaid and proscribe all ingress to the Territory therefrom for a period to be named in such order. C.O.Y.T. c. 9, s. 34.

Ingress from district affected may be proscribed.

GENERAL.

39. The regulations set forth in the schedule to this Ordinance shall be in force throughout the Territory until altered or amended under the provisions of this Ordinance, and it shall be the duty of all constables and peace officers to enforce their observance. C.O.Y.T. c. 9, s. 35.

Regulations to be in force.

SCHEDULE.

1. No person shall suffer the accumulation upon his premises, or deposit, or permit the deposit, upon any lot belonging to him, of anything which may endanger the public health, or deposit upon, on or into any street, any manure or other refuse, or vegetable or animal matter or filth.

Not to accumulate refuse on premises.

2. No person shall offer for sale as food any diseased animal, or any meat, fruit, fish, vegetables, milk or other article of food which, by reason of disease, adulteration, impurity or any other cause, is unfit for use.

Not to offer diseased animal for sale.

3. All privies, privy vaults and cesspools shall be regularly emptied by the occupant of the premises whereon they are situated, at least once a week during the period from June 1 to October 1.

Privies to be cleaned regularly.

4. All putrid and decaying animal or vegetable matter shall be removed from all cellars, buildings or out-buildings and yards on or before the 1st day of May in each year.

Putrid matter to be removed.

5. Every householder and every hotel and restaurant keeper or other person shall dispose of all garbage for the disposal of

Garbage to be disposed of.

repealed

CHAR. 41.

An Ordinance for the better Regulation of traffic on
Highways.

SHORT TITLE.

1. This Ordinance may be cited as *The Highway Traffic Ordinance* Short Title.

2. The expression "highway" means and includes all public wagon roads, streets, lanes and bridges not within the limits of a municipality and the land on each side of public wagon roads to a distance of thirty-three feet from the centre line thereof. C.O.Y.T. c. 14, s. 1. Interpretation
"Highway."

3. If a person travelling or being upon a highway in charge of a motor vehicle or of a vehicle drawn by one or more horses, or one or more other animals, meets another motor vehicle or a vehicle drawn as aforesaid, he shall turn out to the right from the centre of the road, allowing to the vehicle so met one-half of the road. No. 12, 1914, s. 1. Vehicles
meeting to
turn to the
right.

4. If a person travelling or being upon a highway, in charge of a motor vehicle or of a vehicle drawn as aforesaid, or on horseback, is overtaken by any other vehicle or horseman travelling at a greater speed, the person so overtaken shall turn out to the right and allow the said vehicle or horseman to pass. No. 12, 1914, s. 1. Vehicles
overtaken
to turn to
the right.

5. If a person travelling upon a highway, in charge of a motor vehicle or of a vehicle drawn as aforesaid or upon horseback, overtakes any other vehicle or horseman, it shall be the duty of such person to turn out to the left in passing such vehicle or horseman, and if he finds it impracticable to turn out as aforesaid, he shall regulate the speed of his vehicle or horse so as to allow the overtaken vehicle or horseman to precede him to some point on the highway where such turning out to the left and a passing can safely be effected. No. 12, 1914, s. 1. Vehicle
overtaking
another to
turn to
the left.

6. If one vehicle is met or overtaken by another and by reason of the extreme weight of the load on either of the vehicles so meeting, or the vehicle so overtaken, the driver finds it impracticable to turn out as aforesaid, he shall immediately stop, and, if necessary for the safety of the other vehicle, and if required so to do, he shall assist the person in charge thereof to pass without damage. C.O.Y.T. c. 14, s. 5. If vehicle
cannot turn as
required must
stop while
other passes.

Where road runs along a bluff motor vehicles to turn to the outside allowing other vehicle to pass on the inside.

7. A person travelling or being upon a highway, in charge of a motor vehicle, on meeting a vehicle drawn by one or more horses, at a point where the road is built along a bluff, embankment or hillside with a wall or steep ascent on the inside of said road and a drop or steep declivity on the outside of said road, shall turn out to the outside of said road to pass the vehicle drawn by one or more horses and the person in charge of the vehicle drawn by one or more horses shall turn out to the inside of said road and shall pass between said motor vehicle and the wall or bluff on the inside of said road. No. 12, 1914, s. 2.

Width of sleigh.

8. It shall be unlawful for any person or company freighting or operating stages between Dawson and Whitehorse or Whitehorse and Dawson during the winter season over the highway between the said two places to use any sled or stage which has a width of less than fifty-six inches from the centre of one runner to the centre of the other runner. No. 12, 1914, s. 3.

Width of tires.

9. It shall be unlawful for any wagon or vehicle carrying a load of freight of two tons avoirdupois to be drawn or driven on any of the public highways of the Territory unless the tires of such wagon or vehicle are at least two inches in width, or to carry a load of freight of more than three tons avoirdupois, unless the tires of such wagon or vehicle are at least three inches in width, or to carry a load of freight of more than four tons avoirdupois along such highways unless the tires of such wagon or vehicle are at least four inches in width. No. 2, 1903, s. 1.

Onus of proof.

10. It shall be sufficient *prima facie* evidence that any wagon or vehicle has carried too large a load, contrary to the provisions of this Ordinance, for any credible witness to state upon oath that to the best of his judgment and opinion the wagon or vehicle in question, at the time of the alleged infraction of this Ordinance, carried too large a load, and upon such evidence being given the onus shall be cast upon the party charged of disproving that the load was too large. No. 2, 1903, s. 2.

Width of felloe.

11. The felloe of every wheel of every wagon or vehicle shall be of equal width with the tire of such wagon or vehicle. No. 2, 1903, s. 3.

Not to allow water from sluice box to run across highway.

12. No person shall allow any water to run on, over or across any highway from any flume, ditch or sluice box owned or used by him unless he conducts the same across said highway by an overhead flume at a sufficient height not to interfere with traffic, or under said road by a culvert, approved of by the Superintendent of Works. C.O.Y.T. c. 14, s. 9.

No one to fill up ditch.

13. No person shall fill up any ditch alongside a highway, and if any person requires to cross a ditch, he shall build a bridge across the same. C.O.Y.T. c. 14, s. 10.

Not to build dam without waste gate.

14. No person shall build a dam across any creek running near a highway without putting a waste gate in the same so as to

prevent the water of the creek from flooding the highway.
C.O.Y.T. c. 14, s. 11.

15. Any person who contravenes or permits the contravention of any of the provisions of this Ordinance shall be deemed guilty of an offence against this Ordinance. C.O.Y.T. c. 14, s. 12. Persons contravening to be guilty of offence.

16. The following acts, practices, matters and things shall be deemed to be offences against this Ordinance, viz: What to be deemed offences.

1. Leaving or keeping a wagon standing upon any highway without leaving a space of eight feet clear on one side of the road.

2. Leaving any portion of the chains, yokes or other harness, or of the cargo or apparatus of any horse or team within five feet of the centre of any highway.

3. Erecting any building or other premises, piling cord-wood, or wilfully placing or keeping any obstruction on any part of any highway, whether by day or night. C.O.Y.T. c. 14, s. 13.

17. Upon being satisfied by information upon oath made before him that there exists any practice, matter or thing constituting an offence against this Ordinance, any Justice of the Peace may issue his warrant under his hand for the removal of the cause of such offence and to do what is necessary to comply with the provisions of this Ordinance, and may entrust the execution of such warrant to any constable or other person, and the person or persons causing the offence aforesaid shall upon summary conviction thereof, be liable to pay, in addition to any other penalty by this Ordinance imposed for such offence, all costs and expenses incurred in and about the removal of the cause of the offence, or to comply with the provisions of this Ordinance as aforesaid, to be recoverable in manner provided for the recovery of penalties. C.O.Y.T. c. 14, s. 14. Power of Justice of the Peace.

18. Any person guilty of an offence against this Ordinance shall, upon summary conviction thereof before a Justice of the Peace, be liable to a penalty not exceeding \$500, and in default of immediate payment to imprisonment for a period not exceeding three months. C.O.Y.T. c. 14, s. 15. Penalty.



CHAP. 42.

An Ordinance respecting Hire Receipts and Conditional Sales of Goods.

Conditional sales of goods.

1. Whenever on a sale or bailment of goods of the value of \$15 or over it is agreed, provided or conditioned that the right of property or right of possession in whole or in part shall remain in the seller or bailor notwithstanding that the actual possession of the goods passes to the buyer or bailee the seller or bailor shall not be permitted to set up any such right of property or right of possession as against any purchaser or mortgagee of or from the buyer or bailee of such goods in good faith for valuable consideration or as against judgments, executions or attachments against the purchaser or bailee unless such sale or bailment with such agreement, proviso or condition is in writing signed by the bailee or his agent and registered as hereinafter provided. Such writing shall contain such a description of the goods the subject of the bailment that the same may be readily and easily known and distinguished:

Proviso.

Provided that nothing in this section shall apply to any bailment where it is not intended that the property in the goods shall eventually pass to the bailee on payment of purchase money in whole or in part or the performance of some condition by the bailee. C.O.Y.T. c. 40, S. 1.

Registration.

2. Such writing or a true copy thereof shall be registered in the office of the registration clerk for chattel mortgages in the registration district within which the buyer or bailee resides within 30 days of such sale or bailment and also in the registration district in which the goods are delivered or to which they may be removed within 30 days of such delivery or removal verified by the affidavit of the seller or bailor or his agent, stating that the writing (or copy) truly sets forth the agreement between the parties, and that the agreement therein set forth is *bona fide* and not to protect the goods in question against the creditors of the buyer or bailee as the case may be. C. O. Y.T. c. 40, s. 2.

Renewal of registration.

3. The seller or bailor, his executors, administrators or assigns or his or their agent shall within 30 days next preceding the expiration of two years from the date of such registration file with such registration clerk a renewal statement verified by affidavit showing the amount still due to him for principal and interest if any and of all payments made on account thereof and whether or to what extent the condition if any of the bailment is still unperformed and thereafter from year to year a similar statement similarly verified within 30 days next preceding the expiration of the year from the filing of the last renewal statement

and in default of such filing the seller or bailor shall not be permitted to set up any right of property or right of possession in the said goods as against the creditors of the buyer or bailee or any purchaser or mortgagee of or from the buyer or bailee in good faith for valuable consideration. C.O.Y.T. c. 40, s. 3.

4. Any seller or bailor or agent of such seller or bailor making any false statement in such renewal statement shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding \$100. C.O.Y.T. c. 40, s. 4. Penalty for false statement.

5. Any such seller or bailor shall be bound by any statement made by him or his agent in such renewal statement and the goods shall be liable to redemption and the seller or bailor to be divested of his property and right of possession if any in the goods upon payment of the amount actually due and owing in respect thereof or upon performance of the condition of the bailment by the buyer, bailee or any person claiming by, through or under the buyer or bailee. C.O.Y.T. c. 40, s. 5. Seller bound by statement made in renewal.

6. The seller or bailor shall upon payment or tender of the amount due in respect of such goods or performance of the conditions of the bailment sign and deliver to any person demanding it a memorandum in writing stating that his claims against the goods are satisfied, and such memorandum shall thereupon operate to divest the seller or bailor of any further interest or right of possession if any in the said goods. Any such memorandum if accompanied by an affidavit of execution of an attesting witness may be registered. C.O.Y.T. c. 40, s. 6. Memorandum of satisfaction of seller.

7. In case the seller or bailor shall retake possession of the goods he shall retain the same in his possession for at least 20 days and the buyer, bailee or any one claiming by or through or under the buyer or bailee may redeem the same upon payment of the amount actually due thereon and the actual necessary expenses of taking possession. C.O.Y.T. c. 40, s. 7. Retaking possession.

8. The goods or chattels shall not be sold without five days' notice of the intended sale being first given to the buyer or bailee or his successor in interest. The notice may be personally served or may in the absence of such buyer, bailee or his successor in interest be left at his residence or last place of abode, or may be sent by registered letter deposited in the post office at least seven days before the time when the said five days will elapse addressed to the buyer or bailee or his successor in interest at his last known post office address in Canada. The said five days or seven days may be part of the 20 days mentioned in section 7 hereof. C.O.Y.T. c. 40, s. 8. Five days' notice of sale to be given.

9. Copies of any instrument filed under this Ordinance certified by the registration clerk shall be received as *prima facie* evidence for all purposes as if the original instrument were produced and also as *prima facie* evidence of the execution of Copies of instrument to be evidence.

the original instrument according to the purport of such copy. And the clerk's certificate shall also be *prima facie* evidence of the date and hour of registration or filing. C.O.Y.T. c. 40, s. 9.

Registration
fees.

10. The registration clerk shall be entitled to charge a fee of \$2 for each registration including certificate of same on registration, 50 cents for each search, 20 cents per 100 words for copies of documents and 50 cents for each certificate. C.O. Y.T. c. 40, s. 10.

CHAP. 43.

An Ordinance to regulate Public Aid to Hospitals.

SHORT TITLE.

1. This Ordinance may be cited as *The Hospitals Ordinance*. Short title. C.O.Y.T. c. 10, s. 1. *submitted 1949 c 6 (int)*

INTERPRETATION.

2. In this Ordinance, unless the context otherwise requires— Interpretation.
1. The expression "free patient" means every person admitted to a hospital for actual treatment and stay by or for whom or on whose behalf no money is paid or given or money's worth given for such treatment or stay. "Free patient."
2. The expression "partially free patient" means every person admitted to a hospital for actual treatment and stay by or for whom or on whose behalf only part of the cost of such treatment and stay is paid in money or money's worth. C.O. Y.T. c. 10, s. 2. "Partially free patient."

GRANTS IN AID OF HOSPITALS.

3. Aid from the general revenue fund of the Territory may be given to hospitals named in the schedule to this Ordinance upon the terms and under the provisions of this Ordinance. Hospitals which may be aided. C.O.Y.T. c. 10, s. 3.

4. In case of public moneys being appropriated for the purposes of this Ordinance by the Commissioner in Council every such hospital complying with the requirements of this Ordinance and of all orders made by the Commissioner hereunder, shall receive in each year aid from such moneys to the extent and amount following that is to say:— Grants from public moneys. *submitted 1948 c 4*

1. Every such hospital shall have and receive 50 cents per day for each day's actual treatment and stay of every patient;

2. Every such hospital shall have and receive an additional grant of \$2 per day for each day's actual treatment and stay of every partially free patient admitted to or being within such hospital during the calendar year for which such aid is granted less the number of days represented by any money's worth given for such treatment and stay at the cost of \$4 per day;

3. Every such hospital shall have and receive an additional grant of \$2 per day for each day's actual treatment of every free patient admitted to or being within such hospital during the calendar year next preceding that for which such aid is given. C.O.Y.T. c. 10, s. 4.

5. If in any year the aggregate aid payable under this Ordinance shall exceed the amount of money so appropriated then every *submitted* When appropriation insufficient. *1949 c 6 (int)*

such hospital shall only receive such sum as will bear the same proportion to the amount of aid which but for this section it would receive as the amount of money so appropriated bears to such aggregate aid as aforesaid. C.O.Y.T. c. 10, s. 5.

RETURNS.

When and how returns to be made.

6. The Commissioner may from time to time fix and direct the particulars to be contained in and the form, manner and time of making returns and shall fix and direct the form and manner of the oath, affirmation or declaration required for the verification of any such return and the person or persons by whom such oath shall be made. C.O.Y.T. c. 10, s. 6.

Quarterly reports to be delivered.

2. All hospitals receiving aid under this Ordinance shall deliver quarterly reports to the Commissioner on the first day of January, April, July and October in each year. Each report shall contain an itemized account of all receipts from whatever sources and expenditures with respect to the maintenance of the hospital during the previous three months. No. 13, 1907, s. 1.

INSPECTION OF HOSPITALS.

Inspection of hospitals.

7. The Commissioner may from time to time appoint an inspector or inspectors to visit and inspect every such hospital and make all proper inquiries as to the maintenance, management and affairs thereof; and by examination of the registers and by such other means as he or they deem necessary all and every such inspector or inspectors shall particularly satisfy himself or themselves as to the correctness of any returns made under this Ordinance or under any order of the Commissioner in that behalf; upon all which matters he or they shall make a report to the Commissioner. C.O.Y.T. c. 10, s. 7.

FALSE RETURNS.

Penalty for making false return.

8. Any person who knowingly and wilfully makes or is a party to or procures to be made directly or indirectly any false return either under this Ordinance or any Order of the Commissioner shall on summary conviction incur a penalty of \$500. C.O.Y.T. c. 10, s. 8.

EXTENSION TO OTHER HOSPITALS.

Extension of aid to other hospitals.

9. The Commissioner may by order direct that any institution similar to those named in the schedule hereto shall be thereafter taken as named in the said schedule; and thereupon and thereafter any such institution shall receive aid under this Ordinance after the manner and to the same extent as the institutions named in the said schedule. C.O.Y.T. c. 10, s. 9.

SCHEDULE.

The Good Samaritan Hospital, Dawson.
St. Mary's Hospital, Dawson.

1948C4

revised

repealed

CHAP. 44.

An Ordinance respecting Hotel and Boarding
House Keepers.

SHORT TITLE.

1. This Ordinance may be cited as *The Hotelkeepers' Ordinance*. C.O.Y.T. c. 51, s. 1. Short title.

LIEN OF HOTEL OR BOARDING HOUSE KEEPER.

2. Any hotel, boarding or lodging house keeper may seize and detain in his hotel, house, or on his premises, and before the same shall have been removed therefrom, the trunks and personal property of any person who is indebted to him for board and lodging and shall be responsible for the safe keeping of the same; and in addition to all remedies provided by law he shall have the right in case the charges remain unpaid for three months after the seizure thereof to sell by public auction the baggage and property of such guest, boarder or lodger, so seized, on posting and keeping posted during the period of one week on the outside of the door of such hotel, boarding or lodging house a notice of such intended sale, stating the name of the guest, boarder or lodger, the amount of his indebtedness, a description of the baggage or other property to be sold, the time and place of sale, and the name of the auctioneer, and after such sale, such hotel, boarding or lodging house keeper may apply the proceeds of such sale in payment of the amount due to him as aforesaid and the costs of such advertising and sale; and he shall pay over the surplus if any to the person entitled thereto on application being made by him therefor; and in case application therefor is not forthwith made he shall immediately pay the same to the Territorial Treasurer, to be kept by him for such owner for one year; after which time if such owner has not previously claimed the amount so kept the same shall form part of the general revenue fund of the Territory. C.O.Y.T. c. 51, s. 2.

Right of detention and sale of goods of lodger indebted for board, etc.

Disposition of surplus.

3. No hotel, boarding or lodging house keeper shall have a right to detain the trunks or personal property of any one, or to have a lien thereon, for wines or spirituous or fermented liquors supplied to him or to any one else by his order. C.O.Y.T. c. 51, s. 3. No lien for liquors.

LIABILITY OF HOTEL KEEPER.

4. No hotel keeper shall be liable to make good to any guest of such hotel keeper any loss of or injury to goods or property brought to his hotel (not being a horse or other live animal or any gear appertaining thereto or any carriage), to a greater amount than \$200, except in the following cases, that is to say:

Limitation of liability of hotelkeeper in certain cases.

1. When such goods or property shall have been stolen, lost or injured through the default or neglect of such hotel keeper or any servant in his employ;

2. When such goods or property shall have been deposited expressly for safe custody with such hotel keeper:

Provided always that in case of such deposit it shall be lawful for such hotel keeper if he thinks fit, to require as a condition to his liability that such goods or property shall be deposited in a box or other receptacle fastened and sealed by the person depositing the same. C.O.Y.T. c. 51, s. 4.

Refusal of
hotelkeeper
to receive
goods into
safe custody.

5. If any hotel keeper shall refuse to receive for safe custody as before mentioned any goods or property of his guest, or if any such guest shall through any default of the hotel keeper be unable to deposit such goods or property as aforesaid, the hotel keeper shall not be entitled to the benefit of this Ordinance in respect of such goods or property. C.O.Y.T. c. 51, s. 5.

ORDINANCE TO BE POSTED.

This
Ordinance to
be posted
in hotels.

6. Every hotel keeper shall cause to be kept conspicuously posted in the office and public rooms in his hotel a copy of this Ordinance printed or plainly written, and he shall be entitled to the benefits of this Ordinance in respect of such goods or property only as shall be brought to his hotel while such copy shall be so posted as aforesaid. C.O.Y.T. c. 51, s. 6.

repealed

CHAP. 45.

An Ordinance respecting Commissioners to make Inquiries concerning Public Matters.

1. The Commissioner of the Yukon Territory may, when he deems it expedient to cause inquiry to be made into and concerning any matter within the jurisdiction of the Council of the said Yukon Territory, appoint commissioners to make such inquiry and report thereon. C.O.Y.T. c. 11, s. 1.

Commissioner may appoint commissioners to inquire into public matters.

2. He may, by the commission by which he appoints them, confer upon the commissioners the power of summoning witnesses before them and to require such witnesses to give evidence on oath, orally or in writing, or on solemn affirmation if they are persons entitled to affirm in civil matters, and to produce such documents and things as the commissioners may deem requisite to the full investigation of the matters into which they are appointed to inquire; and the commissioners shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence, as is vested in any court of record in civil cases. C.O.Y.T. c. 11, s. 2.

He may empower commissioners to summon and examine witnesses on oath.


 CHAP. 46.

An Ordinance respecting Insane Persons.

Issue of
warrant on
information
before J. P.

1. When an information is laid before a justice of the peace that any person is or is suspected and believed to be insane such justice may issue his warrant in form A in the schedule hereto to apprehend such person and cause him to be brought before him or some other justice of the peace. C.O.Y.T. c. 77, s. 1.

Evidence to
be taken.

2. Upon the person charged, as aforesaid being brought before such justice the said justice shall proceed to hear such evidence under oath as may be adduced with reference—

- (a) To the alleged insanity of the person so brought before him, adjourning the inquiry from time to time as may be necessary for the purpose and remanding him meanwhile to jail or other safe custody;
- (b) To his residence for at least the six months previous to the inquiry;
- (c) To his calling or profession;
- (d) To his means of support;
- (e) To the fact of his being married or unmarried; also
- (f) As to whether or not the said person if committed under the provisions of this Ordinance will be sent back to his former residence and at whose cost. C.O.Y.T. c. 77, s. 2.

Committal
of insane.

3. If, after hearing the evidence adduced, the justice of the peace is satisfied that the person so brought before him is insane such justice shall commit him by warrant in form B in the schedule hereto to a jail, there to remain until the pleasure of the Commissioner of the Yukon Territory is known, or until the said person is discharged by law, and shall forthwith make a report of the case, accompanied with a true copy of the information and evidence taken, to the Public Administrator, who shall have power, if he sees fit, to order further inquiries to be made; and who shall, unless otherwise ordered by the Territorial Court of the Yukon Territory, be guardian of the estate and effects of such person, with full power to deal with the same during the insanity of the person so declared or adjudged to be insane.

Public Ad-
ministrator
to be
guardian.

Estate of
insane per-
sons to be
liable for
maintenance.

2. The estate and effects of any person heretofore, or hereafter who shall so be declared or adjudged to be insane under the provisions of this Ordinance, or by the Territorial Court, or a judge thereof, shall be liable for the maintenance and support of such person, and for any cost or charge that may be necessarily incurred by or on his or her behalf during such insanity. No. 3, 1911, s. 1.

4. In case it appears to such justice that such person is not insane the justice shall discharge him. C.O.Y.T. c. 77, s. 4. Otherwise discharged.

5. The justice of the peace acting under the provisions of this Ordinance shall have the like authority for compelling the attendance of witnesses as such justice would have under any law or statute in force respecting summary convictions and shall be entitled to the same fees. C.O.Y.T. c. 77, s. 5. Power to summon witnesses

SCHEDULE.

FORM A.—Sec. 1.

Canada: } To all or any of the constables or other
Yukon Territory.} peace officers of the said Territory:

Whereas information upon oath hath this day been laid before the undersigned, a justice of the peace in and for the said Territory, that A. B. (or a certain male or female person whose name is unknown) is insane;

These are therefore to command you to apprehend the said and bring him (or her) before me or some other justice of the peace in and for the said Territory in order that inquiry may be made respecting the sanity of the said and that he (or she) may be further dealt with according to law.

Given under my hand and seal this day of
A.D. 19 , at in the said Territory.

A. B.,
J.P. [L.S.]

FORM B.—Sec. 3.

Canada: } To all or any of the constables or other
Yukon Territory.} peace officers in the said Territory and to the Royal NorthWest Mounted Police force at (or the keeper of the common jail at):

Whereas information was laid before me (or as the case may be) a justice of the peace in and for the said Territory, on the oath of , that A.B. (or as in the information) was insane;

And whereas inquiry has been made by me respecting the sanity of the said ;

And whereas I have found and adjudged the said to be insane;

These are therefore to command you the said constables or other peace officers or any of you to take the said and safely convey to the Royal NorthWest Mounted Police (or to the keeper of the common jail) at and to deliver to the police aforesaid (or to the said keeper) together with this precept; and I do hereby command the said police force (or the keeper of the said jail) to receive the said into custody and safely keep until the pleasure of the Commissioner be known or until the said shall be discharged by law.

Given under my hand and seal this day of
A.D. 19 , at in the Yukon Territory.

A. B.,
J.P. [L.S.]

CHAP. 47.

An Ordinance respecting Insurance for the benefit of
Wife and Children.

- Interpretation** **1.** In this Ordinance "maturity of the policy" or "maturity of the contract," means the happening of the event or the expiration of the term at which the benefit under the policy or contract accrues due. C.O.Y.T. c. 45, s. 1.
- Husband may insure for benefit of wife or children.** **2.** Any person may insure his life for the whole term thereof or for any definite period for the benefit of his wife and children or of his wife and some one of his children or of his children only or of some one of them and where the insurance is effected for the benefit of more than one he may apportion the amount of the insurance money as he deems proper. C.O.Y.T. c. 45, s. 2.
- May be in name of wife or trustee.** **3.** The insurance may be effected either in the name of the person whose life is insured or in the name of his wife or of any other person (with the assent of such other person) as trustee. C.O.Y.T. c. 45, s. 3.
- Insurance may be declared for benefit of wife or children.** **4.** In case a policy or written contract of life insurance effected by a man on his life, is expressed upon the face of it to be for the benefit of his wife or his wife and children or any of them or in case he has heretofore indorsed or may hereafter indorse or by any writing identifying the policy by its number or otherwise has made or may hereafter make a declaration that the policy is for the benefit of his wife or of his wife and children or any of them such policy shall enure and be deemed a trust for the benefit of his wife for her separate use and of his children or any of them according to the intent so expressed or declared and so long as any object of the trust remains, the money payable under the policy shall not be subject to the control of the husband or his creditors or form part of his estate when the sum secured by the policy or written contract becomes payable but this shall not be held to interfere with any pledge of the policy to any person prior to such declaration.
- Antenuptial policy.** **2.** In the case of a policy or written contract of life insurance effected before marriage a declaration under this section shall be and be deemed to have been as valid and effectual as if such policy or contract had been effected after marriage but nothing herein contained shall affect any action or proceeding now pending. C.O.Y.T. c. 45, s. 4.
- Apportionment may be varied.** **5.** The insured may by an instrument in writing attached to or indorsed on or identifying the policy by its number or otherwise, vary an apportionment previously made so as to extend the benefits of the policy to the wife or the children to

one or more of them although the policy is expressed to be for the benefit of the wife alone or the child or children alone or although a prior declaration was so restricted; and he may also apportion the insurance money among the persons intended to be benefited; and may from time to time by an instrument in writing attached to or indorsed on the policy or referring to the same alter the apportionment as he deems proper; he may also by his will make or alter the apportionment of the insurance money; and an apportionment made by his will shall prevail over any other made before the date of the will except so far as such other apportionment has been acted on before notice of the apportionment by the will.

Apportionment by will.

2. This section applies to policies heretofore issued as well as to future policies. C.O.Y.T. c. 43, s. 5.

6. Where no apportionment is made all persons entitled to be benefited by the insurance shall be held to share equally in the same; and where it is stated in the policy or declaration that the insurance is for the benefit of the wife and children generally or of the children generally without specifying the names of the children the word children means all the children of the insured living at the maturity of the policy whether by his then or any former wife and the wife to benefit by the policy shall be the wife living at the maturity thereof. C.O.Y.T. c. 45, s. 6.

Provision where no apportionment.

7. Any such policy may be surrendered or assigned:

Surrender or assignment of policy.

- (a) Where the policy is for the benefit of children only and the children surviving are of the full age of twenty-one years if the person insured and all such surviving children agree to so surrender or assign; or
- (b) Where the policy is for the benefit of both a wife and children and the surviving children are all of the full age of twenty-one years if the person insured and his then wife if any and all such surviving children agree to so surrender or assign; or
- (c) Where the policy is for the benefit of a wife only or of a wife and children and there are no children living of the person insured and his then wife agrees to so surrender or assign. C.O.Y.T. c. 45, s. 7.

8. Where an apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons in whose favour the apportionment has been made die in the lifetime of the insured the insured may by an instrument in writing attached to or indorsed on or otherwise referring to and identifying the policy of insurance declare that the share formerly apportioned to the person so dying shall be for the benefit of such other person or persons as he names in that behalf not being other than the wife and children of the insured and in default of any such declaration the share of the person so dying shall be the property of the insured and may be dealt with and disposed of by him as he sees fit and shall at his death form part of his estate. C.O.Y.T. c. 45, s. 8.

Apportioned policy.

Death of beneficiary before person insured.

No apportionment.
Death of beneficiary.

9. Where no apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons entitled to the benefit of the insurance die in the lifetime of the insured and no apportionment is subsequently made by the insured the insurance shall be for the benefit of the survivor or of the survivors of such persons in equal shares if more than one; and if all the persons so entitled die in the lifetime of the insured the policy and the insurance money shall form part of the estate of the insured; or after the death of all the persons entitled to such benefit the insured may by an instrument executed as aforesaid make a declaration that the policy shall be for the benefit of his then or any future wife or children or some one of them. C.O.Y.T. c. 45, s. 9.

Payment of insurance money.

10. When the insurance money becomes due and payable it shall be paid according to the terms of the policy or of any declaration or instrument as aforesaid as the case may be free from the claims of any creditors of the insured except as herein provided. C.O.Y.T. c. 45, s. 10.

Insurance for children.

Proof to be adduced.

11. Where the insurance money or part thereof is for the benefit in whole or in part of the children of the insured and the children are mentioned as a class and not by their individual names the money shall not be payable to the children until reasonable proof is furnished to the company of the number, names and ages of the children. C.O.Y.T. c. 45, s. 11.

Appointment of trustees.

12. The insured may by the policy or by his will or by any writing under his hand appoint a trustee or trustees of the money payable under the policy and may from time to time revoke such appointment in like manner and appoint a new trustee or new trustees and make provision for the appointment of a new trustee or trustees and for the investment of the money payable under the policy. Payment made to such trustee or trustees shall discharge the company. C.O.Y.T. c. 45, s. 12.

Payment where no trustees.

13. If no trustee is named in the policy or appointed as mentioned in section 12 hereof to receive the shares to which infants are entitled their shares may be paid to the executors of the last will and testament of the insured or to a guardian of the infants duly appointed by the Territorial Court of the Yukon Territory or a judge thereof upon the application of the wife or of the infants or their guardian and such payment shall be a good discharge to the insurance company. C.O.Y.T. c. 45, s. 13.

Investment by trustees.

14. Any trustee named as provided for in the next preceding two sections and any executor or guardian may invest the money received in government securities or municipal or school debentures or in mortgages of real estate or in any other manner authorized by the will of the insured and may from time to time alter, vary and transpose the investments and apply all or any part of the annual income arising from the share or presumptive share of each of the children in or towards his or her maintenance

and education in such manner as the trustee, executor or guardian thinks fit and may also advance to and for any of the children notwithstanding his or her minority the whole or any part of the share of the child of and in the money for the advancement or preferment in the world or on the marriage of such child. C.O. Y.T. c. 45, s. 14.

15. A guardian appointed as provided in section 13 hereof shall give security to the satisfaction of the Court or judge for the faithful performance of his duty as guardian and for the proper application of the money which he may receive. Where the amount of the insurance money payable to a guardian of infants does not exceed \$400 and probate is sought in respect of a will for the sole purpose of obtaining insurance money to an amount not exceeding \$400 the fees payable on the appointment of such guardian or executor shall be \$4 and no more and such fees shall be regulated in the manner prescribed. C.O.Y.T. c. 45, s. 15.

Security by guardian.

16. If there is no trustee, executor or guardian competent to receive the share of any infant in the insurance money and the insurance company admits the claim or any part thereof the company at any time after the expiration of two months from the date of their admission of the claim or part thereof may obtain an order from the Territorial Court of the Yukon Territory, or a judge thereof for the payment of the share of the infant into court; and in such case the costs of the application shall be paid out of the share (unless the Court or judge otherwise directs) and the residue shall be paid into Court pursuant to the order; and such payment shall be a sufficient discharge to the company for the money paid; and the money shall be dealt with as the Court or judge directs.

Payment of insurance money into court where no trustees, etc.

2. If the company does not within four months from the time the claim is admitted either pay the same to some person competent to receive the money under this Ordinance or pay the same into the Territorial Court the said Court or judge thereof may upon application made by some one competent to receive the said money or by some other person on behalf of the infant order the insurance money or any part thereof to be paid to any trustee, executor or guardian competent to receive the same or to be paid into court to be dealt with as the Court or judge directs and any such payment shall be a good discharge to the company.

Order for payment of insurance moneys.

3. The Court or judge may order the costs of the application and any costs incidental to establishing the authority of the party applying for the order to be paid out of such moneys or by the company or otherwise as seems just and the Court or judge may also order the costs of and incidental to obtaining out of Court moneys voluntarily paid in by a company to be paid out of such moneys. C.O.Y.T. c. 45, s. 16.

Costs.

17. If a person who has heretofore effected or who hereafter effects an insurance for the purposes contemplated by this Ordinance whether the purpose appears by the terms

Surrender of policy for paid-up policy.

of the policy or by indorsement thereon or by an instrument referring to and identifying the policy finds himself unable to continue to meet the premiums he may surrender the policy of the company and accept in lieu thereof a paid-up policy for such sum as the premiums paid would represent payable at death or at the endowment age or otherwise (as the case may be) in the same manner as the money insured by the original policy if not surrendered, would have been payable; and the company may accept the surrender and grant the paid-up policy notwithstanding any declaration or direction in favour of the wife and children or any of them. C.O.Y.T. c. 45, s. 17.

Borrowing for
payment of
premiums.

18. The person insured may from time to time borrow from the company insuring or from any other company or person on the security of the policy such sums as are necessary and the same shall be applied to keep the policy in force on such terms and conditions as are agreed on; and the sums so borrowed together with such lawful interest thereon as is agreed upon shall so long as the policy remains in force be a first lien on the policy and on all moneys payable thereunder notwithstanding any declaration or direction in favour of the wife or children or any or either of them. C.O.Y.T. c. 45, s. 18.

Bonuses and
profits.

19. Any person insured under the provisions of this Ordinance may in writing require the insurance company to pay the bonuses or profits accruing under the policy or portions of the same to the insured; or to apply the same in the reduction of the annual premiums payable by the insured in such way as he directs; or to add the said bonuses or profits to the policy; and the company shall pay or apply such bonuses or profits as the insured directs and according to the rates and rules established by the company:

Provided always that the company shall not be obliged to pay or apply such bonuses or profits in any other manner than stipulated in the policy or the application therefor. C.O.Y.T. c. 45, s. 19.

Several
actions.
Consolida-
tion.

Parties.

20. In case of several actions being brought for insurance money the Court is to consolidate or otherwise deal therewith so that there shall be but one action for and in respect of the shares of all the persons entitled under a policy. If an action is brought for the share of one or more infants entitled all the other infants or the trustees, executors or guardians entitled to receive payment of the shares of such other infants shall be made parties to the action and the rights of all the infants shall be dealt with and determined in one action. The persons entitled to receive the shares of the infants may join with any adult persons claiming shares in the policy. In all actions where several persons are interested in the money the Court or judge shall apportion among the parties entitled any sum directed to be paid and shall give all necessary directions and relief. C.O. Y.T. c. 45, s. 20.

21. No declaration or appointment affecting the insurance money or any portion thereof nor any appointment or revocation of a trustee shall be of any force or effect as respects the company until the instrument or a duplicate or copy thereof is deposited with the company. Where a declaration or indorsement has been heretofore made and notice has not been given the company may until they receive notice thereof deal with the insured or his executors, administrators or assigns in respect of the policy in the same manner and with the like effects as if the declaration or indorsation had not been made. C.O.Y.T. c. 45, s. 21.

Notice to insurance company.

22. If the policy was effected and premiums paid by the insured with intent to defraud his creditors the creditors shall be entitled to receive out of the sum secured an amount equal to the premiums so paid. C.O.Y.T. c. 45, s. 22.

Rights of creditors.

23. Nothing contained in this Ordinance shall be held or construed to restrict or interfere with the right of any person to effect or assign a policy for the benefit of his or her father, mother, husband or wife or children or some one of them in any other mode allowed by law. C.O.Y.T. c. 45, s. 23.

No interference with other modes of assignment, etc.

24. Where all the persons entitled to be benefited whether by original insurance, by written declaration or instrument of variation or apportionment under any policy are of full age they and the person insured may surrender the policy or assign the same either absolutely or by way of security. C.O.Y.T. c. 45, s. 24.

Surrender or assignment of policy.

25. Where any policy of insurance or written contract of life insurance or the declaration indorsed upon or attached to any policy of insurance to which this Ordinance applies whether such declaration has heretofore been or shall hereafter be made provides that the policy shall be for the benefit of a person and in the event of the death of such person for the benefit of another person such first mentioned person shall if living be deemed for the purposes of section 24 of this Ordinance the person entitled to be benefited under such policy. C.O.Y.T. c. 45, s. 25.

Persons entitled in succession.

repealed

April 1, 1955

CHAP. 48.

An Ordinance respecting the Administration of Civil Justice.

Short title.

1. This Ordinance may be cited as *The Judicature Ordinance*. C.O.Y.T. c. 17, s. 1.

SHORT TITLE.

INTERPRETATION OF TERMS.

- Interpretation 2. In the construction of this Ordinance and the rules of Court, unless there is anything in the subject or context repugnant thereto, the several expressions hereinafter mentioned or referred to have or include the meanings following:
- "Cause." 1. "Cause" includes any action, suit, or other original proceeding between a plaintiff and a defendant;
- "Action." 2. "Action" includes suit and means a civil proceeding commenced by writ or in such other manner as may be prescribed by this Ordinance or by rules of Court;
- "Matter." 3. "Matter" includes every proceeding in the Court not in a cause;
- "Originating summons." 4. "Originating summons" means a summons by which proceedings are commenced without writ;
- "Parties." 5. "Plaintiff," "petitioner," "defendant," "party," "person," include bodies politic or corporate holding the relation of plaintiff, defendant or party;
- "Receiver." 6. "Receiver" includes consignee or manager appointed by or under an order of the Court;
- "Plaintiff." 7. "Plaintiff" includes any person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form or proceeding, whether the same be taken by action, petition, motion, summons or otherwise;
- "Petitioner." 8. "Petitioner" includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against any defendant;
- "Defendant." 9. "Defendant" includes every person served with any writ of summons or process, or served with notice of or entitled to attend any proceedings;
- "Party." 10. "Party" includes every person served with notice of or attending any proceeding, although not named in the record;
- "Person." 11. "Person" includes a body corporate or politic;
- "Clerk." 12. "Clerk" or "clerk of the court" includes deputy clerk, and where the context requires it, process issuer;
- "Sheriff." 13. "Sheriff" includes deputy sheriff, duly appointed bailiffs, coroner and other person discharging the duties of sheriff in the particular case or for the time being;

- 14 "Pleading" includes any petition or summons (other than a writ of summons) and also includes the statement in writing of the claim or demand of any plaintiff and of the defence of any defendant thereto and of the reply of the plaintiff to any counterclaim of a defendant; "Pleading."
15. "Judgment" includes decree; "Judgment."
16. "Order" includes rules; "Order."
17. "Affidavit" or "oath" includes affirmation where authorized by law; "Affidavit,"
"Oath."
18. "Rule of Court" or "rules of Court" mean the rules contained in this Ordinance or any rules of Court passed in pursuance or under the authority thereof; "Rule of court."
19. "Lunatic" includes an idiot or other person of unsound mind. "Lunatic."
20. "Execution creditor" includes an assignee of the execution creditor. C.O.Y.T. c. 17, s. 2. "Execution creditor."

JURISDICTION.

3. The jurisdiction of the Territorial Court of the Yukon Territory shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance and the rules of Court, and where no special provision is contained in this Ordinance or in the said rules it shall be exercised as nearly as may be as in the Supreme Court of Judicature in England as it existed on the first day of January, 1898. C.O.Y.T. c. 17, s. 3. Jurisdiction.
Practice and procedure.

4. If there is a district of a deputy clerk established by Ordinance, suits in which the cause of action arose or the defendant resides in such deputy clerk's district shall be entered in the office of the deputy clerk, and suits in which the cause of action arose or the defendant resides in the remaining portion of the Territory shall be entered in the office of the clerk of the court, and if in any suit the cause of action arose in the deputy clerk's district and the defendant resides in the other portion of the Territory or *vice versa*, the suit may be commenced in either the clerk's or deputy clerk's office. C.O.Y.T. c. 17, s. 4. Entry and trial of suits, in what district.

5. A judge sitting in chambers, if he announces that he is sitting in Court, shall have, possess, exercise and enjoy all the powers and authorities, rights, privileges, immunities and incidents of the said Court, and any judgment given or decision or determination, or rule, order or decree made by him while sitting as aforesaid in respect of any matter lawfully brought before him, shall be subject to the provisions in this Ordinance relating to appeal to the Court *en banc*. C.O.Y.T. c. 17, s. 5. Judge in chambers announcement that sitting in court.

6. In every case in which the Court has authority to order the execution of a deed of conveyance, transfer or assignment of any property, real or personal, the Court may by order vest such real or personal property in such person or persons and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; Court may make vesting orders.

and thereupon the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest to the person in whom the same is so ordered to be vested, or in the case of a *chose in action* as if such *chose in action* had been actually assigned to such last mentioned person. C.O.Y.T. c. 17, s. 6.

Sittings of court.

7. The Territorial Court presided over by a single judge for the transaction of the business of the Court may sit and act at any such time and place in the Territory as the Commissioner appoints. C.O.Y.T. c. 17, s. 7.

RULES OF LAW.

Equitable estate, right or relief claimed by plaintiff.

8. In every civil cause or matter commenced in the Territorial Court, law and equity shall be administered by such Court according to the following rules:

1. If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, the Court shall give to such plaintiff or petitioner such relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose.

Equitable estate, right or relief claimed by defendant.

2. If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, the said Territorial Court and every judge thereof shall give to every equitable estate, right or ground of relief so claimed and to every equitable defence so alleged, such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or like purpose.

Counterclaim and third parties.

3. The said Territorial Court and every judge thereof shall also have power to grant to any defendant, in respect to any equitable estate or right or other matter of equity and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant has properly claimed by his pleading; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who has been duly served with notice in writing of such claim pursuant to this Ordinance, or any order of the Court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose and every person served with any such notice shall thenceforth be deemed a

party to such cause or matter with the same rights in respect to his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

4. The said Court and every judge thereof shall recognize and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would have recognized and taken notice of the same in any suit or proceeding duly instituted therein.

Equitable rights appearing incidentally.

5. The Territorial Court in the exercise of its jurisdiction in every cause or matter pending before it shall have power to grant, and shall grant either absolutely or on such reasonable terms and conditions as to it shall seem just all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning any such matters avoided. C.O.Y.T. c. 17, s. 8.

Final determination of matters in controversy.

Multiplicity of proceedings to be avoided.

9. In the case of lunatics and their property and estates, the jurisdiction of the Court shall, subject to the rules of Court, include that which in England is conferred upon the Lord High Chancellor by Commission from the Crown under the Sign Manual. C.O.Y.T. c. 17, s. 9.

Lunatics. Jurisdiction of court.

10. The law to be administered in the Territory as to the matters next hereinafter mentioned shall be as follows:

1. No claim of a *cestui que trust* against his trustee for any property held on an express trust or in respect of any breach of such trust shall be held to be barred by any Statute of Limitations.

Express trusts.

2. An estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste unless an intention to confer such right shall expressly appear by the instrument creating such estate.

Equitable waste.

3. There shall not be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Merger.

4. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee may sue for such possession, or sue or distrain for the recovery of such rents or profits or to prevent or recover damages in respect of any trespass or other wrong relative thereto in his own name only unless the cause of action arises upon a lease or other contract made by him jointly with any other person and in that case he may sue or distrain jointly with such other person.

Mortgagors of land, rights of action of.

Assignment
of *chose in
action*.

Conflicting
claims.

Interpleader.

Stipulations
in contracts
as to time,
etc.

Part
performance
when
satisfaction.

Interlocutory
mandamus.

Injunction.

Receiver.

Damages
in addition to
or instead of
injunction or
specific
performance.

Orders of
court as
against
purchasers.

Rules of
equity
to prevail.

Evidence.

5. In case of an assignment of a debt or other *chose in action*, if the debtor, trustee or other person liable in respect of such debt or *chose in action* has had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or *chose in action*, he shall be entitled if he thinks fit to call upon the several persons making claim thereto to interplead concerning the same.

6. Stipulations in contracts as to time or otherwise which would not heretofore have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in the Territory the same construction and effect as they would in equity.

7. Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose though without any new consideration shall be held to extinguish the obligation.

8. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court or judge in all cases in which it appears to the Court or judge to be just or convenient that such order should be made and any such order may be made either unconditionally or upon such terms and conditions as the Court or judge thinks just; and if an injunction is asked, either before or at or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass such injunction may be granted, if the Court or judge thinks fit whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title and whether the estates claimed by both or by either of the parties are legal or equitable.

9. In all cases in which the Court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act or for the specific performance of any covenant, contract or agreement, the Court if it thinks fit may award damages to the party injured either in addition to or in substitution for such injunction or specific performance and such damages may be ascertained in such a manner as the Court directs, or the Court may grant such other relief as it deems just.

10. An order of the Court under any statutory or other jurisdiction shall not as against a purchaser whether with or without notice be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service.

11. Generally in all matters in which there is any conflict or variance between the rules of Equity and Common Law with reference to the same matter the rules of Equity shall prevail.

12. Subject to the provisions of any Act of the Parliament of Canada and of any Ordinance the laws of evidence which

govern in the administration of civil justice in England shall obtain in the Courts.

13. Minors may sue for wages in the same way as if of full age. C.O.Y.T. c. 17, s. 10. Minors.

CLERK'S DUTIES.

11. The duties of the clerk shall be:

1. To attend at his office and keep the same open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays and except on Saturdays and during vacation when the same shall be closed at one o'clock in the afternoon; Clerk's duties.
Hours of office.
2. On application of any person by himself or his agent, Official duties
 - (a) To receive all complaints and other papers required to be filed in Court;
 - (b) To issue all writs of summons, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of such matters;
 - (c) Tax costs, enter judgments and record all judgments and orders pronounced, given and made;
3. To keep an account of all fines, fees and moneys payable or paid into Court, entering all such amounts in proper approved books in which shall be entered regularly under separate headings all the proceedings taken in any suit, all moneys received and paid out and the persons to whom and by whom the same have been paid which books shall be accessible at all times to suitors and the public; Accounts and books.
4. To attend all sittings of the judge in chambers unless his attendance is dispensed with by the judge; and Sitting in chambers.
5. To do and perform all such other acts and duties as are necessary for the due administration of civil justice in the Territory. C.O.Y.T. c. 17, s. 11. Duties generally.

12. In the absence of the clerk the Court may appoint a suitable person to perform the duties prescribed in the preceding section. C.O.Y.T. c. 17, s. 12. Absence of clerk.

13. All books, papers, documents and moneys in the possession of the clerk by virtue of or appertaining to his office shall upon his resignation, removal or death immediately become the property of such person as the court appoints as clerk pending the appointment of a new clerk of the court. C.O.Y.T. c. 17, s. 13. On vacancy.
Appointment of substitute.
Disposition of books, documents and moneys.

PRACTICE AND PROCEDURE.

14. The practice and procedure of the Territorial Court of the Yukon Territory shall be regulated by this Ordinance and the Rules of Court, but the judge of the said Court shall have power to frame and promulgate such additional Rules of Court as he sees fit and may therein vary, annul, add to or amend the existing rules subject to the following conditions: No. 7 of 1914, s. 1. Practice and procedure.

(a) Such rules shall be forthwith posted in the office of the clerk of the Court at Dawson and shall state a day not less than ten clear days from such posting upon which the same shall take effect so as to permit of the publication of the same in the Yukon Official Gazette as hereinafter provided, and a copy of such rules shall be transmitted to the Territorial Secretary and by him published in the Yukon Official Gazette at least ten clear days before the same shall take effect;

(b) All such rules shall be laid before the Yukon Council at the session thereof next following the making of such rules, and shall remain in force until the conclusion of such session and no longer, unless approved by the said Council. C.O.Y.T. c. 17, s. 14. No. 22 of 1903, s. 2.

Rules of court.

15. Subject to the provisions of this Ordinance and the rules of Court the practice and procedure existing in the Supreme Court of Judicature in England on the first day of January 1898, shall as nearly as possible be followed in all causes, matters and proceedings. C.O.Y.T. c. 17, s. 15.

RULES OF COURT.

[The division of these rules into orders and headings is not to affect the interpretation thereof.]

PART I.

GENERAL PRACTICE AND PROCEDURE.

ORDER I.

FORM AND COMMENCEMENT OF ACTION.

Commencement of action.

1. Every action except as otherwise provided shall be commenced by writ of summons in form "A" in the schedule hereto, with such variations as circumstances require, which writ shall be issued by the clerk upon receiving from the plaintiff the documents specified in Rule 2, and the proper fees.

Statement of claim.

2. At the time of the issue of the writ, the plaintiff or his solicitor shall deliver to the clerk two copies of the plaintiff's statement of claim, and one of such copies shall be attached to such writ and filed with it by the clerk in his office, and a copy of such statement of claim shall be attached to each copy of such writ served. No. 22 of 1903, s. 4.

ORDER II.

WRIT OF SUMMONS.

I.—General.

3. Every writ of summons and also (unless otherwise provided) every other writ shall bear the date of the day on which the same is issued. Writs to be dated.

2. If the writ of summons is served within a distance of ten miles from the clerk's office whence it is issued the time for appearance shall be eight days from such service, and if it is served at a distance of more than ten miles from such office an additional day for every additional ten miles shall be added to such time for appearance. Time for return of writ.

3. A judge may by order shorten the time for appearance. May be shortened.

4. The writ need not state the defendant's address. C.O. Defendant's address on writ not required.
Y.T. c. 17, R. 3. No. 22 of 1903, s. 6.

II.—Concurrent Writ.

4. The plaintiff in any action may at the time of or at any time within twelve months after the issuing of the original writ of summons issue one or more concurrent writ or writs each concurrent writ to show date of the original writ and be marked with the word "concurrent" in the margin and the date of issuing the concurrent writ: Writ concurrent to original.

Provided always that such concurrent writ or writs shall only be in force for the period during which the original writ in such action is in force.

2. When after writ is issued it is made to appear that the defendant or one of several defendants is without the Territory on application as is in these rules hereafter provided for service out of the jurisdiction the judge may order a concurrent writ to issue. Concurrent writ for service *ex juris*.
C.O.Y.T. c. 17, R. 4.

III.—Renewal.

5. No original writ of summons shall be in force for more than twelve months from the date thereof including the day of such date; but if any defendant therein named has not been served therewith the plaintiff may before the expiration of the twelve months apply to the judge for leave to renew the writ and the judge if satisfied that reasonable efforts have been made to serve such defendant or for other good reason may order that the original or concurrent writ of summons (or both) be renewed for six months from the date of such renewal inclusive and so from time to time during the currency of the renewed writ; and the writ shall in such case be renewed by being marked with the day, month and year of such renewal and shall be so marked by the clerk upon the plaintiff or his solicitor filing the judge's order and presenting to him the said writ; and a writ of summons so renewed shall remain in force and be available Duration of writ.
Application for renewal.

to prevent the operation of any statute whereby the time for the commencement of the action may be limited and for all other purposes from the date of the issuing of the original writ of summons. [E. 45.] C.O.Y.T. c. 17, R. 5.

Evidence of renewal and commencement of action.

6. The production of a writ of summons purporting to have been renewed in manner aforesaid shall be sufficient evidence of the writ having been so renewed and of the commencement of the action as of the first date of such renewed writ for all purposes. [E. 46.] C.O.Y.T. R. 6.

IV.—*Lost Writ.*

Copy may be sealed.

7. Where a writ of which the production is necessary has been lost the judge upon being satisfied of the loss and of the correctness of a copy thereof may order that such copy shall be sealed and used in lieu of the original writ. [E. 47.] C.O.Y.T. c. 17, R. 7.

V.—*Indorsement by Solicitor.*

Indorsement on writ by solicitor.

8. The solicitor of a plaintiff suing by a solicitor shall indorse on the writ the address of the plaintiff and also his own name or firm and place of business and also, if his place of business is more than three miles from the clerk's office whence the writ issues, another proper place within such three miles to be called his "address for service," where statements of defence, notices, summonses, orders and other documents, proceedings and written communications in the suit may be left for him; and when a plaintiff sues in person he shall indorse on the writ his occupation and place of residence and if his residence is more than three miles from the clerk's office as aforesaid another proper place within such three miles to be called his "address for service," where statements of defence, notices, summonses, orders and other documents, proceedings and written communications in the suit may be left for him. In case of the omission to supply an address for service as aforesaid all papers requiring service may be posted in the clerk's office and in such case be deemed good service. [E. 19 and 20.] C.O.Y.T. c. 17, R. 8.

Plaintiff suing in person.

Address for service.

Omission to supply.

Disclosure by solicitor whose name is indorsed.

9. Every solicitor whose name is signed to or indorsed on any writ of summons shall on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto declare forthwith whether such writ has been issued by him or with his authority or privity and on declaration by such solicitor that the writ was not issued by him or with his authority or privity all proceedings upon the same shall be stayed and no further proceedings shall be taken thereupon without leave of the judge. [E. 42.] C.O.Y.T. c. 17, R. 9.

VI.—*Change of Solicitor.*

Notice of change of solicitor.

10. A party suing or defending by a solicitor may change his solicitor in any cause or matter without an order for that

purpose upon notice of such change being filed in the clerk's office in which the cause or matter is proceeding; but until such notice is filed and a copy thereof served the former solicitor shall be considered the solicitor of the party until the final conclusion of the cause or matter. [E. 44.] C.O.Y.T. c. 17, R. 10.

11. Where a party after having sued or appeared in person has given notice in writing to the opposite party or his solicitor through a solicitor that such solicitor is authorized to act in the cause or matter on his behalf all writs, notices, pleadings, summonses, orders, warrants and other documents, proceedings and written communications which ought to be delivered to or served upon the party on whose behalf the notice is given shall thereafter be delivered to or served upon such solicitor. C.O. Y.T. c. 17, R. 11.

Employment of solicitor after proceeding in person.

ORDER III.

SERVICE OF WRIT OF SUMMONS.

I.—General.

12. Service of a writ of summons may be made by the sheriff, his deputy or bailiff or by any literate person other than a plaintiff but except by order of a judge no fees for service shall in such latter case be allowed. C.O.Y.T. c. 17, R. 12.

Service by whom. Fees.

13. Service of writ of summons shall be effected by copy as follows:

Manner of service Personal.

1. By personal service anywhere in the Territory;

2. Where the service of a writ out of the Territory may be allowed under Rule 17 and the defendant, whether a British subject or not, is, or was at the time the cause of action arose, carrying on business within the Territory, the Court or judge may, if the cause of action arose in respect of such business, make an order allowing service upon any person having the control or management of the business, and such service shall be equivalent to personal service; (Ont. 147.)

Service on manager where defendant out of jurisdiction.

3. Every writ of summons issued against a corporation and all other proceedings in an action against a corporation may be served on the president or other head officer or on the cashier, manager, treasurer, secretary, clerk, agent or other representative, by whatsoever name or title he is known, of such corporation or of any branch or agency thereof in the Territory; and every person who within the said Territory transacts or carries on any business of or for any corporation whose chief place of business is without the said Territory shall for the purpose of being served with a writ of summons or any other proceedings as aforesaid in an action against or at the suit of such corporation be deemed the agent thereof;

Corporation.

Recovery
of land.

4. Service of a writ of summons in an action to recover possession of land may, in case of vacant possession, when it cannot be otherwise effected, by leave of the judge be made by posting a copy of the writ and statement of claim upon the door of the dwelling house or other conspicuous part of the premises; [E. 56.]

Vacant
possession.

Husband
and wife.

5. When husband and wife are both defendants to the action they shall both be served unless the judge otherwise orders;

Infant
defendant.

6. When an infant is a defendant to the action service on his father or guardian or if none then upon the person with whom the infant resides or under whose care he is and the public administrator shall unless the judge otherwise orders be deemed good service on the infant:

Provided that the judge may order that service made or to be made on the infant shall be deemed good service;

Lunatic.

7. When a lunatic or person of unsound mind is a defendant to the action service may be made on the public administrator or as the judge orders. C.O.Y.T. c. 17, R.13. No. 22 of 1903 s. 7.

II—*Substitutional Service.*

Sub-
stitutional
service.

14. In any case if it be made to appear to a judge that the plaintiff is from any cause unable to effect prompt personal service the judge may make such order for substituted or other service by advertisement or otherwise as is just (E. 63). C.O. Y.T. c. 17, R. 14.

Original writ
served in-
stead of copy.

15. In any case if it be made to appear to a judge that the original writ has been served upon the defendant instead of a copy he may order that such service be good service and may in such order dispense with the production of such original. C.O.Y.T. c. 17, R. 15.

III.—*Indorsement of Service Unnecessary.*

Indorsement
of service
unnecessary.

16. It shall not be necessary for the person serving a writ of summons to indorse on the writ the day of the week and month of such service but the writ and statement of claim shall each be marked as an exhibit to the affidavit of service by the person administering the oath. C.O.Y.T. c. 17, R. 16.

ORDER IV.

SERVICE OUT OF THE JURISDICTION.

Service out
of jurisdiction
when allowed.

17. Service of a writ of summons or notice of writ of summons on a defendant out of the Territory may be allowed by a judge whenever—

1. The whole subject matter of the action is land or a mining claim or claims situate within the Territory or any interest therein (with or without rents or profits); or,

2. Any act, deed, will, contract, obligation or liability affecting land or hereditaments situate within the Territory is sought to be construed, rectified, set aside or enforced in the action; or

3. Any relief is sought against any person domiciled or ordinarily resident within the jurisdiction; or

4. The action is for the administration of the estate of any deceased person who at the time of his death was domiciled within the Territory or for the execution (as to property the whole or some part of which is within the Territory) of the trusts of any written instrument of which the person to be served is a trustee which ought to be executed according to the laws of the Territory; or

5. The action is for the dissolution or winding up of any partnership carrying on or which has carried on business within the Territory, so far as the business or property thereof within the Territory is concerned, or for any relief incidental thereto; or

6. The action is for the recovery of any debt contracted within the jurisdiction or is founded on any breach or alleged breach within the jurisdiction of any contract wherever made which according to the terms thereof ought to be performed within such jurisdiction or is founded on a tort committed within the jurisdiction; or

7. An injunction is sought as to anything to be done within the jurisdiction or any nuisance within the jurisdiction is sought to be prevented or removed whether damages are or are not also sought in respect thereof; or

8. Any person out of the jurisdiction is a necessary or proper party to an action properly brought against some other person duly served within the jurisdiction; or

9. The action is upon a foreign judgment and it is proved to the satisfaction of a judge that the defendant has assets within the Yukon Territory. (E. 64.) C.O.Y.T. c. 17, R. 17. No. 22, of 1903, ss. 8,9, 10.

18. Every application for leave to serve such writ of summons or notice on a defendant out of the jurisdiction shall be before writ issued, except as hereinbefore provided for, and supported by affidavit stating that in the belief of the deponent the plaintiff has a good cause of action and showing in what place or country the defendant is or probably may be found, and whether such defendant is a British subject or not, and the grounds on which the application is made; but no such leave shall be granted unless it shall be made sufficiently to appear to the judge that the case is a proper one for service out of the Territory aforesaid.

Service
out of
jurisdiction.

2. When the defendant is neither a British subject nor in British Dominions, notice of the writ and not the writ itself shall be served upon the defendant in the manner in which writs of summons are served. (E. 69 and 70). No. 22 of 1903, s. 11.

In foreign
countries
notice only
to be served.

19. Any order giving leave to effect such service shall limit a time after such service within which such defendant may enter an appearance, such time to depend on the place or country where or within which the writ or notice is to be served. [E. 68.] C. O. Y. T. c. 17, R. 19. No. 22, of 1903, s. 12.

Time for
appearance.

Form of writ.

20. A writ of summons for service outside the jurisdiction shall be in form AA in the Schedule hereto. No. 8 of 1909, s. 1.

Substitutional service.

21. In any such case if it is made to appear to a judge that service as ordered out of the jurisdiction cannot be made and that reasonable efforts (showing them) have been made to effect such service the judge may make an order for substitutional service by advertisement or otherwise as seems proper. C.O.Y.T. c. 17, R. 20.

Substitutional service where defendant's whereabouts unknown.

22. In any case if it is made to appear to the judge that the whereabouts of the defendant is unknown after all reasonable efforts have been exhausted to ascertain them the judge may in any action affecting land in the Territory or in any other case in which he deems it proper dispense with any order for service out of the jurisdiction and make such order for service of the writ by advertisement or otherwise as he deems proper subject to such terms and conditions as may be necessary to protect the defendant from injustice; but judgment shall not be entered on default of appearance in any such case until the judge is satisfied by such proof as he requires of the justice of the claim. C.O.Y.T. c. 17, R. 21.

Judgment by default.

Proof of claim.

ORDER V.

SERVICE OF OTHER PROCEEDINGS.

Service of notices, pleadings, etc.

23. Where personal service of any notice, pleading, order, summons, warrant or other document, proceeding or written communication is required the service shall be effected as nearly as may be in the manner prescribed for the personal service of a writ of summons. C.O.Y.T. c. 17, R. 22.

Substitutional service of notices, etc.

24. Where personal service of any notice, pleading, summons, order, warrant or other document, proceeding or written communication is required and it is made to appear to the court or a judge that prompt personal service cannot be effected the court or the judge may make such order for substituted or other service or for the substitution for service of notice by letter, public advertisement or otherwise as is just. C.O.Y.T. c. 17, R. 23.

Admissions of service on solicitors.

25. Admissions and acceptances of service of papers and documents purporting to be signed by or on behalf of a solicitor need not be verified by affidavit but shall be accepted as *prima facie* proof. C.O.Y.T. c. 17, R. 24.

ORDER VI.

PARTIES.

I.—General.

26. All persons may be joined in one action as plaintiffs, in whom any right to relief in respect of or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally, or in the alternative, where if such persons brought separate actions any common question of law or fact would arise; provided that if upon the application of any defendant it shall appear that such joinder may embarrass or delay the trial of action, the Court or judge may order separate trials, or make such other order as is expedient, and judgment may be given for such one or more of the plaintiffs as are found to be entitled to relief, for such relief as he or they is or are entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief unless the Court or a judge in disposing of the costs otherwise directs. (E. 123.)

Joinder of plaintiffs.

2. Any number of servants, workmen or employes of any person may join as plaintiffs in one action to recover any amounts alleged to be due them for wages from such person. No. 22 of 1903, s. 13.

Employees may join in suit for wages.

27. Where an action has been commenced in the name of the wrong person as plaintiff or where it is doubtful whether it has been commenced in the name of the right plaintiff the judge may, if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as are just. [E. 124.] C.O.Y.T. c. 17, R. 26.

Wrong person named as plaintiff.

28. Where in any action any person has been improperly or unnecessarily joined as a co-plaintiff and a defendant has set up a counterclaim or set-off he may obtain the benefit thereof by establishing his set-off or counterclaim as against the parties other than the co-plaintiff so joined notwithstanding the misjoinder of such plaintiff or any proceeding consequent thereon. [E. 125.] C.O.Y.T. c. 17, R. 27.

Misjoinder of plaintiff.
Counterclaim.

29. All persons may be joined as defendants against whom the right to any relief is alleged to exist whether jointly, severally or in the alternative; and judgment may be given against such one or more of the defendants as are found to be liable according to their respective liabilities without any amendment. [E. 126.] C.O.Y.T. c. 17, R. 28.

Joinder of defendants.

30. It shall not be necessary for every defendant to be interested as to all the relief prayed for or as to every cause of action included in any proceedings against him; but the judge

Defendant need not be interested in all relief claimed.

may make such order as appears just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he has no interest. [E. 127.] C.O.Y.T. c. 17, R. 29.

Joinder of persons severally liable.

31. The plaintiff may at his option join as parties to the same action all or any of the persons severally or jointly and severally liable on any one contract including parties to bills of exchange and promissory notes. [E. 128.] C.O.Y.T. c. 17, R. 30.

Plaintiff in doubt as to person liable.

32. Where the plaintiff is in doubt as to the person from whom he is entitled to redress he may by leave of the judge on *ex parte* application join two or more defendants to the intent that the question as to which if any of the defendants is liable and to what extent may be determined as between all parties. [E. 129.] C.O.Y.T. c. 17, R. 31.

Trustees, etc., may sue and be sued as representatives.

33. Trustees, executors and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives without joining any of the persons beneficially interested in the trust or estate and shall be considered as representing such persons; but the judge may at any stage of the proceedings order any such persons to be made parties either in addition to or in lieu of the previously existing parties.

2. If the plaintiff sues or the defendant is sued in a representative capacity the statement of claim shall show in what capacity the plaintiff or defendant sues or is sued as the case may be. [E. 130.] C.O.Y.T. c. 17, R. 32.

Suit or defence by one person for class.

34. Where there are numerous persons having the same interest in one cause or matter one or more of such persons may sue or be sued or may be authorized by the judge to defend in such cause or matter on behalf or for the benefit of all persons so interested. [E. 131.] C.O.Y.T. c. 17, R. 33.

Misjoinder or nonjoinder not to defeat cause.

Striking out or adding parties.

35. No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of parties and the judge may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before him. The judge may at any stage of the proceedings either upon or without the application of either party and on such terms as appear just order that the names of any parties improperly joined whether as plaintiffs or defendants be struck out and that the names of any parties whether plaintiffs or defendants who ought to have been joined or whose presence in the cause is necessary in order to enable the judge to effectually and completely adjudicate upon and settle all the questions involved in the cause or matter be added. Every party whose name is so added as a defendant shall be served with a summons or notice in such manner as the judge may order and the proceedings as against such party shall be deemed to have begun

only on the service of such summons or notice. [E. 133.] C.O. Y.T. c. 17, R. 34.

36 Any application to add or to strike out or substitute a plaintiff or defendant may be made to the judge at any time before trial supported by affidavit or at the trial of the action in a summary manner. [E. 134.] C.O.Y.T. c. 17, R. 35.

Applications as to parties.

II.—Partners.

37. Any two or more persons claiming or being liable as co-partners and carrying on business within the jurisdiction may sue or be sued in the name of the respective firms if any of which such persons were co-partners at the time of the accruing of the cause of the action; and any party to an action may in such case apply by summons to a judge for a statement of the names and addresses of the persons who were at the time of the accruing of the cause of action co-partners in any such firm to be furnished in such manner and verified on oath or otherwise as the judge directs.

Suits in firm name.

Disclosure of names of partners.

2. Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm. [E. 137, 648a.] C.O.Y.T. c. 17, R. 36.

38. When a writ is issued out by partners in the name of their firm the plaintiffs or their solicitors shall on demand in writing by or on behalf of any defendant forthwith declare in writing the names and places of residence of all the persons constituting the firm on whose behalf the action is brought; and if the plaintiffs or their solicitors fail to comply with such demand all proceedings in the action may upon an application for that purpose be stayed upon such terms as the Court or a judge directs; and when the names of the partners are so declared the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the writ; but all the proceedings shall nevertheless continue in the name of the firm. [E. 648b.] C.O. Y.T. c. 17, R. 37.

Plaintiff firm, demand for names of persons composing.

Default in furnishing.

Effect when furnished.

39. Where persons are sued as partners in the name of their firm the writ shall be served either upon any one or more of the partners or at the principal place within the jurisdiction of the business of the partnership upon any person having at the time of service the control or management of the partnership business there; and subject to these rules such service shall be deemed good service upon the firm so sued whether any of the members thereof are out of the jurisdiction or not and no leave to issue a writ against them shall be necessary.

Service on partnerships.

Provided that in the case of a co-partnership which has been dissolved to the knowledge of the plaintiff before the commencement of the action the writ of summons shall be served upon every person within the jurisdiction sought to be made liable. [E. 648c.] C.O.Y.T. c. 17, R. 38.

Proviso when dissolved.

Notice of capacity in which person served.

40. When a writ is issued against a firm and is served as directed every person upon whom it is served shall be informed by notice in writing given at the time of such service whether he is served as a partner or as a person having control or management of the partnership business or in both characters. In default of such notice the person served shall be deemed to be served as a partner. [E. 648d.] C.O.Y.T. c. 17, R. 39.

Appearance by partners.

41. Where persons are sued as partners in the name of their firm they shall appear individually in their own names; but all subsequent proceedings shall nevertheless continue in the name of the firm. [E. 648e.] C.O.Y.T. c. 17, R. 40.

Writ served on representative appearance.

42. Where a writ is served upon a person having the control or management of the partnership business no appearance by him shall be necessary unless he is a member of the firm sued. [E. 648f.] C.O.Y.T. c. 17, R. 41.

Appearance under protest of person served as partner.

43. Any person served as a partner may enter an appearance under protest denying that he is a partner; but such appearance shall not preclude the plaintiff from otherwise serving the firm and obtaining judgment against the firm in default of appearance if no partner has entered an appearance in the ordinary form. [E. 648g.] C.O.Y.T. c. 17, R. 42.

III.—*Administration and Execution of Trusts.*

Determination of right of unascertained heirs at law, next of kin or class.

44. In any case in which the right of an heir-at-law or the next of kin or a class depends upon the construction which the Court or a judge puts upon an instrument and it shall not be known or shall be difficult to ascertain who is or are such heir-at-law or next of kin or class and the Court or judge considers that in order to save expense or for some other reason it will be convenient to have the questions of construction determined before such heir-at-law, next of kin or class have been ascertained by means of inquiry or otherwise the Court or judge shall appoint the public administrator to represent such heir-at-law, next of kin or class and the judgment of the Court or judge in the presence of the public administrator shall be binding upon the heir-at-law, next of kin or class so represented. [E.154.] C.O.Y.T. c. 17, R. 43.

Administration, rights of residuary legatee and next of kin.

45. Any residuary legatee or next of kin entitled to a judgment or order for the administration of the personal estate of a deceased person may have the same without serving the remaining residuary legatees or next of kin. [E. 155.] C.O.Y.T. c. 17, R. 44.

Persons interested in proceeds of land.

46. Any legatee interested in a legacy charged upon land and any person interested in the proceeds of land directed to be sold and who is entitled to a judgment or order for the administration of the estate of a deceased person may have the same without serving any other legatee or person interested in the proceeds of the estate. [E. 156.] C.O.Y.T. c. 17, R. 45.

47. Any residuary devisee or heir entitled to the like judgment or order may have the same without serving any co-residuary devisee or co-heir. [E. 157.] C.O.Y.T. c. 17, R. 46. Residuary
devisees
or heirs.

48. Any one of several *cestuis qui trustent* under any deed or instrument entitled to a judgment or order for the execution of the trusts of the deed or instrument may have the same without serving any other *cestui qui trust*. [E. 158.] C.O.Y.T. c. 17, R. 47. *Cestuis qui
trustent.*

49. In all cases of actions for the prevention of waste or otherwise for the protection of property one person may sue on behalf of himself and all persons having the same interest. [E. 159.] C.O.Y.T. c. 17, R. 48. Protection of
property.

50. Any executor, administrator or trustee entitled thereto may have a judgment or order against any one legatee, next of kin or *cestui qui trust* for the administration of the estate or the execution of the trusts. [E. 160.] C.O.Y.T. c. 17, R. 49. Executor,
administrator
trustee.

51. The Court or a judge may require any person to be made a party to any action or proceeding and may give the conduct of the action or proceeding to such person as he thinks fit and may make such order in any particular case as he thinks just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question. [E. 161.] C.O.Y.T. c. 17, R. 50. Conduct of
proceedings.

Costs.

52. Wherever in any action for the administration of the estate of a deceased person or the execution of the trusts of any deed or instrument or for the partition or sale of any hereditaments a judgment or an order has been pronounced or made affecting the rights or interests of persons not parties to the action the Court or judge may direct that any persons interested in the estate or under the trusts or in the lands shall be served with notice of the judgment or order; and after such notice such persons shall be bound by the proceedings in the same manner as if they had originally been made parties and shall be at liberty to attend the proceedings under the judgment or order. Any person so served may within one month after such service apply to the Court or judge to discharge, vary or add to the judgment or order. [E. 162.] C.O.Y.T. c. 17, R. 51. Judgments
or orders.

Service on
persons not
parties but
interested.

53. It shall not be necessary for any person served with notice of any judgment or order to obtain an order for liberty to attend the proceedings under such judgment or order but such person shall be at liberty to attend the proceedings upon entering an appearance in the clerk's office in the same manner and subject to the same provisions as a defendant entering an appearance. [E. 163.] C.O.Y.T. c. 17, R. 52. Appearance
by.

54. A memorandum of the service upon any person of notice of the judgment or order in any action under the next Entry to
be made
of service.

Indorsement
on notice of
judgment.

but one preceding section shall be entered in the clerk's office upon due proof by affidavit of such service and notice of a judgment or order served pursuant to such rule shall be entitled in the action and there shall be indorsed thereon a memorandum in the following form:

Take notice that from the time of the service of this notice you (*or as the case may be*, the infant *or* person of unsound mind) will be bound by the proceedings in the above cause in the same manner as if you (*or* the said infant *or* person of unsound mind) had been originally made a party and that you (*or* the said infant *or* person of unsound mind) may on entering an appearance at the clerk's office attend the proceedings under the within-mentioned judgment (*or* order) and that you (*or* the said infant *or* person of unsound mind) may within one month after the service of this notice apply to the Court to discharge, vary or add to the judgment (*or* order.) [E. 164 and 165.] C.O.Y.T. c. 17 R. 53.

Service on
person under
disability.

55. Notice of a judgment or order on an infant or person of unsound mind not so found by inquisition shall be served in the same manner as a writ of summons in an action. [E. 166.] C.O.Y.T. c. 17, R. 54.

Execution of
trusts or will.

Parties.

56. In any cause or matter to execute the trusts of a will it shall not be necessary to make the heir-at-law a party but the plaintiff shall be at liberty to make the heir-at-law a party where he desires to have the will established against him. [E. 167.] C.O.Y.T. c. 17, R. 55.

Where no
legal personal
representative
Court may
dispense with
or appoint
representative.

57. If in any cause, matter or other proceeding it appears to the Court or a judge that any deceased person who was interested in the matter in question has no legal personal representative the Court or judge may proceed in the absence of any person representing the estate of the deceased person or may appoint some person to represent his estate for all the purposes of the cause, matter or other proceeding on such notice to such person (if any) as the Court or judge thinks fit either specially or generally by public advertisement and the order so made and any order consequent thereon shall bind the estate of the deceased person in the same manner in every respect as if a duly constituted legal personal representative of the deceased had been a party to the cause, matter or proceeding. [E. 168.] C.O.Y.T. c. 17, R. 56.

Adminis-
tration.

Appearance
at chambers
in respect
of creditors'
claims.

58. In any cause or matter for the administration of the estate of a deceased person no party other than the executor or administrator shall unless by leave of the Court or a judge be entitled to appear either in court or in chambers on the claims of any person not a party to the cause or matter against the estate of the deceased person in respect of any death or liability. The Court or a judge may direct or give liberty to any other party to the cause or matter to appear either in

addition to or in the place of the executor or administrator upon such terms as to costs or otherwise as they or he thinks fit. [E. 169.] C.O.Y.T. c. 17, R. 57.

IV.—Constitutional Questions.

59. Wherever in any cause, matter or proceeding depending in the Territorial Court any question is raised as to the validity or constitutionality of any Ordinance of the Territory or whenever it is sought to have any Ordinance of the Territory declared or held *ultra vires* the party so raising or intending to raise such a question shall forthwith give notice to the Legal Adviser for the Territory accompanied by a copy of the pleadings or such other documents as may be necessary to clearly indicate the circumstances under which such question arises; and the Legal Adviser or his agent shall be entitled to intervene and to be heard on the argument of such question; and whenever it appears to the Court or judge that any such question arises in any cause, matter or proceeding the Court or judge shall not decide such question until the Legal Adviser is so notified and given an opportunity of being heard by the Court or judge by himself or his agent. C.O.Y.T. c. 17, R. 58.

Questions raised involving validity of Ordinances.

Notice to legal adviser.

V.—Third Party Procedure.

60. Where a defendant claims to be entitled to contribution or indemnity over against any person not a party to the action he may by leave of the Court or a judge to be obtained *ex parte* issue a notice (hereinafter called the third party notice) to that effect stamped with the seal with which writs of summons are sealed; a copy of such notice shall be filed with the clerk and served on such person according to the rules relating to the service of writs of summons. The notice shall state the nature and grounds of the claim and shall unless otherwise ordered by the Court or a judge be served within the time limited for delivering his defence and therewith shall be served a copy of the statement of claim and a copy of the writ of summons in the action. [E. 170.] C.O.Y.T. c. 17, R. 59.

Notice to third party.

Filing and service.

61. If a person not a party to the action who is served as mentioned in the next preceding rule (hereinafter called the third party) desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given or his own liability to the defendant the third party shall enter an appearance in the action within ten days from the service of the notice. In default of his so doing he shall be deemed to admit the validity of the judgment obtained against such defendant whether obtained by consent or otherwise and his own liability to contribute or indemnify as the case may be to the extent claimed in the third party notice:

Appearance of third party.

Admission by non-appearance.

Provided always that a person so served and failing to appear within the said period of ten days may apply to the Court or a judge for leave to appear and such leave may be given upon

Leave to appear after default.

such terms if any as the Court or judge thinks fit. [E. 171.] C.O.Y.T. c. 17, R. 60.

Defendant suffering judgment by default.

62. Where a third party makes default in entering an appearance in the action in case the defendant giving the notice suffers judgment by default he shall be entitled at any time after satisfaction of the judgment against himself or before such satisfaction by leave of the Court or a judge to enter judgment against the third party to the extent of the contribution or indemnity claimed in the third party notice:

Rights against third party.

Provided that it shall be lawful for the Court or a judge to set aside or vary such judgment upon such terms as seems just. [E. 172.] C.O.Y.T. c. 17, R. 61.

Plaintiff succeeding. Judgment for defendant against non-appearing third party.

63. Where a third party makes default in entering an appearance in the action in case the action is tried and results in favour of the plaintiff the judge who tries the action may at or after the trial order the entry of such judgment as the nature of the case requires for the defendant giving the notice against the third party:

Proviso as to issue of execution.

Provided that execution thereof shall not be issued without leave of the judge until after satisfaction by such defendant of the verdict or judgment against him; and if the action is finally decided in the plaintiff's favour otherwise than by trial the Court or a judge may on application order such judgment as the nature of the case requires to be entered for the defendant giving the notice against the third party at any time after satisfaction by the defendant of the amount recovered by the plaintiff against him. [E. 173.] C.O.Y.T. c. 17, R. 62.

Third party appearing.

64. If a third party appears pursuant to the third party notice the defendant giving the notice or such third party may apply to the Court or a judge for directions and the Court or judge upon the hearing of such application, may if satisfied that there is a question proper to be tried as to the liability of the third party to make the contribution or indemnity claimed in whole or in part order the question of such liability as between the third party and the defendant giving the notice to be tried in such manner at or after the trial of the action as the Court or judge directs; and if not so satisfied may order such judgment as the nature of the case requires to be entered in favour of the defendant giving the notice against the third party. [E. 174.] C.O.Y.T. c. 17, R. 63.

Application for directions.

What directions may be given.

65. The Court or judge upon the hearing of the application mentioned in the next preceding rule may if it appears desirable to do so give the third party liberty to defend the action upon such terms as are just or to appear at the trial and take such part therein as is just and generally may order such proceedings to be taken, documents to be delivered or amendments to be made and give such directions as to the Court or judge appears proper for having the question most conveniently determined and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action. [E. 175.] C.O.Y.T. c. 17, R. 64.

66. The Court or a judge may decide all questions of costs as between a third party and the other parties to the action and may order any one or more to pay the costs of any other or others or give such directions as to costs as the justice of the case requires. [E. 176.] C.O.Y.T. c. 17, R. 65. Costs.

67. Where a defendant claims to be entitled to contribution or indemnity against any other defendant to the action a notice may be issued and the same procedure shall be adopted for the determination of such questions between the defendants as would be issued and taken against such other defendant if such last mentioned defendant was a third party; but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the action. [E. 177.] C.O.Y.T. c. 17, R. 66. Defendant claiming against co-defendant.

68. A plaintiff is not to be unnecessarily delayed in recovering his claim by reason of the questions between defendants in which the plaintiff is not concerned; and the judge is to give such direction as may be necessary to prevent such delay of the plaintiff where this can be done on terms or otherwise without injustice to the defendants. C.O.Y.T. c. 17, R. 67. Plaintiff not to be delayed by questions between defendants.

VI.—Change of Parties.

69. A cause or matter shall not become abated by reason of the marriage, death or insolvency of any of the parties if the cause of action survives or continues and shall not become defective by the assignment, creation or devolution of any estate or title *pendente lite*; and whether the cause of action survives or not there shall be no abatement by reason of the death of either party between the verdict or finding of the issues of fact and the judgment; but judgment may in such case be entered notwithstanding the death. [E. 178.] C.O.Y.T. c. 17, R. 68. No abatement where cause of action continues.
Judgment where death after verdict.

70. In case of the marriage, death or assignment or devolution of the estate by operation of law of any party to a cause or matter the judge may if it is deemed necessary for the complete settlement of all the questions involved order that the husband, personal representative, trustee or other successor in interest, if any, of such party be made a party in such manner and on such terms as the judge thinks just and make such order for the disposal of the cause or matter as is just. [E. 179.] C.O.Y.T. c. 17, R. 69. Adding parties successors in interest.

71. In case of an assignment, creation or devolution of any estate or title *pendente lite* the cause or matter may be continued by or against the person to or upon whom such estate or title has come or devolved. [E. 180.] C.O.Y.T. c. 17, R. 70. Continuation of action where change of interest.

72. Where by reason of marriage, death or assignment or any other event occurring after the commencement of a cause or matter and causing a change or transmission of interest Adding parties where change of interest.

or liability or by reason of any person interested coming into existence after the commencement of the cause or matter it becomes necessary or desirable that any person not already a party should be made a party or that any person already a party should be made a party in another capacity the judge may order that the proceedings shall be carried on between the continuing parties and such new party or parties in such manner and on such terms as are thought proper. [E. 181.] C.O.Y.T. c. 17, R. 71.

Applications
ex parte.

73. Applications under rules 70 and 72 may be made *ex parte*. C.O.Y.T. c. 17, R. 72.

Service of
order.

74. An order so obtained shall unless the Court or judge otherwise directs be served upon the continuing party or parties or their solicitors and also upon each such new party unless the person making the application is himself the only new party and the order shall from the time of such service subject nevertheless to the next two following rules be binding on the person served therewith and every person served therewith who is not already a party to the cause or matter shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons. [E. 182.] C.O.Y.T. c. 17, R. 73.

Application
to discharge
order.

75. Where any person who is under no disability or under no disability other than coverture or being under any disability other than coverture but having a guardian *ad litem* in the cause or matter is served with such order such person may apply to the Court or judge to discharge or vary such order at any time within twelve days from the service thereof. [E. 183.] C.O.Y.T. c. 17, R. 74.

Application
to discharge
order.

76. Where any person being under any disability other than coverture and not having a guardian *ad litem* in the cause or matter is served with any such order such person may apply to the Court or a judge to discharge or vary such order at any time within twelve days from the appointment of a guardian *ad litem* for such party and until such period of twelve days has expired such order shall have no force or effect as against such last mentioned person. [E. 184.] C.O.Y.T. c. 17, R. 75.

Death of sole
plaintiff or
defendant.

77. When the plaintiff or defendant in a cause or matter dies and the cause of action survives but the person entitled to proceed fails to proceed on application of the defendant (or the person against whom the cause or matter may be continued) the judge may order the plaintiff (or the person entitled to proceed) to proceed within a given period and in default of such proceeding judgment may be entered for the defendant, or as the case may be, for the person against whom the cause or matter might have been continued. [E. 185.] C.O.Y.T. c. 17, R. 76.

Omission
to proceed
with cause.

78. Where any cause or matter becomes abated or in the case of any such change of interest as is by this order provided for the solicitor for the plaintiff or person having the conduct of the cause or matter as the case may be shall certify the fact to the proper officer who shall cause an entry thereof to be made in the procedure book opposite to the name of such cause or matter. [E. 186.] C.O.Y.T. c. 17, R. 77.

Solicitor for plaintiff to give notice of abatement, etc.

ORDER VII.

JOINDER OF CAUSES OF ACTION.

79. A plaintiff may unite in the same action several causes of action; but if it appears to the judge that any such causes of action cannot be conveniently tried or disposed of together he may order separate trials of any such causes of action to be had or may make such other order as is necessary or expedient for the separate disposal thereof or may order any such causes of action to be excluded and consequential amendments to be made. [E. 188 and 196.] C.O.Y.T. c. 17, R. 76.

Uniting causes of action.

Disposal separately.

ORDER VIII.

APPEARANCE.

80. Within the time limited for appearance by the writ of summons or afterwards before the plaintiff has taken any further step in the cause if the defendant or if there be more than one defendant in the action a defendant desires to contest the plaintiff's claim and defend the action he shall by himself or his solicitor enter an appearance in the office of the clerk whence the writ of summons issued and within six days thereafter or such further time as may by order of the judge be allowed for the purpose file in the clerk's office a statement of defence and serve a copy thereof on the plaintiff or his solicitor. C.O.Y.T. c. 17, R. 79.

Entry of appearance by defendant.

Filing and service of defence.

81. Upon or with every appearance when entered a memorandum in writing shall be indorsed or attached giving the defendant's address or the address of his solicitor if he defends by solicitor; and if the defendant or his solicitor resides over three miles from the clerk's office naming an address within three miles of the clerk's office where documents in the suit requiring service upon him may be left, such place to be known and designated as his "address for service." [E. 80.] C.O.Y.T. c. 17, R. 80.

Indorsement on appearance.

Address for service.

82. Where no appearance has been entered for a party all orders, notices, papers, documents in or relating to the action may unless otherwise ordered by a judge be served by

Service where no appearance or no address for service or false address.

posting up the same or a copy thereof in the clerk's office; and where the address mentioned in the next preceding rule is not given all such orders, notices, papers and documents may be served in like manner; but if an address is supplied and such address is illusory or fictitious the judge may on application of the plaintiff direct the manner in which such orders, notices, papers and documents may be served. [E. 82.] C.O.Y.T. c. 17, R. 81.

Recovery
of land.

Appearance
by person and
defendant.

83. Any person not named as a defendant in a writ of summons in an action for the recovery of the possession of land, may by leave of the judge appear and defend on filing an affidavit showing that he is in possession of the land either by himself or by his tenant. [E. 95.] C.O.Y.T. c. 17, R. 82.

Landlord to
appear as
such.

84. Any person appearing to defend an action for the recovery of the possession of the land as landlord in respect of property whereof he is in possession only by his tenant shall state in his appearance that he appears as landlord. [E. 96.] C.O.Y.T. c. 17, R. 83.

Party
obtaining
leave to
defend
subsequent
proceedings.

85. Where a person not named as defendant in any writ of summons for the recovery of the possession of land has obtained leave of the judge to appear and defend he shall comply with the provisions of this order in respect of defendants appearing and defending and in all subsequent proceedings be named as a party defendant. [E. 97.] C.O.Y.T. c. 17, R. 84.

Defence may
be limited
to part of
property.

86. Any person appearing to a writ of summons for the recovery of the possession of land shall be at liberty to limit his defence to a part only of the property mentioned in the writ describing that part with reasonable certainty in his appearance and an appearance where the defence is not limited as above mentioned shall be deemed an appearance to defend for the whole. [E. 98.] C.O.Y.T. c. 17, R. 85.

Application to
set aside writ
or service.

87. A defendant before appearing shall be at liberty to apply to a judge to set aside the service of the writ upon him, to discharge or set aside the order authorizing such service or to set aside the writ on the ground of irregularity or otherwise. C.O.Y.T. c. 17, R. 86.

ORDER IX.

DEFAULT OF APPEARANCE.

Default of
appearance by
infant or
person of
unsound mind.

88. Where no appearance has been entered to a writ of summons for a defendant who is an infant or a person of unsound mind not so found by inquisition the plaintiff shall before further proceeding with the action against the defendant apply to the Court or judge for an order that some proper person be assigned

guardian of such defendant by whom he may appear and defend the action; but no such order shall be made unless it appears on the hearing of such application that the writ of summons was duly served and that notice of such application was after the expiration of the time allowed for appearance and at least six clear days before the day in such notice named for hearing the application served upon or left at the dwelling house of the person with whom or under whose care such defendant was at the time of serving such writ of summons and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) served upon or left at the dwelling house of the father or guardian if any of such infant, unless the Court or judge at the time of hearing such application shall dispense with such last mentioned service. [E. 101.] C.O.Y.T. c. 17, R. 87.

89. When any defendant fails to appear to a writ of summons and the plaintiff is desirous of proceeding upon default of appearance he shall before taking such proceeding upon default file the writ (or an order dispensing with such filing) with an affidavit of service or of compliance with any order for substitutional service as the case may be. [E. 102.]

Writ and affidavit of service to be filed.

2. It shall not be necessary on signing judgment in default of appearance to file any affidavit of default.

Affidavit of default not necessary.

3. Where service is made within the jurisdiction the affidavit of service shall state the distance of the place of service from the clerk's office whence the writ issued. C.O.Y.T. c. 17, R. 88. No. 22 of 1903, s. 14.

90. Where the plaintiff's claim is for a debt or liquidated demand only and the defendant fails or all the defendants if more than one fail to appear thereto the plaintiff may after the time limited for appearance has elapsed enter final judgment for any sum not exceeding the sum claimed in the action together with legal interest and costs of suit. [E. 103.] C.O.Y.T. c. 17, R. 89.

Claim liquidated.

91. Where the plaintiff's claim is for a liquidated demand and there are several defendants of whom one or more appear and another or others of them fail to appear the plaintiff may enter final judgment as in the next preceding rule against such as have not appeared and may issue execution upon such judgment without prejudice to his right to proceed with the action against such as have appeared. [E. 104.] C.O.Y.T. c. 17, R. 90.

Liquidated demand.

Several defendants.

92. Where the plaintiff's claim is for detention of goods and pecuniary damages or either of them and the defendant fails or all the defendants if more than one fail to appear on application of the plaintiff the judge may assess the value or amount of damages or either of them or order that they shall be ascertained in any way he directs and judgment shall be entered thereupon with costs of suit. [E. 105.] C.O.Y.T. c. 17, R. 91.

Claim, detinue and damages.

Non-appearance.

Striking out
appearing
defendants.

93. Where in an action for detention of goods and pecuniary damages or either of them there is more than one defendant and one or more of such defendants have appeared while one or other of the defendants have not the judge on application of the plaintiff may order the striking out of any one or more of the defendants who has or have appeared on payment of costs or otherwise as may be considered just and allow the plaintiff to proceed with his action against the defendant or defendants who has or have not appeared. C.O.Y.T. c. 17, R. 92.

Interlocutory
judgment
against
non-
appearing
defendants.

94. Where the plaintiff's claim is for detention of goods and pecuniary damages or either of them and there are several defendants of whom one or more appear to the writ and another or others of them fail to appear the plaintiff may sign interlocutory judgment against the defendant or defendants so failing to appear and on application of the plaintiff the value of the goods and the damages or either of them as the case may be shall be assessed as against the defendant or defendants failing to appear at the same time as the trial of the action or issue therein against the other defendant or defendants unless the judge otherwise directs. [E. 106.] C.O.Y.T. c. 17, R. 93.

Claim,
detinue and
liquidated
demand.

95. When the plaintiff's claim is for detention of goods and pecuniary damages or either of them and also for a liquidated demand and any defendant fails to appear to the writ the plaintiff may enter final judgment for the debt or liquidated demand, interest or costs against the defendant or defendants failing to appear and proceed as mentioned in such of the rules of this order as are applicable. [E. 107.] C.O.Y.T. c. 17, R. 94.

Claim
recovery
of land.

96. In case no appearance is entered in an action for the recovery of land within the time limited for appearance, or if an appearance is entered but the defence is limited to part only the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession of the land or of the part thereof to which the defence does not apply with or without costs as the judge orders. [E. 108.] C.O.Y.T. c. 17, R. 95.

Claim, mesne
profits, rent
or damages
and recovery
of land.

97. When the plaintiff's statement of claim is for mesne profits, arrears of rent or damages for breach of contract and also for the recovery of land he may enter judgment as in the next preceding rule mentioned for the land and may proceed as in the other preceding rules mentioned as to such other claim. [E. 109.] C.O.Y.T. c. 17, R. 96.

Claim:
foreclosure,
sale,
redemption or
adminis-
tration.

98. Where the action is in respect of a mortgage, lien or charge and the plaintiff claims foreclosure or sale or redemption, or where the action is for the administration of an estate or partition the plaintiff if the defendant does not appear shall be entitled to such a judgment upon such evidence as the judge orders. C.O.Y.T. c. 17, R. 97.

99. In any other action upon default of appearance by one or more defendants the plaintiff may apply *ex parte* to a judge for an order for judgment and the judge shall order such judgment to be entered as the plaintiff appears entitled to with or without evidence of the truth of the statement of claim (which may be given *viva voce* or by affidavit) in the discretion of the judge. C.O.Y.T. c. 17, R. 98. Judgment in other actions.

100. Any judgment entered upon default of appearance or in delivering any pleading or in compliance with any order may be set aside or varied by the Court or judge upon such terms as are just. [E. 110.] C.O.Y.T. c. 17, R. 99. Setting aside judgment by default.

101. Where in an action there are several defendants of whom one or more have been served and another or others of them have not, the Court or judge may order the striking out of the defendant or defendants not served and allow the plaintiff to proceed with his action against the defendant or defendants served on payment of costs or otherwise as is considered just. C.O.Y.T. C. 17, R. 100. Where several defendants, some not served.

102. Any order made by the judge under any of the rules of this order and any judgment entered pursuant to such order may be set aside or varied by the judge or the Court upon such terms as are just. [E. 110.] C.O.Y.T. c. 17, R. 101. Setting aside or varying orders or judgments.

ORDER X.

STRIKING OUT APPEARANCE.

103. Where the action is brought to recover a debt or a liquidated demand and the defendant or one or more of the defendants if there are several defendants has or have appeared the plaintiff or one of the plaintiffs if more than one may on affidavit of himself or of any other person who swears positively to the facts verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action apply to the judge for leave to enter final judgment for the amount of the claim or the amount so verified as due the plaintiff together with interest (if any) and costs; and the judge may thereupon unless the defendant by affidavit or otherwise satisfies him that he has a good defence to the action on the merits or disclose such facts as are deemed sufficient to entitle him to defend make an order empowering the plaintiff to enter judgment accordingly. Application by plaintiff to strike out appearance where claim liquidated.

2. If on the hearing of the application under this rule it appears that a cause or causes of action other than for a debt or a liquidated demand have been joined therewith the judge may if he thinks fit forthwith amend the statement of claim by striking out such other cause or causes of action or may deal with such claims for debts or liquidated demands as if no other claim had been joined in the action and allow the action to Judgment unless defence shown.

Unliquidated demand included.

proceed as respects the cause or causes of action other than for such debt or liquidated demand. [E. 115.] C.O.Y.T. c. 17, R. 102.

Summons.
Service.

Affidavits.

104. The application by the plaintiff under the next preceding rule shall be by notice. A copy of the notice and copies of affidavits and exhibits referred to therein (unless service of copies of such exhibits is dispensed with by the judge) shall be served at least four clear days before the notice is returnable unless such time be abridged by a judge. [E. 116.] C.O.Y.T. c. 17, s. 103. No. 22 of 1903, s. 15.

Defendant
may show
cause.

Cross
examination.

105. The defendant may show cause against such application by affidavit of himself or some one who swears positively to the facts or by offering to bring into court the amount claimed in the action. If by affidavit such affidavit shall state whether the defence alleged goes to the whole or to part only and if so what part of the plaintiff's claim; and the judge may if he thinks fit order the defendant or whoever makes the affidavit on his behalf or in the case of a corporation any officer thereof to attend and be examined on oath and to produce any letters, books or documents or copies of or extracts therefrom. [E. 117.] C.O.Y.T. c. 17, R. 105.

Defendant
admitting
or failing
to meet
application
as to part.

106. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim or that any part of the claim is admitted the plaintiff may have judgment forthwith for such part of his claim as the defence does not apply to or is admitted subject to such terms (if any) as to suspending execution or otherwise as the judge orders and the defendants may be allowed to defend as to the residue of the plaintiff's claim. [E. 118.] C.O.Y.T. c. 17, R. 105.

One defendant
may be
permitted
to defend
and judgment
against other.

107. If it appears to the judge that any defendant has a good defence or ought to be permitted to defend the action and that any other defendant has not such defence and ought not to be permitted to defend the former may be permitted to defend and the plaintiff shall be entitled to have final judgment against the latter and have execution thereon without prejudice to his right to proceed with his action against the former. [E. 119.] C.O.Y.T. c. 17, R. 106.

Conditional
leave to
defend.

108. Leave to defend may be given unconditionally or subject to such terms as to giving security or time and mode of trial or otherwise as the judge thinks fit. [E. 120.] C.O.Y.T. c. 17, R. 107.

ORDER XI.

PLEADING GENERALLY.

109. Every pleading shall contain and contain only a statement in a summary form of the material facts on which the party relies for his claim or defence as the case may be but not the evidence by which they are to be proved and shall when necessary be divided into paragraphs numbered consecutively. Dates, sums, and numbers shall be expressed in figures and not in words. [E. 200.] C.O.Y.T. c. 17, R. 108.

Pleading to state facts only, not evidence.

Paragraphing. Figures to be used.

110. A defendant in an action may set off or set up by way of counterclaim against the claims of the plaintiff any right or claim whether such set-off or counterclaim sounds in damages or not and such set-off or counterclaim shall have the same effect as a cross action so as to enable the judge to pronounce a final judgment in the same action both on the original and cross claim; but the judge may on application of the plaintiff before trial if in his opinion such set-off or counterclaim cannot be conveniently disposed of in the pending action or ought not to be allowed refuse permission to the defendant to avail himself thereof; and if in any case in which the defendant sets up a counterclaim the action of the plaintiff is stayed, discontinued or dismissed the counterclaim may nevertheless be proceeded with. [E. 199 and 249.] C.O.Y.T. c. 17, R. 109.

Set-off and counterclaim.

Striking out.

Proceeding with after claim disposed of.

111. Where a counterclaim is pleaded a reply thereto shall be subject to the rules applicable to statements of defence. C.O.Y.T. c. 17, R. 110.

Reply to counterclaim.

112. A further and better statement of the nature of the claim or defence (or written proceeding requiring particulars) may in all cases be ordered upon such terms as are just; but the order therefor shall not *per se* operate as a stay of proceedings or give any extension of time. [E. 203 and 204.] C.O.Y.T. c. 17, R. 111.

Further particulars.

113. Nothing in this Ordinance shall affect the right of any defendant to plead not guilty by statute; but if the defendant so pleads he shall not plead any other defence to the same cause of action without the leave of the judge and every plea of not guilty by statute shall have the same effect as a plea of not guilty by statute has heretofore had. [E. 208.] C.O.Y.T. c. 17, R. 112.

Not guilty by statute.

114. Every allegation of fact in any pleading not being a petition or summons if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the opposing party shall be taken to be admitted except as against an infant, lunatic or person of unsound mind not so found judicially. [E. 209.] C.O.Y.T. c. 17, R. 113.

Allegations not denied admitted.

Conditions precedent.

115. Any condition precedent the performance or occurrence of which is intended to be contested shall be distinctly specified in his pleading by the plaintiff or defendant as the case may be; and subject thereto an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleadings. [E. 210.] C.O.Y.T. c. 17, R. 114.

All grounds of defence or answer to be raised.

116. The defendant or plaintiff as the case may be must raise by his pleadings all matters which show the action or counterclaim not to be maintainable or that the transaction is either void or voidable in point of law and all such grounds of defence or reply as the case may be as if not raised would be likely to take the opposite party by surprise or would raise issues of fact not arising out of the preceding pleadings. [E. 211.] C.O.Y.T. c. 17, R. 115.

Departure.

117. No pleading not being a petition or summons shall except by way of amendment raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same. [E. 212.] C.O.Y.T. c. 17, R. 116.

Denials must be specific.

118. It shall not be sufficient for a defendant in his statement of defence to deny generally the grounds alleged by the plaintiff's statement of claim or for the plaintiff in his reply to deny generally the grounds alleged in a defence by way of counter claim but each party shall deal specifically with each allegation of fact of which he does not admit the truth except damages. [E. 213.] C.O.Y.T. c. 17, R. 117.

Damages.

Pleadings must answer point of substance and not be evasive.

119. When a party in a pleading denies an allegation of fact in the previous pleading of the opposite party he shall not do so evasively but answer the point of substance. Thus if it is alleged that he received a certain sum of money it shall not be sufficient to deny that he received that particular amount but he must deny that he received that sum or any part thereof or else set out how much he received. And if an allegation is made with divers circumstances it shall not be sufficient to deny it along with those circumstances. [E. 215.] C.O.Y.T. c. 17, R. 118.

Denial of contract.

120. When a contract, promise or agreement is alleged in any pleading a bare denial of the same by the opposite party shall be construed only as a denial of fact of the express contract, promise or agreement alleged or of the matters of fact from which the same may be implied by law and not as a denial of the legality or sufficiency in law of such contract, promise or agreement whether with reference to the Statute of Frauds or otherwise. [E. 216.] C.O.Y.T. c. 17, R. 119.

Effect of documents may be alleged.

121. Whenever the contents of any documents are material it shall be sufficient in any pleading to state the effect thereof as briefly as possible without setting out the whole or any part

thereof unless the precise words of the documents or any part thereof are material. [E. 217.] C.O.Y.T. c. 17, R. 120.

122. Whenever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred. [E. 218.] C.O.Y.T. c. 17, R. 121.

Allegation of malice, fraud, knowledge, etc.

123. Whenever it is material to allege notice to any person of any fact, matter or thing it shall be sufficient to allege such notice as a fact unless the form or the precise terms of such notice or the circumstances from which such notice is to be inferred are material. [E. 219.] C.O.Y.T. c. 17, R. 122.

Allegation that person had notice.

124. Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations or otherwise from a number of circumstances it shall be sufficient to allege such contract or relation as a fact and to refer generally to such letters, conversations or circumstances without setting them out in detail; and if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances he may state the same in the alternative. [E. 220.] C.O.Y.T. c. 17, R. 123.

Contract or relation implied from letters, etc.

Alternatives.

125. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side unless the same has first been specifically denied. [E. 221.] C.O.Y.T. c. 17, R. 124.

Presumptions of law.

126. No technical objection shall be raised to any pleading on the ground of any alleged want of form. [E. 222.] C.O.Y.T. c. 17, R. 125.

Want of form.

127. The judge may at any stage of the proceedings order to be struck out or amended any matter in any statement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action with or without costs to be paid by the party so offending. [E. 223.] C.O.Y.T. c. 17, R. 126.

Unnecessary, scandalous or embarrassing matter.

128. In case of any action founded upon a bill of exchange or other negotiable instrument the judge may order that the loss of such instrument shall not be set up provided such indemnity as he approves of is given against the claims of any other person upon such negotiable instrument. C.O.Y.T. c. 17, R. 127.

Loss of negotiable instrument.

129. Every statement or pleading may be either printed or written or partly written and partly printed. [E. 205.] C.O.Y.T. c. 17, R. 128.

Pleadings written or printed.

ORDER XII.

PAYMENT INTO AND OUT OF COURT AND TENDER.

Payment into court—
(1) as satisfaction
(2) with defence denying liability.

130. Where any action is brought to recover a debt or damages any defendant may before or at the time of delivering his defence or at any later time by leave of the Court or a judge pay into court a sum of money by way of satisfaction which shall be taken to admit the claim or cause of action in respect of which the payment is made; or he may with a defence denying liability (except in actions or counterclaims for libel or slander) pay money into court which shall be subject to the provisions of rule 135 hereof. [E. 255.] C.O.Y.T. c. 17, R. 129.

Defence to state payment in.

131. Payment into court shall be signified in the defence and the claim or cause of action in satisfaction of which such payment is made shall be specified therein. [E. 256.] C.O.Y.T. c. 17, R. 130.

Tender before action.

132. With a defence setting up a tender before action the sum of money alleged to have been tendered shall be brought into court. [E. 257.] C.O.Y.T. c. 17, R. 131.

Payment before delivery of defence, notice to be served.

133. If the defendant pays money into court before delivering his defence he shall serve upon the plaintiff a notice specifying both the fact that he has paid in such money and also the claim or cause of action in respect of which such payment has been made; and such notice shall be in the following form, with such variations as circumstances require:

“Take notice that the defendant has paid into court \$ _____, and says that that sum is enough to satisfy the plaintiff’s claim (or the plaintiff’s claim for, &c.)” [E. 258.] C.O.Y.T. c. 17, R. 132. No. 22 of 1903, s. 16.

Payment out to plaintiff in certain cases.

134. In the following cases of payment into court under this section, viz:

- (a) When payment into court is made before delivery of defence;
- (b) When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court is made is not denied in the defence;
- (c) When payment into court is made with a defence setting up a tender of the sum paid;

the money paid into court shall be paid out to the plaintiff on his request or to his solicitor on the plaintiff’s written authority unless the Court or a judge otherwise orders. [E. 259.] C.O.Y.T. c. 17, R. 133.

Where defendant denies liability acceptance of sum paid in.

135. When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court has been made is denied in the defence the following rules shall apply:

- (a) The plaintiff may accept in satisfaction of the claim or cause of action in respect of which the payment into court has been made the sum so paid in, in which case he shall be entitled to have the money paid out to him as hereinafter provided notwithstanding the defendant's denial of liability whereupon all further proceedings in respect of such claim or cause of action except as to costs shall be stayed; or the plaintiff may refuse to accept the money in satisfaction and reply accordingly in which case the money shall remain in court subject to the provisions hereinafter mentioned;
- (b) If the plaintiff accepts the money so paid in he shall after service of such notice in the form following, viz.:
- "Take notice that the plaintiff accepts the sum \$ _____ paid by you into court in satisfaction of the claim in respect of which it is paid in,"
- or after delivery of a reply accepting the money be entitled to have the money paid out to himself on request or to his solicitor on the plaintiff's written authority unless the Court or a judge otherwise orders;
- (c) If the plaintiff does not accept in satisfaction of the claim or cause of action in respect of which the payment into court has been made the sum so paid in but proceeds with the action in respect of such claim or cause of action or any part thereof the money shall remain in court and be subject to the order of the Court or a judge and shall not be paid out of court except in pursuance of an order. If the plaintiff proceeds with the action in respect of such claim or cause of action or any part thereof and recovers less than the amount paid into court the amount paid in shall be applied so far as is necessary in satisfaction of the plaintiff's claim and the balance (if any) shall under such order be repaid to the defendant. If the defendant succeeds in respect of such claim or cause of action the whole amount shall under such order be repaid to him. [E. 260.] C.O.Y.T. c. 17, R. 134.

136. The plaintiff when payment into court is made before delivery of defence may within four days after the receipt of notice of such payment or when such payment is first signified in a defence may before reply accept in satisfaction of the claim or cause of action in respect of which such payment has been made the sum so paid in in which case he shall give notice to the defendant in the form last mentioned and shall be at liberty in case the entire claim or cause of action is thereby satisfied to tax his costs after the expiration of four days from the service of such notice unless the Court or a judge otherwise orders and in case of non-payment of the costs within forty-eight hours after such taxation to sign judgment for his costs so taxed. [E. 261.] C.O.Y.T. c. 17, R. 135.

137. Where money is paid into court in two or more actions which are consolidated and the plaintiff proceeds to trial in one

and fails the money paid in and the costs in all the actions shall be dealt with under this order in the same manner as in the action tried. [E. 262.] C.O.Y.T. c. 17, R. 136.

Counterclaim. 138. A plaintiff may in answer to a counterclaim pay money into court in satisfaction thereof subject to the like conditions as to costs and otherwise as upon payment into court by a defendant. [E. 263.] C.O.Y.T. c. 17, R. 137.

Payment out. 139. Money paid into court under an order of the Court or a judge shall not be paid out of court except in pursuance of an order of the Court or judge:

Provided that where before the delivery of defence money has been paid into court by the defendant pursuant to an order under the provisions of rule 105 hereof he may (unless the Court or a judge otherwise orders) by his pleading appropriate the whole or any part of such money and any additional payment if necessary to the whole or any specified portion of the plaintiff's claim; and the money so appropriated shall thereupon be deemed to be money paid into court pursuant to the preceding rules of this order relating to money paid into court and shall be subject in all respects thereto. [E. 265.] C.O.Y.T. c. 17, R. 138.

Persons under disability. Moneys awarded to or recovered by. 140. In any case or matter in which a sum of money has been awarded to or recovered by an infant or person of unsound mind not so found by inquisition the Court or a judge may at or after the trial order that the whole or any part of such sum shall be paid into court to the credit of an account intituled in the cause or matter; and any sum so paid into court and any dividends or interest thereon shall be subject to such orders as are from time to time made by the Court or a judge concerning the same and may either be invested or be paid out of court or transferred to such persons to be held and applied upon and for such trusts and in such manner as the Court or a judge directs. [E. 269.] C.O.Y.T. c. 17, R. 139.

Disposition of moneys or securities. 141. Money paid into court or securities purchased under the provisions of the next preceding rule and the dividends or interest thereon shall be sold, transferred or paid out to the party entitled thereto pursuant to the order of the Court or a judge. [E. 270.] C.O.Y.T. c. 17, R. 140.

Jury not to be informed of payment into court. 142. Where a cause or matter is tried by a judge with a jury no communication to the jury shall be made until after the verdict is given either of the fact that money has been paid into court or of the amount paid in. The jury shall be required to find the amount of the debt or damages as the case may be without reference to any payment into court. [E. 275a.] C.O.Y.T. c. 17, R. 141.

Investment of funds in court. 143. Cash under the control of or subject to the order of the Court may be invested in Dominion securities upon order of a judge. [E. 271.] C.O.Y.T. c. 17, R. 142.

144. All moneys paid into court shall so soon as received by a clerk or other proper official be deposited in one of the chartered banks of Canada to be named by the judge and shall be placed to a special account and styled "special account"; each deposit to obtain the benefit of such rate of interest as the bank in which the deposit is made agrees and no moneys ordered to be paid out of court shall be withdrawn from the bank in which the same are deposited unless the cheque for withdrawal of the same is countersigned or initialled by the judge. C.O. Y.T. c. 17, R. 143. Banking moneys paid into Court.

145. Notice of every application for the purpose of conversion of any securities shall be served upon such persons if any as the Court or judge directs. [E. 272.] C.O.Y.T. c. 17, R. 144. Conversion of securities application for.

ORDER XIII.

MATTERS ARISING PENDING THE ACTION.

146. Any ground of defence which has arisen after action brought but before the defendant has delivered his statement of defence and before the time limited for his doing so has expired may be raised by the defendant in his statement of defence either alone or together with other grounds of defence; and if after a statement of defence has been delivered any ground of defence arises to any set-off or counterclaim alleged therein by the defendant it may be raised by the plaintiff in his reply either alone or together with any other ground of reply. [E. 278.] C.O.Y.T. c. 17, R. 145. Defence or reply to set-off or counterclaim arisen after action.

147. Where any ground of defence arises after the defendant has delivered his statement of defence or after the time limited for his doing so has expired the defendant may and where any ground of defence to any set-off or counterclaim arises after reply or after the time limited for delivering a reply has expired the plaintiff may within eight days after such ground of defence has arisen or at any subsequent time by leave of the Court or judge deliver a further defence or further reply as the case may be setting forth the same. [E. 279.] C.O.Y.T. c. 17, R. 146. Ground of defence or reply arisen after pleading.
Further answer may be served.

148. Whenever any defendant in his statement of defence or in any further statement of defence as mentioned in the next preceding rule alleges any ground of defence which has arisen after the commencement of the action the plaintiff may deliver a confession of such defence and may thereupon unless otherwise ordered by the judge have judgment for his costs up to the time such defence was pleaded. [E. 280.] C.O.Y.T. c. 17, R. 147. Confession of defence.

ORDER XIV.

RAISING POINTS OF LAW, ETC.

Points of law raised by pleading. Disposal of. **149.** Any party shall be entitled to raise by his pleading any point of law and any point so raised shall be disposed of by the judge who tries the cause at or after the trial provided that by consent of the parties or by order of the judge on the application of either party the same may be set down for hearing and disposed of at any time before the trial. [E. 282.] C.O. Y.T. c. 17, R. 148.

Judgment where point raised disposes of action, etc. **150.** If in the opinion of the Court or judge the decision of such point of law substantially disposes of the whole action or of any distinct cause of action, ground of defence, set-off, counter-claim or reply therein the Court or judge may thereupon dismiss the action or make such order therein as is just. [E. 283.] C.O.Y.T. c. 17, R. 149.

Frivolous or vexatious actions. Pleading disclosing no cause of action or answer. **151.** The Court or judge may order any pleading to be struck out on the ground that it discloses no reasonable cause of action or answer and in any such case or in case of the action or defence being shown by the pleadings to be frivolous or vexatious the Court or judge may order the action to be stayed or dismissed or judgment to be entered accordingly as is just. [E. 284.] C.O.Y.T. c. 17, R. 150.

Declaratory judgments. **152.** No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby and the Court or judge may make binding declarations of right whether any consequential relief is or could be claimed or not. [E. 285.] C.O.Y.T. c. 17, R. 151.

ORDER XV.

REPLY OR CLOSE OF PLEADINGS.

Time for reply. **153.** A plaintiff shall deliver his reply if any within eight days after the defence or the last of the defences have been delivered unless the time shall be extended by the Court or judge. [E. 276.] C.O.Y.T. c. 17, R. 158.

Pleading subsequent to reply. **154.** No pleading subsequent to reply other than a joinder of issue shall be pleaded without leave of the Court or a judge and then shall be pleaded only upon such terms as the Court or judge thinks fit. [E. 277.] C.O.Y.T. c. 17, R. 153.

Time for. **155.** Subject to the next preceding rule every pleading subsequent to reply shall be delivered within eight days after

the delivery of the previous pleading unless the time is extended by the Court or judge. C.O.Y.T. c. 17, R. 154.

156. If the plaintiff does not deliver a reply or any party does not deliver any subsequent pleading within the period allowed for that purpose the pleadings shall be deemed to be closed at the expiration of that period and all the material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue. [E. 302.] C.O.Y.T. c. 17, R. 155.

Default in
reply or
subsequent
pleading.

Effect of.

157. As soon as any party has joined issue upon the preceding pleading of the opposite party simply without adding any further or other pleading thereto or has made default as mentioned in the next preceding rule the pleadings between such parties shall be deemed to be closed. C.O.Y.T. c. 17, R. 156.

Close of
pleadings.

ORDER XVI.

DEFAULT OF PLEADING.

158. If the plaintiff's claim is only for a debt or liquidated demand and the defendant does not within the time allowed for that purpose deliver a defence the plaintiff may at the expiration of such time enter final judgment for the amount claimed with costs. [E. 291]

Default
judgment
claim for
debt.

2. It shall not be necessary upon entering judgment in default of defence to file any affidavit of service of the writ of summons. C.O.Y.T. c. 17, R. 157. No. 22 of 1903, s. 17.

Judgment.

159. When in any such action as in the next preceding rule mentioned there are several defendants if one of them makes default as mentioned in the next preceding rule the plaintiff may enter final judgment against the defendant so making default and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants. [E. 292.] C.O.Y.T. c. 17, R. 158.

Default of one
or more
defendants.

160. If the plaintiff's claim be for detention of goods and pecuniary damages or either of them and the defendant or all the defendants if more than one make default in delivering a defence within the time allowed for that purpose the judge may on application of the plaintiff assess the value of the goods and amount of the damages or either of them as the case may be or order that they shall be ascertained in any way he directs and judgment shall be entered thereupon with costs of suit. [E. 293.] C.O.Y.T. c. 17, R. 159.

Claim,
detinue and
damages.

161. When in any such action as in the next preceding rule mentioned there are several defendants if one or more of them make default as in that rule defined the plaintiff may enter an interlocutory judgment against the defendant or defendants

Default of one
or more
defendants.

so making default and proceed with his action against the others and in such case the value and amount of damages against the defendant making default shall be assessed at the same time with the trial of the action or issues therein against the other defendants unless the Court or a judge otherwise directs [E. 294.] C.O.Y.T. c. 17, R. 160.

Claim liquidated demand and debt and damages.

162. If the plaintiff's claim is for a debt or liquidated demand and also for detention of goods and pecuniary damages or pecuniary damages only and any defendant makes default in delivering his defence as aforesaid the plaintiff may enter final judgment for the debt or liquidated demand and also enter interlocutory judgment for the value of the goods and the damages or the damages only as the case may be and proceed as mentioned in the next two preceding rules. [E. 295.] C.O. Y.T. c. 17, R. 161.

Recovery of land.

163. In an action for the recovery of land if the defendant makes default in delivering a defence as aforesaid the plaintiff may enter a judgment that the person whose title is asserted in the writ of summons shall recover possession of the land with his costs. [E. 296.] C.O.Y.T. c. 17, R. 162.

Claim for mesne profits, arrears of rent or damages.

164. Where the plaintiff's claim is for mesne profits, arrears of rent or double value in respect of the premises claimed or any part of them or damages for breach of contract or wrong or injury to the premises claimed in an action for the recovery of land if the defendant makes default in delivering a defence as aforesaid or if there is more than one defendant some or one of the defendants makes such default the plaintiff may enter judgment against the defaulting defendant or defendants and proceed as provided for in rules 160 and 161 hereof. [E. 297.] C.O.Y.T. c. 17, R. 163.

Where a defence is delivered to part of claim only.

165. If the plaintiff's claim is for a debt or liquidated demand, the detention of goods and pecuniary damages or for any such matters or for the recovery of land and the defendant delivers a defence which purports to offer an answer to a part only of the plaintiff's alleged cause of action the plaintiff may by leave of the Court or a judge enter judgment final or interlocutory as the case may be for the part unanswered provided that the unanswered part consists of a separate cause of action or is severable from the rest as in the case of part of a debt or liquidated demand; provided also that where there is a counterclaim execution on any judgment as above mentioned in respect to the plaintiff's claim shall not be issued without leave of the Court or a judge. [E. 298.] C.O.Y.T. c. 17, R. 164.

Other actions, defendant in default.

166. In all other actions than those in the preceding rules of this Order mentioned if the defendant makes default in delivering a defence the opposite party may apply to the Court or a judge for such judgment if any as upon the pleadings he appears to be entitled to; and the Court or judge may order

judgment to be entered accordingly or make such other order as is necessary to do complete justice between the parties. [E. 300.] C.O.Y.T. c. 17, R. 165.

167. Where in any such action as mentioned in the next preceding rule there are several defendants then if one of such defendants makes such default as aforesaid the plaintiff may either (if the cause of action is severable) set down the action at once on motion for judgment against the defendant so making default or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other defendants. [E. 301.] C.O.Y.T. c. 17, R. 166.

Where more than one defendant.

168. In any case in which issues arise in an action other than between plaintiff and defendant if any party to any such issue makes default in delivering any pleading the opposite party may apply to the Court or a judge for such judgment if any as upon the pleadings he appears to be entitled to and the Court or judge may order judgment to be entered accordingly or may make such other order as is necessary to do complete justice between the parties. [E. 303.] C.O.Y.T. c. 17, R. 167.

Default by parties other than plaintiff or defendant.

ORDER XVII.

SETTING DOWN FOR TRIAL.

169. When any party desires and is entitled to have the question of fact in any action tried by a judge with a jury he shall, if a plaintiff, demand a jury in his notice of trial to be given as hereinafter provided, and if a defendant, he shall make such demand by giving notice thereof in writing to the plaintiff's solicitor within four days from the time of the service of notice of trial by the plaintiff or within such extended time as the Court or a judge allows, or in the notice of trial to be given by the defendant as hereinafter provided, and thereupon the said questions of fact shall be so tried. [E. 431.] No. 22 of 1903 s. 18.

Trial by jury in certain cases.

170. The jury for the trial of such questions of fact in civil causes shall consist of six persons, whose verdict shall be unanimous. No. 22 of 1903, s. 18.

Jury to consist of six persons.

171. Notice of trial may be given in any cause or matter by the plaintiff or other party in the position of plaintiff at any time after the close of the pleadings. [E. 435.]

Notice of trial by plaintiff.

172. If the plaintiff does not within six weeks after the close of the pleadings, or within such extended time as the Court or judge allows, give notice of trial, the defendant may, before notice of trial given by the plaintiff, give notice of trial or may apply to the Court or judge to dismiss the action for want

Notice of trial by defendant.

Motion to dismiss for want of prosecution.

of prosecution; and on the hearing of such application the Court or a judge may order the action to be dismissed accordingly or may make such order and on such terms as to the Court or judge seems just. [E. 436.] No. 22 of 1903, s. 18.

Form of notice of trial.

173. Notice of trial shall state the place for which it is to be entered for trial. It shall be in the form "M" in the schedule to this Ordinance with such variations as circumstances require. [E. 437.]

Length of notice of trial.

174. Ten days' notice of trial shall be given unless the party to whom it is given has consented, or is under terms or has been ordered to take short notice of trial; and shall be sufficient in all cases, unless otherwise ordered by the Court or a judge. Short notice of trial shall be four days' notice, unless otherwise ordered. [E. 438.]

Entry of trial.

175. Notice of trial shall be given before entering the trial, and the trial may be entered as soon as notice of trial has been given. [E. 439.]

Avoidance of notice of trial.

176. Unless within six days after notice of trial is given the trial shall be entered by one party or the other, the notice of trial shall be no longer in force. [E. 440.]

Notice of trial for Dawson.

177. Notice of trial for Dawson shall not be or operate as for any particular sittings, but shall be deemed to be for any day after the expiration of the notice on which the trial may come in its order upon the list. [E. 441.]

Notice of trial elsewhere.

178. Notice of trial elsewhere than in Dawson shall be deemed to be for the first day of the then next sittings at the place for which notice of trial is given. [E. 442.]

Countermanding notice.

179. No notice of trial shall be countermanded except by consent, or by leave of the Court or a judge, which leave may be subject to such terms as to costs or otherwise as is just. [E. 443.]

Entry for trial by party served with notice.

180. If the party giving notice of trial for Dawson omits to enter the trial on the day or day after giving notice of trial, the party to whom notice has been given may, unless the notice has been countermanded under the last preceding rule, within four days enter the trial. [E. 444.]

Withdrawal of trial after notice.

181. When a trial which has been entered has been postponed or withdrawn under Rule 185 or settled, the party who made the entry shall immediately thereupon give notice thereto to the clerk of the Court, and such entry shall be expunged from the list. [E. 449.]

Order of trial.

182. If the trial is entered by both parties, it shall be tried in the order of the plaintiff's entry, and the defendant's entry shall be vacated. [E. 452.] No. 22 of 1903, s. 18.

183. The party entering the trial shall deliver to the clerk of the Court a copy of the notice of trial with proof of service thereof, and one copy of the whole of the pleadings. Such copy shall be certified by the clerk of the Court and shall be called the 'Record.' No. 22 of 1903, s. 18.

ORDER XVIII.

DISCONTINUANCE.

184. The plaintiff may at any time before receipt of the defendant's defence or after the receipt thereof before taking any other proceeding in the action, (save any interlocutory application) by notice in writing wholly discontinue his action against all or any of the defendants or withdraw any part or parts of his alleged cause of complaint and thereupon he shall pay such defendant's costs of the action or if the action is not wholly discontinued the costs occasioned by the matter so withdrawn. Such costs shall be taxed and such discontinuance or withdrawal as the case may be shall not be a defence to any subsequent action. Save as herein otherwise provided it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the Court or judge but the Court or judge may before or at or after the hearing or trial upon such terms as to costs and as to any other action and otherwise as are just order the action to be discontinued or any part of the alleged cause or complaint to be struck out. The Court or judge may in like manner and with the like discretion as to terms upon the application of a defendant order the whole or any part of his alleged grounds of defence or counterclaim to be withdrawn or struck out but it shall not be competent to a defendant to withdraw his defence or any part thereof without such leave. [E. 286.] C.O.Y.T c. 17, R. 173.

Discontinu-
ance or
withdrawal of
part of claim
after defence.

Costs.

Subsequent
action.

Discontinu-
ance at other
stages.

Withdrawal
of defence or
counterclaim.

185. When a cause has been entered for trial it may be withdrawn by either plaintiff or defendant upon producing to the clerk of the Court a consent in writing signed by the parties. [E. 287.] C.O.Y.T. c. 17, R. 174.

Withdrawal
after entry
for trial.

186. Any defendant may have judgment for the costs of the action if it is wholly discontinued against him or for the costs occasioned by the matter withdrawn, if the action is not wholly discontinued, in case such respective costs are not paid within two days after taxation. [E. 288.] C.O.Y.T. c. 17, R. 175.

Judgment
for costs.

187. If any subsequent action is brought before payment of the costs of a discontinued action for the same or substantially the same cause of action the Court or judge may if they or he deems proper order a stay of such subsequent action until such costs have been paid. [E. 289.] C.O.Y.T. c. 17, R. 176.

Stay of
subsequent
action
pending
payment.

ORDER XIX.

AMENDMENT.

- Amendment of pleadings.** **188.** The Court or a judge may at any stage of the proceedings allow either party to alter or amend his statement of claim or pleadings in such manner and upon such terms as are just and all such amendments shall be made as are necessary for the purpose of determining the real questions in controversy between the parties. [E. 305.] C.O.Y.T. c. 17, R. 177.
- Amendment of claim without leave.** **189.** The plaintiff may without any leave amend his statement of claim once at any time before the expiration of the time limited for reply and before replying. [E. 306.] C.O.Y.T. c. 17, R. 178.
- Amendment of counterclaim without leave.** **190.** A defendant who has set up any counterclaim may without any leave amend such counterclaim at any time before the expiration of the time allowed him for answering the reply. [E. 307.] C.O.Y.T. c. 17, R. 179.
- Disallowance of improper amendment.** **191.** Where any party has amended his pleading under either of the next two preceding rules the opposite party may within eight days after the delivery to him of the amended pleading apply to the Court or a judge to disallow the amendment or any part thereof and the Court or judge may if satisfied that the justice of the case demands it disallow the same or allow it subject to such terms as to costs or otherwise as are just. [E. 308.] C.O.Y.T. c. 17, R. 180.
- Pleading to amendments.** **192.** Where a party has amended his pleadings (unless otherwise ordered) the opposite party shall plead to the amended pleading or amend his pleading within the time he then has to plead or within eight days from the delivery of the amendment whichever shall last expire; and in case the opposite party has pleaded before the delivery of the amendment and does not plead again or amend within the time above mentioned he shall be deemed to reply on his original pleading in answer to such amendment. [E. 309.] C.O.Y.T. c. 17, R. 181.
- Leave to amend application.** **193.** In all cases not provided for by the preceding rules of this Order application for leave to amend may be made by either party to the Court or a judge or to the judge at the trial of the action and such amendment may be allowed upon such terms as to costs or otherwise as are just. [E. 310.] C.O.Y.T. c. 17, R. 182.
- Terms.**
- Failure to amend after order.** **194.** If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order or if no time is thereby limited then within fourteen days from the date of the order such order to amend shall on the expiration of such limited time as aforesaid

or of such fourteen days as the case may be become *ipso facto* void unless the time is extended by the Court or a judge. [E.311] C.O.Y.T. c. 17, R. 183.

195. Any statement or pleading may be amended by written alterations in the copy which has been delivered and by additions on paper to be interleaved therewith if necessary unless the amendments require the insertion of more than 144 words in any one place or are so numerous or of such a nature that the making them in writing would render the document difficult or inconvenient to read in either of which cases the amendment shall be made by delivering a printed or written copy of the document as amended. [E. 312.] C.O.Y.T. c. 17, R. 184. Manner of amending.

196. Whenever any statement or pleading is amended the same when amended shall be marked with the date of the order if any under which the same is so amended and of the day on which such amendment is made in manner following, viz:
 "Amended day of pursuant to
 order of dated the day of
 [E. 313.] C.O.Y.T. c. 17, R. 185. Marking amended pleading.

197. Whenever any statement or pleading is amended such amended document shall be delivered to the opposite party within the time allowed for amending the same. [E. 314.] C.O.Y.T. c. 17, R. 186. Delivery of amended pleading.

198. Clerical mistakes in judgments or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court or judge on motion or summons without an appeal. [E. 315.] C.O.Y.T. c. 17, R. 187. Mistakes in judgments or orders.

199. The Court or a judge may at any time and on such terms as to costs or otherwise as the Court or judge thinks just amend any defect or error in any proceedings and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings. [E. 316.] C.O.Y.T. c. 17, R. 188. General power to amend.

200. The costs of and occasioned by any amendment shall be borne by the party making the same unless the Court or judge otherwise orders. [E. 317.] C.O.Y.T. c. 17, R. 189. Costs of amendment.

ORDER XX.

DISCOVERY OF DOCUMENTS, ETC.

Ex parte
order for
discovery.

201. The plaintiff shall at the expiration of the time for delivery of defence and the defendant shall after delivery of defence be entitled on application to a Judge or the clerk of the Court, *ex parte* to an order directing any other party to any cause or matter to make discovery by affidavit of the documents which are or have been in his possession or power relating to any matter in question therein. C.O.Y.T. c. 17, R. 190. No. 22 of 1903, s. 19.

Affidavit of
discovery.
Objections to
production.

202. The affidavit to be made by a party against whom such order as is mentioned in the next preceding rule has been made shall specify which if any of the documents therein mentioned he objects to produce. [E. 355.] C.O.Y.T. c. 17, R. 191.

Production of
documents.

203. It shall be lawful for the Court or judge at any time during the pendency of any cause or matter to order the production by any party thereto upon oath of such of the documents in his possession or power relating to any matter in question in such cause or matter as the Court or judge thinks right; and the Court may deal with such documents when produced in such manner as appears just. [E. 356.] C.O.Y.T. c. 17, R. 192.

Inspection of
documents
referred to in
pleadings or
affidavits.

204. Every party to a cause or matter shall be entitled at any time by notice in writing to give notice to any other party in whose pleadings or affidavits reference is made to any document to produce such document for the inspection of the party giving such notice or of his solicitor and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence in his behalf in such cause or matter unless he satisfies the Court or judge that such document relates only to his own title he being defendant to the cause or matter or that he had some other cause or excuse which the Court or judge deems sufficient for not complying with such notice; in which case the Court or judge may allow the same to be put in evidence on such terms as to costs and otherwise as the Court or judge thinks fit. [E. 357.] C.O.Y.T. c. 17, R. 193.

Notice of
time and
place of
inspection.

205. The party to whom such notice is given shall within two days from the receipt of such notice if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in rule 202 hereof or if any of the documents referred to in such notice have not been set forth by him in any such affidavit then within four days from the receipt of such notice deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents or such of them as he does not object to produce

Objections to
production.

may be inspected at the office of his solicitor or in case of banker's books or other books of account or books in constant use for the purpose of any trade or business at their usual place of custody and stating which if any of the documents he objects to produce and on what ground. [E. 359.] C.O.Y.T. c. 17, R. 194.

206. If the party served with notice under the next preceding rule omits to give such notice of a time for inspection or objects to give inspection or offers inspection elsewhere than at the office of his solicitor the judge may on application of the party desiring it make an order for inspection at such place and in such manner as he thinks fit; and except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made or disclosed in his affidavits of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them and that they are in the possession or power of the other party. [E. 360.] C.O.Y.T. c. 17, R. 195.

Order for inspection.

207. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof the judge may if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the cause or matter or that for any other reason it is desirable that any issue or question in dispute in the cause or matter should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first and reserve the question as to the discovery or inspection. [E. 362.] C.O.Y.T. c. 17, R. 196.

Discovery or inspection may be reserved.

208. If any person fails to comply with any order for discovery or inspection of documents he shall be liable to attachment for contempt of court. He shall also if a plaintiff be liable to have his action dismissed for want of prosecution and if a defendant to have his defence if any struck out and to be placed in the same position as if he had not defended and the party interrogating may apply to that effect and an order may be made accordingly. [E. 363.] C.O.Y.T. c. 17, R. 197.

Non-compliance with order for discovery or inspection.

Penalty.

209. Service of an order for discovery or inspection made against any party on his solicitor shall be sufficient service to found an application for an attachment for disobedience to the order; but the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order. [E. 364.] C.O.Y.T. c. 17, R. 198.

Service of order.

210. A solicitor upon whom an order against any party for discovery or inspection is served under the next preceding rule who neglects without reasonable excuse to give notice thereof to his client shall be liable to attachment. [E. 365.] C.O.Y.T. c. 17, R. 199.

Solicitor neglecting to inform client of order.

ORDER XXI.

EXAMINATION FOR DISCOVERY.

Examination
of parties
before trial.

211. Any party to an action whether plaintiff or defendant or in the case of a body corporate any one who is or has been one of the officers of such body corporate may without any special order for the purpose be orally examined before the trial touching the matters in question in any action by any party adverse in point of interest and may be compelled to attend and testify in the same manner upon the same terms and subject to the same rules of examination as any witness except as hereinafter provided. C.O.Y.T. c. 17, R. 200.

Person
beneficially
interested.

212. A person for whose immediate benefit an action is prosecuted or defended is to be regarded as a party for the purpose of examination. C.O.Y.T. c. 17, R. 201.

When
examination
may take
place.

213. The examination on the part of a plaintiff may take place at any time after the statement of defence of the party to be examined has been delivered or after the time for delivering the same has expired; and the examination on the part of a defendant may take place at any time after such defendant has delivered his statement of defence, and the examination of a party to an issue at any time after the issue has been filed. C.O.Y.T. c. 17, R. 202.

Examining
officer.

214. Whenever a party is entitled to examine another party he may procure an appointment therefor from the clerk for the examination as hereafter provided of such party before such clerk, deputy clerk or process issuer at whose office such examination is to be held; and the party to be examined (upon being served with a copy of the appointment and upon payment of the proper fees) shall attend thereon and submit to examination.

Appointment
and conduct
money.

Place of
examination.

2. Such examination shall be held at the office of the clerk, nearest to the place where the party to be examined resides. C.O.Y.T. c. 17, R. 203. No. 22 of 1903, s. 20.

Appointment
to be served
on solicitor.

215. The party examining shall serve a copy of the appointment upon the solicitor of the party to be examined if he has a solicitor in the cause at least forty-eight hours before the examination. C.O.Y.T. c. 17, R. 204.

Examination
before other
person or
without
jurisdiction.

216. Upon application to the Court or a judge an order may be made for the examination of any party liable to be examined as aforesaid before any other person or in any other place whether within or without the jurisdiction of the Court than those before mentioned and upon service of a copy of the appointment of a person before whom the examination is to take place and a copy of the order upon the party to be examined and upon payment of the proper fees he shall attend and submit to examination. A copy of the appointment shall be served

upon the solicitor of the party or his agent at least forty-eight hours before the examination. C.O.Y.T. c. 17, R. 205.

217. The party or person to be examined shall if so required by notice produce on the examination all books, papers and documents which he would be bound to produce at the trial under a subpoena *duces tecum*. C.O.Y.T. c. 17, R. 206.

Notice to produce book and papers.

218. In the event of any witness on his examination, cross-examination or re-examination producing any book, document, letter, paper or writing and refusing for good cause to be stated in his deposition to part with the original thereof then a copy thereof or extract therefrom certified by the examiner to be a true and correct copy or extract shall be attached to the depositions and form part thereof. C.O.Y.T. c. 17, R. 207.

Certified copies of documents.

219. Any party or officer so examined may be further examined on his own behalf or on behalf of the body corporate of which he is or has been an officer in relation to any matter respecting which he has been examined in chief; and when one of several plaintiffs or defendants has been examined any other plaintiff or defendant united in interest may be examined on his own behalf or on behalf of those united with him in interest to the same extent as the party examined. C.O.Y.T. c. 17, R. 208.

Further examination on party's own behalf, etc.

220. Such explanatory examination shall be proceeded with immediately after the examination in chief and not at any future period except by leave of the Court or a judge and for the purposes of this and the next preceding rule when the officer of a body corporate has been so examined as aforesaid on behalf of the body corporate the body corporate shall be deemed to be fully represented by such officer. C.O.Y.T. c. 17, R. 209.

Explanatory examination.
Time for.

221. Any party or person examined orally under the preceding rules of this order shall be subject to cross-examination and re-examination; and such examination, cross-examination and re-examination shall be conducted as nearly as may be in the mode in use on a trial. C.O.Y.T. c. 17, R. 210.

Conduct of examination, etc.

222. A party to the action who admits upon his examination that he has in his custody or power any deed, paper, writing or document relating to the matters in question in the cause upon the order of the person before whom he is examined shall produce the same for his inspection and for that purpose a reasonable time shall be allowed; but no party shall be obliged to produce any deed, paper, writing or document which is privileged or protected from production. C.O.Y.T. c. 17, R. 211.

Production of documents for inspection of examiner.

223. Either party may appeal from the order of the examiner and thereupon the examiner shall certify under his hand the question raised and the order made thereon. C.O.Y.T. c. 17, R. 21.

Appeal from examiner's order.

Refusal to attend or answer, etc.

224. Any party or person refusing or neglecting to attend at the time and place appointed for the examination or refusing to be sworn or to answer any lawful question put to him by the examiner or by any party entitled so to do or his counsel, solicitor or agent shall be deemed guilty of a contempt of court and proceedings may be forthwith had by attachment. If a defendant he shall be liable to have his defence if any struck out and be placed in the same position as if he had not defended; and the party examining may apply to the Court or a judge to that effect and an order may be made accordingly. C.O.Y.T. c. 17, R. 213.

Penalty.

Objections by witness.

225. If the party or person under examination demurs or objects to any question or questions put to him the question or questions so put and the objection of the witness thereto shall be taken down by the examiner and transmitted by him to the office of the court where the pleadings are filed to be there filed; and the validity of such objection shall be decided by the Court or a judge; and the costs of and occasioned by such objection shall be in the discretion of the Court or a judge. C.O.Y.T. c. 17, R. 215.

Decision as to validity.

Form and completion of deposition.

226. Subject to rules 228, 229 and 230 hereof the depositions taken upon any such oral examination as aforesaid shall be taken down in writing by the examiner not ordinarily by question and answer but in the form of a narrative expressed in the first person; and when completed shall be read over to the party examined and shall be signed by him in the presence of the parties or of such of them as think fit to attend. C.O.Y.T. c. 17, R. 215.

Witness not signing deposition. Report of special matter.

227. If the party or person examined refuses or is unable to sign the depositions then the examiner shall sign the same; and the examiner may upon every examination state any special matter to the Court if he thinks fit. C.O.Y.T. c. 17, R. 216.

Question and answer, objections, etc.

228. It shall be in the discretion of the examiner to put down any particular question or answer if there appears to be any special reason for so doing and any question or questions objected to shall at the request of either party be noticed or referred to by the examiner in or upon the depositions; and he shall state his opinion thereon to the counsel, solicitors, agents or parties and if requested by either party he shall on the face of the depositions refer to such statement. C.O.Y.T. c. 17, R. 217.

Recording in deposition.

Deposition taken in shorthand.

229. In case of an examination before the trial or otherwise than at the trial of an action if the examining party desires to have such examination taken in shorthand he shall be entitled to have it so taken at the place of examination except where the Court or a judge sees fit to order otherwise. C.O.Y.T. c. 17, R. 218.

230. Where an examination in a cause or proceeding is taken by the examiner or any other authorized person in shorthand the examination may be taken down by question and answer; and in such cases it shall not be necessary for the depositions to be read over to or be signed by the person examined unless the judge so directs where the examination is taken before a judge or in other cases unless any of the parties so desires. C.O.,Y.T. c. 17, R. 219.

Form and completion of shorthand report.

231. A copy of the deposition so taken certified by the person taking the same as correct shall for all purposes have the same effect as the original depositions in ordinary cases. C.O. Y.T. c. 17, R. 220.

Certified copy of depositions.

232. Wherever any such examination of any party or witness has been taken before a clerk of the Territorial Court or before any officer or other person authorized or appointed to take the same the depositions taken down by the examiner shall at the request of any party interested and on payment of his fees be returned to and kept in the office of the clerk of the court in which the proceedings are being carried on; and office copies of such depositions may be given out and the examinations and depositions certified under the hand of the examiner taking the same or a copy thereof certified under the hand of the clerk of the Court shall without proof of the signature be received and read in evidence saving all just exceptions. C.O.Y.T. c. 17, R. 221.

Filing depositions.

Certified copies evidence.

233. Every person taking examinations may and if need be shall make a special report to the Court in which such proceedings are pending touching such examinations and the conduct or absence of any witness or other person thereon or relating thereto; and the Court shall institute such proceedings and make such order upon such report as justice requires and as may be instituted and made in any case of contempt of court. C.O.Y.T. c. 17, R. 222.

Special report of examiner.

234. Any party may at the trial of an action or issue or upon any application or motion use in evidence any part of the examination of the opposite parties:

Use of examination at trial.

Provided always that in such case the judge may look at the whole of the examination and if he is of opinion that any other part is so connected with the part to be so used that the last mentioned part ought not to be used without such other part he may direct such other part to be put in evidence. C.O. Y.T. c. 17, R. 223.

235. The cost of every examination of parties or of officers of corporations before the trial or otherwise than at the trial of an action shall be costs in the cause but the Court or judge in adjusting the costs of the action shall at the instance of any party inquire or cause inquiry to be made into the propriety of having made any such examination; and if it is the opinion of

Cost of examinations.

the Court or judge or the clerk as the case may be that such examination has been had unreasonably, vexatiously or at unnecessary length the costs occasioned by the examination shall be borne in whole or in part by the party in default. The clerk may make such inquiry without any direction. C.O.Y.T. c. 17, R. 224.

ORDER XXII.

ADMISSIONS.

Notice of admission of facts.

236. Any party to a cause or matter may give notice by his pleading or otherwise in writing that he admits the truth of the whole or any part of the case of any other party. [E. 371.] C.O.Y.T. c. 17, R. 225.

Notice to admit documents.

237. Either party may call upon the other party to admit any document saving all just exceptions; and in case of refusal or neglect to admit after such notice the costs of proving any such document shall be paid by the party so neglecting or refusing whatever the result of the cause or the matter may be unless at the trial or hearing the judge is satisfied that the refusal to admit was reasonable and no costs of proving any document shall be allowed unless such notice is given except where the omission to give the notice is in the opinion of the judge a saving of expense. [E. 372.] C.O.Y.T. c. 17, R. 226.

Costs:
(1) admission refused
(2) notice not given.

Notice to admit facts.

238. Any party may by notice in writing at any time not later than twelve days before the day fixed for trial call on any other party to admit for the purposes of the cause, matter or issue only any specific fact or facts mentioned in such notice; and in case of refusal or neglect to admit the same within six days after service of such notice or within such further time as may be allowed by a judge the cost of proving such fact or facts shall be paid by the party so neglecting or refusing whatever the result of the cause, matter or issue may be unless at the trial or hearing the judge is satisfied that the refusal to admit was reasonable:

Costs where admission refused.

Effect of admission.

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular cause, matter or issue and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice:

Admissions. Amendment or withdrawal.

Provided also that the judge may at any time allow any party to amend or withdraw any admission so made on such terms as are just. [E. 374.] C.O.Y.T. c. 17, R. 227.

Judgment on admissions.

239. Any party may at any stage of a cause or matter where admissions of fact have been made either on the pleadings or otherwise apply to a judge for such judgment or order as upon such admissions he may be entitled to without waiting for the determination of any other question between the parties and the

judge may upon such application make such order or give such judgment as the judge thinks just. [E. 376.] C.O.Y.T., c. 17, R. 228.

240. An affidavit of the solicitor or his clerk of the due signature of any admissions made in pursuance of any notice to admit documents or facts shall be sufficient evidence of such admissions if evidence thereof is required. [E. 377.] C.O.Y.T. c. 17, R. 229. Evidence of admissions.

241. If a notice to admit or produce comprises documents which are not necessary the costs occasioned thereby shall be borne by the party giving such notice. [E. 379.] C.O.Y.T. c. 17, R. 230. Notice to admit or produce. Costs.

ORDER XXIII.

ISSUES, INQUIRIES AND ACCOUNTS.

242. Where in any cause or matter it appears to the Court or judge that the issues of fact in dispute are not sufficiently defined the parties may be directed to prepare issues and such issues shall if the parties differ be settled by the Court or judge. [E. 380.] C.O.Y.T. c. 17, R. 231. Issues of fact, preparing and settling.

243. The Court or a judge may at any stage of the proceedings in a cause or matter direct any necessary inquiries or accounts to be made or taken and may direct the same to be taken by the clerk or other competent person notwithstanding that it appears that there is some special or further relief sought for or some special issue to be tried as to which it may be proper that the cause or matter should proceed in the ordinary manner. [E. 381.] C.O.Y.T. c. 17, R. 232. Inquiries and accounts, when and how taken.

244. In cases where the statement of claim is for an account or involves the taking of an account if the defendant either fails to appear or does not after appearance satisfy the judge that there is some preliminary question to be tried the plaintiff may obtain an order directing the taking of proper accounts; and in cases in which the plaintiff in the first instance desired to have an account taken the statement of claim shall request the same. [E. 121.] C.O.Y.T. c. 17, R. 233. Actions for account.

245. The judge may either by the judgment or order directing an account to be taken or by any subsequent order give special direction with regard to the mode in which the account is to be taken or vouched and in particular may direct that in taking the account the books of account in which the accounts in question have been kept shall be taken as *prima facie* evidence of the truth of the matters therein contained with liberty to the parties interested to take such objections thereto as they are advised. [E. 382.] C.O.Y.T. c. 17, R. 234. Special directions as to mode of taking account.

Account.

246. Where any account is directed to be taken the accounting party unless the judge otherwise directs shall make out his account and verify the same by affidavit. The items on each side shall be numbered consecutively and the account shall be referred to by the affidavit as an exhibit and be filed in Court. [E. 383.] C.O.Y.T. c. 17, R. 235.

Verification.

Production of vouchers.

Contested items.

247. Upon taking of any account the Court or judge may direct that the vouchers shall be produced at the office of the solicitor of the accounting party or at any other convenient place and that only such items as may be contested or surcharged shall be brought before the judge in chambers. C.O.Y.T. c. 17, R. 236.

Surcharge.

248. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received shall give notice thereof to the accounting party stating so far as he is able the amount sought to be charged and the particulars thereof in a short and succinct manner. [E. 384.] C.O.Y.T. c. 17, R. 237.

Inquiry as to outstanding estntc.

249. Every judgment or order for a general account of the personal estate of a testator or intestate shall contain a direction for an inquiry as to what parts if any of such personal estate are outstanding or undisposed of unless the Court or judge otherwise directs. [E. 385.] C.O.Y.T. c. 17, R. 238.

Numbering directions for account or inquiry.

250. Where by any judgment or order whether made in Court by the judge any accounts are directed to be taken or inquiries to be made each such direction shall be numbered so that as far as may be each distinct account and inquiry may be designated by a number with such variations as the circumstances of the case require. [E. 386.] C.O.Y.T. c. 17, R. 239.

Just allowances.

251. In taking any account directed by any judgment or order all just allowances shall be made without any direction for that purpose. [E. 387.] C.O.Y.T. c. 17, R. 240.

Expediting proceedings in case of undue delay.

252. If it appears to the judge that there is any undue delay in the prosecution of any accounts or inquiries or in any other proceedings under any judgment or order the judge may require the party having the conduct of the proceedings under any judgment or order or any other party to explain the delay and may thereupon make such order with regard to expediting the proceedings or the conduct thereof or the stay thereof and as to the costs of the proceedings as the circumstances of the case require; and for the the purposes aforesaid any party may be directed to summon the persons whose attendance is required and to conduct any proceedings and carry out any directions which may be given; and any costs of such party so directed shall be paid by such parties or out of such funds as the judge directs. [E. 388.] C.O.Y.T. c. 17, R. 241.

Inquiry and Reference as to Damages.

253. In every action or proceeding in which it appears to the Court or judge that the amount of damages sought to be recovered is substantially a matter of calculation the Court or judge may either fix the amount or direct that the amount for which final judgment is to be entered shall be ascertained by an officer of the Court or other person; and the attendance of witnesses and the production of documents before such officer or other person may be compelled by subpoena; and such officer or other person may adjourn the inquiry from time to time and shall indorse upon the order for referring the amount of damages to him, the amount found by him and shall deliver the order with such indorsement to the clerk of the court and such and the like proceedings may thereupon be had as to taxation of costs, entering judgment and otherwise as in ordinary cases. [E. 481.] C.O.Y.T. c. 17, R. 242.

Ascertain-
ment of
damages.

254. Where damages are to be assessed in respect of any continuing cause of action they shall be assessed down to the time of assessment. [E. 482.] C.O.Y.T. c. 17, R. 243.

Where
continuing
cause of
action.

SUMMARY INQUIRIES INTO FRAUDULENT TRANSFERS.

255. Where a judgment creditor or a person entitled to money under a judgment or order alleges that the debtor or person who is to pay has made a conveyance of his property whether real or personal which is void as being made to delay, hinder or defraud creditors or a creditor an originating summons may be issued by the judgment creditor calling upon the judgment debtor or person who is to pay or who has acquired any interest thereunder to show cause why the property embraced in such conveyance or a competent part thereof should not be sold to realize the amount to be levied under the execution. C.O.Y.T. c. 17, R. 244.

Originating
summons.

Inquiry into
alleged
fraudulent
conveyances.

256. Where any judgment creditor in an action or a person entitled under a judgment or order as aforesaid alleges that the debtor or person who is to pay is entitled to or has an interest in any property which under the former practice could not be sold under legal process but could be rendered available in an action for equitable execution by sale for satisfaction of the debt, an originating summons may be issued by the creditor calling upon the debtor or person who is to pay and the trustee or other person having the legal estate in the property or the interest therein of the debtor or the person who is to pay to show cause why the property or a competent part of the said property should not be sold to realize the amount to be levied under the execution. C.O.Y.T. c. 17, R. 245.

For equitable
execution.

257. Upon any application under either of the next two preceding rules such proceeding shall be had either in a summary way or by the trial of an issue or by inquiry before an officer of

Issue or
inquiry.

the Court or otherwise as the Court or judge deems necessary or convenient for the purpose of ascertaining the truth of the matters in question and whether the property or the debtor's or other person's interest therein is liable for the satisfaction of the execution. C.O.Y.T. c. 17, R. 246.

Order for sale.

258. Where in a summary way or upon the trial of an issue or as the result of any inquiries under the next three preceding rules any property or the interest of any debtor or other person therein is found liable to be sold an order shall be made by the Court or judge declaring what property or what interest therein is liable to be sold and directing the sale thereof according to the usual practice. C.O.Y.T. c. 17, R. 247.

Interim injunction or receiver.

259. Pending any such issue or inquiry an interim injunction order may be issued or a receiver appointed to prevent the transfer or other disposition of the property. C.O.Y.T. c. 17, R. 248.

ORDER XXIV.

SPECIAL CASE.

Special case by consent.

260. The parties to any cause or matter at any stage of the cause or matter or without any previous proceedings having been instituted may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs numbered consecutively and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby. Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents and the Court shall be at liberty to draw from the facts and documents stated in any special case any inference whether of fact or law which might have been drawn therefrom if proved at a trial. [E. 389.] C.O.Y.T. c. 17, R. 249.

Special case or question of law raised by order before trial.

261. If it appears to the Court or judge that there is in any cause or matter a question of law which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried or before any reference is made to a referee the Court or judge may make an order accordingly and may direct such question of law to be raised for the opinion of the Court either by special case or in any such other manner as the Court or judge deems expedient and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed. [E. 390.] C.O.Y.T. c. 17, R. 251.

Special case where person under disability is party.

262. No special case in any cause or matter to which a married woman (not being a party thereto in respect of her separate property or of any separate right of action by or against

her), infant or person of unsound mind not so found by judicial decision is a party shall be set down for argument without leave of the Court or judge, the application for which must be supported by sufficient evidence that the statements contained in such special case so far as the same affect the interest of such married woman, infant or person of unsound mind are true. [E. 392.] C.O.Y.T. c. 17, R. 251.

263. The parties to a special case may if they think fit enter into an agreement in writing that on the judgment of the Court being given in the affirmative or negative of the questions of law raised by the special case a sum of money fixed by the parties or to be ascertained by the Court or in such manner as the Court directs shall be paid by one of the parties to the other of them either with or without costs of the cause or matter; and the judgment of the Court may be entered for the sum so agreed or ascertained with or without costs as the case may be and execution may issue upon such judgment in the ordinary way unless otherwise agreed or unless stayed on appeal. [E. 394.] C.O.Y.T. c. 17, R. 252.

Agreement
for payment
of money
according to
result of
special case.

ORDER XXV.

TRIAL.

264. If when a trial is called on the plaintiff appears and the defendant does not appear the plaintiff may prove his claim so far as the burden of proof lies upon him. [E. 455.] C.O.Y.T. c. 17, R. 253.

Defendant
not
appearing.

265. If when a trial is called on, the defendant appears and the plaintiff does not appear the defendant if he has no counterclaim shall be entitled to judgment dismissing the action but if he has a counterclaim then he may prove such counterclaim so far as the burden of proof lies upon him. [E. 456.] C.O.Y.T. c. 17, R. 254.

Plaintiff not
appearing.

266. Any verdict or judgment obtained where one party does not appear at the trial may be set aside by the Court or judge upon such terms as seem fit upon an application within fifteen days after the trial. [E. 457.] C.O.Y.T. c. 17, R. 255.

Judgment by
default.
Setting aside.

267. The judge may if he thinks it expedient for the interests of justice postpone or adjourn a trial for such time and to such place and upon such terms if any as he thinks fit; but no trial shall be postponed upon the ground of the absence of a material witness unless the affidavit upon which the application is made distinctly states that the deponent believes and is advised that the party on whose behalf the application is made has a just cause of action or defence upon the merits and that the application is not made solely for delay. [E. 458.] C.O.Y.T. c. 17, R. 256.

Postponement
or
adjournment
of trial.

Accidental omission to prove material fact.

268. Where through accident or mistake or other cause any party omits or fails to prove some fact material to his case the judge may proceed with the trial subject to such fact being afterwards proved at such time and subject to such terms and conditions as to costs and otherwise as the judge directs and if the case is being tried by a jury the judge may direct the jury to find a verdict as if such fact had been proved and the verdict shall take effect on such fact being afterwards proved as directed; and if not so proved judgment shall be entered for the opposite party unless the Court or judge otherwise directs. This rule shall not apply to actions for libel or slander. C.O.Y.T. c. 17, R. 257.

Speeches to jury.

269. Upon a trial with a jury the addresses to the jury shall be regulated as follows: the party who begins or his counsel shall be allowed at the close of his case if his opponent does not announce any intention to adduce evidence to address the jury a second time for the purpose of summing up the evidence and the opposite party or his counsel shall be allowed to open his case and also to sum up the evidence if any and the right to reply shall be the same as in England. [E. 460.] C.O.Y.T. c. 17, R. 258.

Cross examination.

Vexatious or irrelevant questions.

270. The judge may in all cases disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious and not relevant to any matter proper to be inquired into in the cause or matter. [E. 462.] C.O.Y.T. c. 17, R. 259.

Delivery of judgment.

271. The judge shall at or after trial direct judgment to be entered as he thinks right and no motion for judgment shall be necessary in order to obtain such judgment. [E. 463.] C.O.Y.T. c. 17, R. 260.

ORDER XXVI.

EVIDENCE, ETC.

I.—Evidence Generally.

Evidence may be taken by examiner.

Judgment thereon or new trial.

272. In any action the judge may direct the evidence either wholly or in part to be taken by any clerk of the court or by any other competent person; which clerk or other person shall be sworn to take the same truly and to reduce it to writing and on the return of the evidence the judge may give judgment upon the evidence taken by the clerk or other person as aforesaid or may order a new trial as justice requires. C.O.Y.T. c. 17, R. 261.

Witnesses to be examined *viva voce* unless otherwise agreed or ordered.

273. In the absence of any agreement in writing between the parties or their solicitors and subject to the provisions of this Ordinance the witnesses at the trial of any action or at any assessment of damages shall be examined *viva voce* and in open court but the Court or judge may at any time for suffi-

cient reason order that any particular fact or facts may be proved by affidavits or that the affidavit of any witness may be read at the hearing or trial on such conditions as the Court or judge think reasonable or that any witness whose attendance in Court ought for some sufficient cause to be dispensed with be examined by interrogatories or otherwise before a commissioner or examiner:

Provided that where it appears to the Court or judge that the other party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced an order shall not be made authorizing the evidence of such witness to be given by affidavit. [E. 483.] C.O.Y.T. c. 17, R. 262.

274. An order to read evidence taken in another cause or matter shall not be necessary but such evidence may ^{Reading evidence taken in other causes.} saving all just exceptions be read by leave of the Court or judge. [E. 485.] C.O.Y.T. c. 17, R. 263.

275. Copies of all writs, records, pleadings and documents filed in court when certified by the clerk shall be admissible ^{Office copies admissible in evidence.} in evidence in all causes and matters and between all persons or parties to the same extent as the original would be admissible. [E. 486.] C.O.Y.T. c. 17, R. 264.

276. Impounded documents while in the custody of the court are not to be parted with; and are not to be inspected ^{Impounded documents.} except on a written order signed by the judge on whose order they were impounded. C.O.Y.T. c. 17, R. 265. No. 7 of 1914, s. 2.

II.—*Examination of Witnesses.*

277. The Court or judge may in any cause or matter when it appears necessary for the purposes of justice make any order ^{Order for examination of witness.} for the examination upon oath *viva voce* or by interrogatories in writing before the Court or judge or any officer of the court or any other person and at any place of any witness or person and may empower any party to any such cause or matter to give such deposition in evidence therein on such terms if any as the Court or judge directs. [E. 487.] C.O.Y.T. c. 17, R. 266.

278. The Court or judge may in any cause or matter at any stage of the proceedings order the attendance of any person ^{Order for production of documents.} for the purpose of producing any writings or other documents named in the order the production of which the Court or judge thinks requisite:

Provided that no person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the hearing or trial. [E. 489.] C.O.Y.T. c. 17, R. 267.

279. Any person wilfully disobeying any order requiring ^{Disobedience to order.} his attendance for the purpose of being examined or of producing

any document shall be deemed guilty of contempt of court and may be dealt with accordingly. [E. 490.] C.O.Y.T. c. 17, R. 268.

Conduct
money.

280. Any person required to attend for the purpose of being examined or of producing any document shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court. [E. 491.] C.O.Y.T. c. 17, R. 269.

Copy of
proceedings to
be furnished
examiner.

281. Where any witness or person is ordered to be examined before any officer of the Court or before any person appointed for the purpose the person taking the examination shall be furnished by the party on whose application the order was made with a copy of the proceedings in the cause or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties. [E. 492.] C.O.Y.T. c. 17, R. 270.

Conduct of
examination.

282. The examination shall take place in the presence of the parties, their counsel, solicitor or agent and the witnesses shall be subject to cross-examination and re-examination. [E. 493.] C.O.Y.T. c. 17, R. 271.

Depositions,
mode of
taking.

283. The depositions taken before an officer of the Court or before any other person appointed to take the examination shall be taken down in writing by or in the presence of the examiner not ordinarily by question and answer but so as to represent as nearly as may be the statement of the witness and when completed shall be read over to the witness and signed by him in the presence of the parties or such of them as think fit to attend. If the witness refuses to sign the depositions the examiner shall sign the same. The examiner may put down any particular question or answer if there appears any special reason for doing so and may put any question to the witness as to the meaning of any answer or as to any matter arising in the course of the examination. Any questions which are objected to shall be taken down by the examiner in the depositions and he shall state his opinion thereon to the solicitors or parties and shall refer to such statement in the depositions but he shall not have the power to decide upon the materiality or relevancy of any question. [E. 494.] C.O.Y.T. c. 17, R. 272.

Reading and
signatures.

Questions and
answers.

Objections.

Disobedience
of witness.

284. If any person duly summoned by subpoena to attend for examination refuses to attend or if having attended he refuses to be sworn or to answer any lawful question a certificate of such refusal signed by the examiner shall be filed in court and thereupon the party requiring the attendance of the witness may apply to the Court or judge *ex parte* or on notice for an order directing the witness to attend or to be sworn or to answer any question as the case may be [E. 495.] C.O.Y.T. c. 17, R. 273.

Objections by
witness.

285. If any witness objects to any question put to him before an examiner the question so put and the objection of the

witness thereto shall be taken down by the examiner and transmitted by him to the court to be there filed and the validity of the objection shall be decided by the Court or judge. [E. 496.] C.O.Y.T. c. 17, R. 274.

286. If it is made to appear to the judge that a witness has been duly served with a subpoena and his fees for travel and attendance paid or tendered to him and that such witness refuses or neglects to attend to give evidence as required by his subpoena and that his evidence is necessary and material it shall be lawful for the judge in addition to any powers which he possesses for the punishment of such witness to issue a warrant under his hand and seal directed to the sheriff or other officer or officers for the immediate arrest of such witness to be brought before the court or person authorized to hear the evidence for the purpose of giving evidence in the cause. C.O.Y.T. c. 17, R. 275.

Witness disobeying subpoena.

Warrant for arrest.

287. In any case under the next three preceding rules the court or judge shall have power to order the witness to pay any costs occasioned by his refusal or objection. [E. 497.] C.O. Y.T. c. 17, R. 276.

Costs against disobedient witness.

288. When the examination of any witness before any examiner has been concluded the original depositions authenticated by the signature of the examiner shall be returned by him to the clerk of the Court to whom the same is returnable and by him shall be filed. [E. 498.] C.O.Y.T. c. 17, R. 277.

Return of depositions.

289. The person taking the examination of a witness under the provisions of this order may and if need be shall make a special report to the Court touching such examination and the conduct or absence of any witness or other person thereon and the Court or judge may direct such proceedings and make such order as upon the report they or he thinks just. [E. 499.] C.O. Y.T. c. 17, R. 278.

Special report by examiner.

290. Except where it is otherwise provided or is directed by the Court or judge no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same is offered unless the Court or judge is satisfied that the deponent is dead or beyond the jurisdiction of the Court or unable from sickness or other infirmity to attend the hearing or trial in any of which cases the depositions certified under the hand of the person taking the examination shall be admissible in evidence saving all just exceptions without proof of the signature to such certificate. [E. 500.] C.O.Y.T. c. 17, R. 279.

Depositions, use of in evidence.

291. Any officer of the court or other person directed to take the examination of any witness or person may administer oaths. [E. 501.] C.O.Y.T. c. 17, R. 280.

Oaths.

Examination for use in proceedings in cause.

292. Any party in any cause or matter may by subpoena *ad testificandum* or *duces tecum* require the attendance of any witness before an officer of the court or other person appointed to take the examination for the purpose of using his evidence upon any proceeding in the cause or matter in the like manner as such witness would be bound to attend and be examined at the hearing or trial; and any party or witness having made an affidavit to be used or which is used on any proceeding in the cause or matter shall be bound on being served with such subpoena to attend before such officer or person for cross-examination. [E. 502.] C.O.Y.T. c. 17, R. 281.

Cross-examination on affidavit.

Evidence taken after trial.

293. Evidence taken subsequently to the hearing or trial of any cause or matter shall be taken as nearly as may be in the same manner as evidence taken at or with a view to a trial. [E.503.] C.O.Y.T. c. 17, R. 282.

Practice on taking evidence.

294. The practice with reference to the examination, cross-examination and re-examination of witnesses at a trial shall extend and be applicable to evidence taken in any cause or matter at any stage. [E. 504.] C.O.Y.T. c. 17, R. 283.

Special directions as to taking evidence.

295. The practice of the Court with respect to evidence at a trial when applied to evidence to be taken before an officer of the Court or other person in any cause or matter after the hearing or trial shall be subject to any special directions which are given. [E. 505.] C.O.Y.T. c. 17, R. 284.

Notice to use affidavit or depositions at trial.

296. No affidavit or deposition filed or made before issue joined in any cause or matter shall without special leave of the Court or judge be received at the hearing or trial thereof unless within one month after the cause is at issue or within such longer time as is allowed by special leave of the Court or a judge notice in writing has been given by the party intending to use the same to the opposite party of his intention in that behalf. [E. 506.] C.O.Y.T. c. 17, R. 285.

Evidence at trial, subsequent use of.

297. All evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the cause or matter. [E. 507.] C.O.Y.T. c. 17, R. 286.

III.—*Subpœna.*

Subpœna for witness in chambers.

298. When a subpoena is required for the attendance of a witness for the purpose of proceedings in chambers such subpoena shall issue from the clerk's office upon a note from the judge. [E. 510.] C.O.Y.T. c. 17, R. 287.

Service of subpoena.

299. The service of a subpoena shall be effected by delivering a copy of the writ and of the indorsement thereon and at the same time producing the original writ. [E. 514.] C.O.Y.T. c. 17, R. 288.

IV.—*Perpetuating Testimony.*

300. Any person who, under the circumstances alleged by him to exist, becomes entitled upon the happening of any future event to any office or to any estate or interest in any property real or personal the right or claim to which cannot by him be brought to trial before the happening of such event may commence an action to perpetuate any testimony which may be material for establishing such right or claim. [E. 517.] C.O.Y.T. c. 17, R. 289.

Action to perpetuate testimony.

301. Witnesses shall not be examined to perpetuate testimony unless an action has been commenced for the purpose. [E. 519.] C.O.Y.T. c. 17, R. 290.

Witnesses.

302. No action to perpetuate the testimony of witnesses shall be set down for trial. [E. 520.] C.O.Y.T. c. 17, R. 291.

Trial.

ORDER XXVII.

AFFIDAVITS AND DEPOSITIONS.

303. Upon any motion, petition or summons evidence may be given by affidavit; but the Court or judge may on the application of either party order the attendance for cross-examination of the person making any such affidavit and may make such interim order or otherwise as appears necessary to meet the justice of the case. [E. 521.] C.O.Y.T. c. 17, R. 292.

Evidence on motions, etc.

Cross-examination.

304. Except by special leave of the Court or a judge affidavits upon which a notice of motion or petition is founded shall be filed before the return day of the notice of motion or petition and served therewith and any affidavits to be used in reply shall be served not later than the day immediately preceding the return day of such motion or petition and filed before said return day, and the affidavits in reply to matter may be filed and served on the morning of the return day, and any exhibits, copies of which are not served with the affidavits, and which are to be used upon the application, are to be deposited with the clerk at the time of the filing of the affidavits, such exhibits, unless otherwise ordered, to be delivered out to the party depositing same, after the disposal of the motion. No. 22 of 1903, s. 21.

Filing of affidavits.

305. Every affidavit shall be intituled in the cause or matter in which it is sworn; but in every case in which there is more than one plaintiff or defendant it shall be sufficient to state the full name of the first plaintiff or defendant respectively and that there are other plaintiffs or defendants as the case may be; and the costs occasioned by any unnecessary prolixity in any such title shall be disallowed. [E. 522.] C.O.Y.T. c. 17, R. 203.

Intituling affidavits.

Affidavits confined to facts.

Statements of belief.

306. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove except on interlocutory motions on which statements as to his belief with the grounds thereof may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter or copies of or extracts from documents shall be paid by the party filing the same. [E. 523.] C.O.Y.T. c. 17, R. 204.

Officers for oaths.

307. Affidavits sworn in the Yukon Territory shall be sworn before a judge, clerk of the Court or deputy clerk, notary public, justice of the peace or commissioner empowered to administer oaths. [E. 524.] C.O.Y.T. c. 17, R. 295.

Jurat: time and place of oath.

308. Every person administering oaths shall express the time when and the place where he takes any affidavit or recognizance; otherwise the same shall not be held authentic nor be admitted to be filed without the leave of the Court or judge. [E. 525.] C.O.Y.T. c. 17, R. 206.

Form of affidavits.

309. Every affidavit shall be drawn up in the first person and shall be divided into paragraphs and every paragraph shall be numbered consecutively and as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule. [E. 527.] C.O.Y.T. c. 17, R. 298.

Description of deponent. Signature.

310. Every affidavit shall state the description and true place of abode of the deponent and shall be signed by him. [E. 528.] C.O.Y.T. c. 17, R. 299.

Affidavits by several deponents.

311. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat except that if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both or all of the "above named" deponents. [E. 529.] C.O.Y.T. c. 17, R. 300.

Affidavits etc., to be filed.

312. Every affidavit used in a cause, matter or proceeding shall be filed. [E. 530.] C.O.Y.T., c. 17, R. 301.

Scandalous matter.

313. The Court or judge may order to be struck out from any affidavit any matter which is scandalous and may order the costs of any application to strike out such matter to be paid by the offending party. [E. 531.] C.O.Y.T., c. 17, R. 302.

Alterations in affidavits.

314. No affidavit having in the jurat or body thereof any interlineation, alteration or erasure shall without leave of the Court or judge be read or made use of in any matter depending in Court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit nor in the case of an erasure unless the words or figures appearing at the time of taking the affidavit to be written on the

erasure are written and signed or initialled in the margin of the affidavit by the officer taking it. [E. 532.] C.O.Y.T. c. 17, R. 304.

315. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it and that the deponent made his signature or mark in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate unless the Court or judge is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent. [E. 533.] C.O.Y.T. c. 17, R. 304.

Affidavits by illiterate or blind person.

316. The Court or judge may receive any affidavit sworn for the purpose of being used in any cause or matter notwithstanding any defect by misdescription of parties or otherwise in the title or jurat or any other irregularity in the form thereof and may direct a memorandum to be made on the document that it has been so received. [E. 534.] C.O.Y.T. c. 17, R. 305.

Use of defective affidavits.

317. A copy of an affidavit may in all cases be used the original affidavit having been previously filed and the copy duly authenticated with the certificate of the clerk with the seal of the Court. [E. 535.] C.O.Y.T. c. 17, R. 306.

Office copies.

318. No affidavit shall be sufficient if sworn before the solicitor acting for the party on whose behalf the affidavit is to be used or before any agent of such solicitor or before the party himself. [E. 536.] C.O.Y.T. c. 17, R. 307.

Affidavit sworn before solicitor or agent.

319. Any affidavit which would be insufficient if sworn before the solicitor himself shall be insufficient if sworn before his clerk or partner. [E. 537.] C.O.Y.T. c. 17, R. 308.

or clerk or partner.

320. Where a special time is limited for filing affidavits no affidavit filed after that time shall be used unless by leave of the Court or judge. On motions founded on affidavits either party may by leave of the Court or judge make affidavits in answer to the affidavits of the opposite party as to new matter arising out of such affidavits. [E. 538.] C.O.Y.T. c. 17, R. 309.

Time limited for filing.

Affidavits in answer.

321. Except by leave of the Court or judge no order made *ex parte* in court founded on any affidavits shall be of any force unless the affidavit on which the application was made was actually made before the order was applied for and produced or filed at the time of making the application. [E. 539.] C.O.Y. T. c. 17, R. 310.

Affidavits on *ex parte* motions.

322. All affidavits which have been previously made and read in Court upon any proceedings in a cause or matter may be used before a judge in chambers. [E. 542.] C.O.Y.T. c. 17, R. 311.

Use in chambers of affidavits used in Court.

Affidavits of service. **323.** Affidavits of service upon any party must state when, where and how and by whom such service was effected. [E. 1020.] C.O.Y.T. c. 17, R. 312.

Alterations in verified accounts. **324.** Every alteration in an account verified by affidavit shall be marked with the initials of the commissioner or officer before whom the affidavit is sworn and such alteration shall not be made by erasure. [E. 542.] C.O.Y.T. c. 17, R. 313.

Exhibits, reference to. **325.** Accounts, extracts and other documents referred to by affidavit shall not be annexed to the affidavit or referred to in the affidavit as annexed but shall be referred to as exhibits. [E. 543.] C.O.Y.T. c. 17, R. 314.

Certificate on exhibit. **316.** Every certificate on an exhibit referred to in an affidavit signed by the commissioner or officer before whom the affidavit is sworn shall be marked with the short title of the cause or matter. [E. 544.] C.O.Y.T. c. 17, R. 315.

ORDER XXVIII.

MOTION FOR JUDGMENT.

Judgment on motion. **327.** Except where it is otherwise provided that the judgment may be obtained in any other manner the judgment of the Court shall be obtained by motion for judgment. [E. 559.] C.O.Y.T. c. 17, R. 316.

Judgment on findings of jury. **328.** Where at or after a trial with a jury the judge has directed that any judgment be entered any party may apply to set aside such judgment and enter any other judgment on the ground that the judgment directed to be entered is wrong by reason that the finding of the jury upon the questions submitted to them has not been properly entered. [E. 561.] C.O.Y.T. c. 17, R. 317.

Setting aside judgment directed to be entered by judge. **329.** Where at or after a trial by a judge either with or without a jury the judge has directed that any judgment be entered any party may apply to set aside such judgment and enter any other judgment upon the ground that upon the finding as entered the judgment so directed is wrong. [E. 562.] C.O.Y.T. c. 17, R. 318.

Application to Court of Appeal. **330.** An application under the two next preceding rules shall be to The Court of Appeal of British Columbia. [E. 563.] C.O.Y.T. c. 17, R. 319; No. 7 of 1914, s. 3.

Setting down motion for judgment after issues tried. **331.** When issues have been ordered to be tried or issues or questions of fact to be determined in any manner the plaintiff may set down a motion for judgment as soon as such issues or questions have been determined. If he does not set down such a motion and give notice thereof to the other parties within ten

days after his right so to do has arisen then after the expiration of such ten days any defendant may set down a motion for judgment and give notice thereof to the other parties. [E. 565.] C.O.Y.T. c. 17, R. 320.

332. When issues have been ordered to be tried or issues or questions of fact to be determined in any manner and some only of such issues or questions of fact have been tried or determined any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary or renders it desirable that the trial or determination thereof should be postponed may apply to the Court or judge for leave to set down a motion for judgment without waiting for such trial or determination; and the Court or judge may if satisfied of the expediency thereof give such leave upon such terms if any as appear just and may give any directions which appear desirable as to postponing the trial of the other issues of fact. [E. 566.] C.O.Y.T. c. 17, R. 321.

After trial of some of issues ordered.

Motion for judgment.

333. No motion for judgment shall except by leave of the Court or judge be set down after the expiration of one year from the time when the party seeking to set down the same first became entitled so to do. [E. 567.] C.O.Y.T. c. 17, R. 322.

Motion to be set down within one year.

334. Upon a motion for judgment or upon an application for a new trial the Court may draw all inferences of fact not inconsistent with the finding of the jury and if satisfied that it has before it all the materials necessary for finally determining the questions in dispute or any of them or for awarding any relief sought give judgment accordingly or may if it is of opinion that it has not sufficient materials before it to enable it to give judgment direct the motion to stand over for further consideration and direct such issues or questions to be tried or determined and such accounts and inquiries to be taken and made as it thinks fit. [E. 568.] C.O.Y.T. c. 17, R. 323.

Motion for judgment or new trial.

Inferences of fact, etc.

335. Where it is made to appear to the Court or judge on the hearing of any application which is pending before the Court or judge that it will be conducive to the ends of justice to permit it, the Court or judge may direct any application to be turned into a motion for judgment or hearing of the cause or matter; and thereupon the Court or judge may make such order as to the time and manner of giving the evidence in the cause and matter and with respect to the further prosecution thereof as the circumstances of the case require; and upon the hearing it shall be discretionary with the Court or judge to either pronounce a judgment or make such order as the Court or judge deems expedient. C.O.Y.T. c. 17, R. 324.

Court or judge may direct any application to be turned into motion for judgment or hearing of cause.

336. Where at any time after the writ of summons has been issued it is made to appear to the Court or judge on an *ex parte* application that it will be conducive to the ends of justice to permit a notice of motion for a judgment to be forthwith served

Court or judge may permit service of notice of motion for

judgment
before
appearance.

the Court or judge may order the same accordingly and when such permission is granted the Court or judge shall give such directions as to the service of the notice of motion and affidavits as are expedient. Upon the hearing of such motion the Court or judge instead of either granting or refusing the application may give such directions for the examination of either parties or witnesses or for the making of further inquiries or with respect to the further prosecution of the suit as the circumstances of the case requires and upon such terms as to costs as the Court or judge thinks right. C.O.Y.T. c. 17, R. 325.

ORDER XXIX.

JUDGMENT AND ENTRY OF JUDGMENT.

Recording
orders,
decrees and
judgments.

337. Except where otherwise provided every order or decree and every other judgment that the judge so directs shall be entered by the proper officer at length in a book to be kept for such purpose properly indexed and a copy of such entry certified by the proper officer under the seal of the Court shall be received for all purposes as of the same force and effect as such original order, decree or judgment. C.O.Y.T. c. 17, R. 326.

Certified
copies
evidence.

Judgment to
be entered
as of date
pronounced.

338. Where any judgment is pronounced by the Court or judge the entry of judgment shall be dated as of the day on which such judgment is pronounced unless the Court or judge otherwise orders and the judgment shall take effect from that date:

Provided that by special leave of the Court or judge a judgment may be antedated or postdated. [E. 571.] C.O.Y.T. c. 17, R. 327.

Date of entry
in other cases.

339. In all cases not within the next preceding rule the entry of judgment shall be dated as of the day on which the requisite documents are left with the proper officer for the purpose of such entry and the judgment shall take effect from that date. [E. 572.] C.O.Y.T. c. 17, R. 328.

Time to be
stated for
doing any act
ordered to
be done.

340. Every judgment or order made in any cause or matter requiring any person to do an act thereby ordered shall state the time or the time after service of the judgment or order within which the act is to be done and upon the copy of the judgment or order which shall be served upon the person required to obey the same there shall be indorsed a memorandum in the words or to the effect following, namely:

Memorandum
to be
indorsed.

"If you the within named *A.B.* neglect to obey this judgment (or order) by the time therein limited you will be liable to process of execution for the purpose of compelling you to obey the same judgment (or order)." [E. 573.] C.O.Y.T. c. 17, R. 329.

341. In any action for tort including libel and slander the judge before whom such action is tried may at the time of rendering judgment or at any subsequent time direct payment of the amount due on such judgment, including costs forthwith or at such later time as the judge deems proper and may direct unless such order is complied with that the defendant be imprisoned for such time as he directs not exceeding one year unless the amount so due is sooner paid. No. 10 of 1904, s. 1. Judgment in actions for tort.

342. Where it is provided that any judgment may be entered upon the filing of any affidavit, or production of any document the clerk shall examine the affidavit or document produced and if the same is regular and contains all that is by law required he shall enter judgment accordingly. [E. 574.] C.O.Y.T. c. 17, R. 330. Entry of judgment on production of affidavit or document.

343. Where any judgment may be entered pursuant to any order or certificate or return to any writ the production of such order, certificate or return shall be sufficient authority to the officer to enter judgment accordingly. [E. 575.] C.O.Y.T. c. 17, R. 331. Entry on production of order or certificate.

344. In any cause or matter where the defendant has appeared by solicitor no order for entering judgment shall be made by consent unless the consent of the defendant is given by his solicitor or agent. [E. 577.] C.O.Y.T. c. 17, R. 332. Consent judgment. Defendant represented.

345. Where the defendant has not appeared or has appeared in person no such order shall be made unless the defendant attends before a judge and gives his consent in person or unless his written consent is attested by a solicitor acting on his behalf. [E. 578.] C.O.Y.T. c. 17, R. 333. Consent judgment. Defendant in person.

346. Satisfaction of a judgment shall be signed by the plaintiff or his personal representatives, or by a solicitor specially authorized for that purpose in writing unless the judge on special circumstances set forth by affidavit dispenses with such authorization. C.O.Y.T. c. 17, R. 334. No. 22 of 1903, s. 22. Satisfaction of judgment.

ORDER XXX.

EXECUTION.

I.—*Execution Generally.*

347. Where any person is by order directed to pay any money or deliver up or transfer any property real or personal to another it shall not be necessary to make any demand thereof but the person so directed shall be bound to obey such order upon being duly served with a copy of the same without demand. [E. 579.] C.O.Y.T. c. 17, R. 335. Judgment or order to be obeyed without demand.

Conditional judgment

348. Where any person who has obtained any judgment or order upon condition does not perform or comply with such condition he shall be considered to have waived or abandoned such judgment or order so far as the same is beneficial to himself and any other person interested in the matter may on breach or non-performance of the condition take either such proceedings as the judgment or order in such case warrants or such proceedings as might have been taken if no such judgment or order had been made unless the Court or judge otherwise directs. [E. 580.] C.O.Y.T. c. 17, R. 336.

Breach or non-performance of condition.

Execution to enforce payment of money.

349. Every person to whom any sum of money or any costs are payable under a judgment or order so soon as the money or costs are payable shall be entitled to sue out one or more writ or writs of *fieri facias* to enforce payment thereof subject nevertheless as follows:

Where time allowed by judgment.

(a) If the judgment or order is for payment within a period therein mentioned no such writ as aforesaid shall be issued until after the expiration of such period;

Stay of execution.

(b) The Court or a judge may at or after the time of giving judgment or making an order stay execution until such time as it or he thinks fit. [E. 595.] C.O.Y.T. c. 17, R. 337.

Recovery of land.

350. A judgment for the recovery or for the delivery or the possession of land may be enforced by writ of possession. [E. 583.] C.O.Y.T. c. 17, R. 338.

Recovery of other property.

351. A judgment for the recovery of any property other than land or money may be enforced by writ for the delivery of the property. [E. 584.] C.O.Y.T. c. 17, R. 339.

Judgment to do or abstain from any act.

352. A judgment requiring any person to do any act other than the payment of money or to abstain from doing anything may be enforced by writ of attachment or by committal. [E. 585.] C.O.Y.T. c. 17, R. 340.

Judgment on condition.

353. Where a judgment or order is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency the party so entitled may upon the fulfilment of the condition or contingency and demand made upon the party against whom he is entitled to relief apply to the judge for leave to issue execution against such party; and the judge may if satisfied that the right to relief has arisen according to the terms of the judgment or order, order that execution issue accordingly or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any of the ways in which questions arising in any action may be tried. [E. 587.] C.O.Y.T. c. 17, R. 341.

Execution of.

Execution in case of judgment against firms.

354. Where a judgment or order is against a firm execution may issue:

(a) Against any property of the partnership;

(b) Against the property of any person who has appeared in his own name or who has admitted on the pleadings that he is or who has been adjudged to be a partner;

(c) Against the property of any person who has been individually served as a partner with a writ of summons and has failed to appear;

2. If the party who has obtained judgment or an order claims to be entitled to issue execution against any other person as being a member of the firm he may apply to a judge for leave so to do; and a judge may give such leave if the liability is not disputed or if such liability is disputed may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined; but except as against any property of the partnership a judgment against a firm shall not render liable, release or otherwise affect any member thereof who was out of the jurisdiction when the writ was issued and who has not appeared to the writ unless he has been made a party to the action or has been served with the writ in the action. [E. 648*h*.] C.O.Y.T. c. 17, R. 342.

Application for leave to issue against members of firm.

Judgment not to affect partner out of jurisdiction.

355. No writ of execution shall be issued without the party issuing it or his solicitor filing a *praecipe* for that purpose; the *praecipe* shall contain the title of the action, the reference to the record, the date of the judgment and of the order if any directing the execution to be issued, the names of the parties against whom or of the firm against whose goods the execution is to be issued and shall be signed by or on behalf of the solicitor of the party issuing it or by the party issuing it if he does so in person. [E. 590.] C.O.Y.T. c. 17, R. 343.

Praecipe for execution.

356. When entitled thereto the party in whose favour such judgment has been entered may have one or more writs of execution directed to the sheriff for levying the amount due on such judgment and legal interest thereon and costs subsequent to such judgment by distress and sale of the goods and chattels and personal property liable to seizure and sale for debt of the party against whom the said judgment has been so entered. C.O.Y.T. c. 17, R. 344.

Execution, one or more.

357. Every writ of execution shall bear date the day of its issue and shall remain in force for two years from its date (and no longer if unexecuted unless renewed) but such writ may at any time before its expiration and so from time to time during the continuance of the renewed writ be renewed by the party issuing it for two years from the date of such renewal by being marked in the margin with a memorandum to the effect following: "Renewed for two years from the _____ day of _____ A.D. 19 _____," (signed by the clerk); and the production of a writ of execution marked as renewed in manner aforesaid shall be sufficient evidence of its having been so renewed; and a writ of execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof. C.O.Y.T. c. 17, R. 345.

Date of execution. Duration. Renewal.

Indorsement
of direction
to sheriff.

358. Every writ of execution for the recovery of money shall be indorsed with a direction to the sheriff or other officer or person to whom the writ is directed to levy the money really due and payable and sought to be recovered under the judgment or order stating the amount and also to levy legal interest thereon if sought to be recovered, together with sheriff's fees, poundage and other expenses of execution. [E. 594.] C.O.Y.T. c. 17, R. 346.

Execution
may issue
within six
years.

359. As between the original parties to a judgment or order execution may issue at any time within six years from the recovery of the judgment or the date of the order. [E. 600.] C.O.Y.T. c. 17, R. 347.

Leave to
issue
execution in
certain cases.

360. In the following cases namely:

- (a) Where six years have elapsed since the judgment or date of the order or any change has taken place by death or otherwise in the parties entitled or liable to execution;
- (b) Where a husband is entitled or liable to execution upon a judgment or order for or against a wife;
- (c) Where a party is entitled to execution upon a judgment of assets *in futuro*;
- (d) Where a party is entitled to execution against any of the shareholders of a joint stock company upon a judgment recorded against such company or against a public officer or other person representing such company;

the party alleging himself to be entitled to the execution may apply to the judge for leave to issue the execution accordingly; and such judge may if satisfied that the party so applying is entitled to issue execution make an order to that effect or may order that any issue or question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in any action may be tried; and in either case such judge may impose such terms as to costs or otherwise as are just. [E.601.] C.O.Y.T. c. 17, R. 348.

Enforcement
of orders.

361. Every order of the Court or judge in any cause or matter may be enforced against all persons bound thereby in the same manner as a judgment to the same effect. [E. 602.] C.O.Y.T. c. 17, R. 349.

Executions by
or against a
person not a
party.

362. Any person not being a party to a cause or matter who obtains any order or in whose favour any order is made shall be entitled to enforce obedience to such order by the same process as if he was a party to such cause or matter and any person not being a party to a cause or matter against whom obedience to any judgment or order may be enforced shall be liable to the same process for enforcing obedience to such judgment or order as if he was a party to such cause or matter. [E. 604.] C.O.Y.T. c. 17, R. 350.

Facts arisen
too late to be
pleaded.

363. No proceeding by *audita querela* shall hereafter be used; but any party against whom a judgment has been given may apply to the judge for a stay of execution or other relief against

such judgment upon the ground of facts which have arisen too late to be pleaded and the judge may give such relief and upon such terms as are just. [E. 605.] C.O.Y.T. c. 17, R. 351. Stay of execution.

364. If a mandamus granted in an action or otherwise or a mandatory order, injunction or judgment for the specific performance of any contract is not complied with the Court or judge besides or instead of proceedings against the disobedient party for contempt may direct that the act required to be done may be done so far as practicable by the party by whom the judgment or order has been obtained or some other person to be appointed by the Court or judge at the cost of the disobedient party and upon the act being done the expenses incurred may be ascertained in such manner as the Court or judge directs and execution may issue for the amount so ascertained and costs. [E. 608.] C.O.Y.T. c. 17, R. 352. Court may order act to be done at expense of party refusing.

365. Any judgment or order against a corporation wilfully disobeyed may by leave of the Court or judge be enforced by execution against the corporate property or by attachment of the persons of the directors or other officers. [E. 609.] C.O.Y.T. c. 17, R. 353. Enforcement of judgment against corporation.

366. Every writ of execution shall follow form B in the schedule hereto adapted to the circumstances of each case and where form B is not appropriate the form shall be settled by the judge on *ex parte* application. C.O.Y.T. c. 17, R. 354. Forms of execution.

367. Except as hereinafter mentioned every writ of execution against goods and chattels shall at and from the time of its delivery to the sheriff to be executed bind all the goods and chattels or any interest in all the goods and chattels of the judgment debtor within the Territory and shall take priority to any chattel mortgage, bill of sale or assignment for the benefit of all or any of the creditors of the judgment debtor executed by him after the receipt by the sheriff of such writ of execution or which by virtue of the provisions of *The Bills of Sale Ordinance* has not taken effect prior to such receipt as against the creditor's or creditors' interest under the execution but shall not take priority to a *bona fide* sale by the judgment debtor followed by an actual and continued change of possession of any of his goods and chattels without actual notice to the purchaser that such writ is in the hands of the sheriff. C.O.Y.T. c. 17, R. 355. Effect of execution in sheriff's hands as against goods of judgment debtor.

368. No sale of personal property seized under any writ of execution or process shall be made without such sale being advertised for at least ten days by public notice thereof describing the property to be sold, copies of which notice shall be posted in the offices of the clerk and sheriff and in at least five public places in the locality where the same is to be sold; but when the articles seized are of a perishable nature or are of such a character as to not allow a delay of ten days as hereinbefore provided the same may be sold forthwith. C.O.Y.T. c. 17, R. 356. Notice of sheriff's sale. Perishable articles.

Equity of redemption in goods.

Leasehold interests.

Placer mining claims may be seized and sold.

Not to include quartz claim after patent.

Made executor against goods and chattels.

Notice of seizure to be given.

Seizure of money, bank notes, cheques, etc.

Sheriff to seize gold dust.

369. On any writ of execution against goods and chattels the sheriff charged with the execution of the same may seize and sell the interest or equity of redemption in any goods or chattels including leasehold interests in any lands of the party against whom the writ has issued and such sale shall convey whatever interest the mortgagor had in such goods and chattels at the time of the seizure.

2. Any interest which a judgment debtor has in any mineral claim or in any placer mining claim or mining property in the Yukon Territory as defined by the Regulations for the disposal of quartz mining property and dredging or hydraulic leases or concessions, and by the Yukon Placer Mining Act, other than a quartz mining claim subsequent to the issue of a patent therefor, may be seized and sold under and by virtue of an execution against goods and chattels, and seizure thereof may be made by delivery by the sheriff of a copy of such writ of execution at the office of the Mining Recorder where said mineral claim or placer mining claim is recorded and payment to such Mining Recorder of the proper fee for registering the same or by posting notice of seizure on the claim, and in the case of hydraulic or dredging leases or concessions, by posting notice of the seizure on the ground included in any such lease or comprised in any such concession. C.O.Y.T. c. 17, R. 357. No. 4 of 1910, s. 2.

370. The sheriff having the execution of any writ of execution against goods may seize any money or bank notes, any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money belonging to the execution debtor and such sheriff may pay and assign them to the execution creditor at the sum actually due on and secured by them respectively if he will accept them as money collected or the sheriff may sue in his own name for the recovery of the sums secured thereby when the time of payment thereof has arrived and on payment execute and give valid discharges therefor but no such sheriff or other party shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, specialty or other security unless the party who sued out the execution furnishes sufficient security to indemnify him from all costs and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof. C.O.Y.T. c. 17, R. 358.

371. The sheriff having the execution of any writ of execution against goods or goods and chattels may seize any gold or gold dust belonging to the execution debtor and may sell the same to any chartered bank doing business in the Yukon Territory for the best price obtainable from such bank and shall pay the amount realized on such sale to the execution creditor or his solicitor as provided by rule 374 of this Ordinance. No. 8 of 1909, s. 2.

372. The officer charged with the execution of any writ of execution against goods may seize thereunder any registered mortgage in favour of the execution debtor whether upon lands or chattels by delivering a notice in writing of such seizure to the registrar or clerk in the office where such mortgage is registered; but no such mortgage shall be affected or charged by any writ of execution until delivery of such notice.

Seizure of mortgages belonging to debtor.

2. Upon receipt of such notice the clerk or registrar shall make an entry thereof in the register for which he shall be entitled to a fee of fifty cents:

Entry in register.

Provided that unless and until personal service of a notice of seizure on the mortgagor is made he shall not be affected thereby, and payments made by him to the mortgagee before service of such notice shall be deemed good and valid. C.O.Y.T. c. 17, R. 359.

Notice to mortgagor.

373. The transference by the sheriff to the execution creditor of any cheques or property named in Rule 370 shall discharge the sheriff to the extent of the amount due on and secured thereby. C.O.Y.T. c. 17, R. 360.

Transfer of cheques, etc. discharges sheriff.

374. Subject to the provisions of *The Creditors' Relief Ordinance* the sheriff shall pay over to the execution creditor or his solicitor all moneys recovered or a sufficient sum to discharge the amount directed by the writ to be levied; but the sheriff shall in all cases be entitled to first deduct his fees and expenses. C.O.Y.T. c. 17, R. 361.

Payment by sheriff of moneys realized.

375. No sale of growing crops whether grain or roots shall take place until after the same have been harvested and threshed or taken and removed from the ground when a'ter all charges for harvesting, threshing, taking and removing have been paid and all exemptions been claimed and reserved the balance may be sold. C.O.Y.T. c. 17, R. 362.

Growing crops.

376. Any person who becomes entitled to issue a writ of execution against goods may, without issuing such writ, issue a writ of execution against the lands of the person liable, providing that not less than \$50 remain due and unpaid on the judgment and deliver the same to the sheriff, but such officer shall not sell the lands within less than three months from the day on which the writ against the lands is delivered to him nor until one month's notice of such sale has been posted in conspicuous places in the sheriff's office, and the office of the clerk of the court.

Need not issue against lands when not less than \$50 due.

2. It shall not be necessary to publish such notice in any newspaper.

3. This section shall apply to all executions against lands now in the sheriff's hands. No. 22 of 1903, s. 24.

377. A sale under any execution against lands may be had without a return of *nulla bona* in whole or in part with respect to an execution against goods in the same suit or matter being made by the same officer. Where there are no bidders or no

No return *nulla bona* before sale of lands.

Adjournment
of sale.

sufficient bid has been offered for the land to be sold as aforesaid the sheriff may adjourn such sale from time to time and a notice of the time and place of such adjourned sale shall be posted by him in a conspicuous place in the sheriff's and clerk's offices respectively, and such notice shall be sufficient notice of such adjourned sale. C.O.Y.T. c. 17, R. 364. No. 22 of 1903, s. 25.

Form of
transfer where
certificate of
title not
granted.

378. In cases where the sheriff or other officer sells lands under execution for which a certificate of title has not been granted a transfer executed by him in the form prescribed for lands for which a certificate of title has been granted shall be sufficient to convey the execution debtor's interest therein to the purchaser. C.O.Y.T. c. 17, R. 365.

Return *nulla
bona*.

379. No sheriff shall make any return of *nulla bona* either in whole or in part to any writ against goods until the whole of the goods of the execution debtor liable to seizure, which he can find have been exhausted. C.O.Y.T. c. 17, R. 366.

Person
issuing
permit
entitled to
expense
thereof.

380. If the amount authorized to be made and levied under the writ against goods is made and levied thereunder the person issuing the writ against lands shall be entitled to the expenses thereof and of any seizure or advertisement thereunder and the return to be made by the officer charged with the execution of the writ against lands to such writ shall be to the effect that the amount has been so made and levied as aforesaid. No. 22 of 1903, s. 26.

Sale after
expiry of
writ.

381. Where under any writ of execution while in force, real or personal property has been seized the sheriff may proceed to sell the same although the writ of execution has expired. C.O.Y.T. c. 17, R. 368. No. 22 of 1903, s. 27.

Execution for
delivery of
property or
recovery of
assessed
value.

382. Where it is sought to enforce a judgment made for the recovery of any property other than land or money the Court or judge may upon the application of the plaintiff or person entitled thereto order that execution issue for the delivery of the property without giving the defendant or other party the option of retaining the property and paying the assessed value if any; or at the option of the plaintiff or person entitled thereto that the sheriff levy and make the assessed value with or without costs in either instance as is just and for such purpose separate writs may be issued for the costs. [E. 647.] C.O.Y.T. c. 17, R. 369.

Writ of
possession for
recovery of
land.

383. A judgment or order that a party do recover possession of any land or that any person therein named do deliver up possession of any land to some other person may, without any order for such purpose, after fifteen days from the entry of the judgment or service of a copy of the order, be enforced by a writ of possession. [E. 644 and 645.] C.O.Y.T. c. 17, R. 370.

Execution for
recovery of
land and costs

384. Upon any judgment or order for the recovery or delivery of possession of any land and costs there may be either

one writ or separate writs of execution for the recovery of possession and for the costs, at the election of the successful party. [E. 646.] C.O.Y.T. c. 17, R. 371.

II.—*Poundage, Interest, etc.*

385. Upon any execution against lands or goods the sheriff may in addition to the sum recovered by the judgment levy the poundage fees, expenses of the execution and interest upon the sum so recovered from the time of entering the judgment. C.O.Y.T. c. 17, R. 372.

Levy of interest, poundage and expenses.

386. In case a part only is levied by the sheriff on or by force of any execution against goods and chattels, the sheriff shall be entitled besides his fees and expenses of execution to poundage only upon the amount so made by him whatever be the sum indorsed upon the writ and in case the personal estate of the defendant is seized or advertised on or under an execution, but not sold by reason of satisfaction having been otherwise obtained or from some other cause and no money is actually made by the sheriff on or by force of such execution the sheriff shall be entitled to the fees and expenses of execution and poundage only on the value of the property seized not exceeding the amount indorsed on the writ or such less sum as a judge of the court out of which the writ issued deems reasonable under the circumstances of the case. Any party interested may apply to the judge to fix such sum either before or after taxation of the sheriff's bill of costs, charges and expenses or on review or appeal from such taxation. C.O.Y.T. c. 17, R. 373.

Poundage: amount chargeable in certain cases.

387. Upon the satisfaction of an execution either in whole or in part by payment, levy or otherwise or upon the withdrawal, stay or setting aside of an execution the sheriff or officer claiming any fees, poundage, incidental expenses or remuneration which have not been taxed shall upon being required by any party interested within forty-eight hours deliver a copy of his bill in detail to the applicant. Such bill shall be taxed by the clerk of the Court upon the applicant obtaining and serving an appointment for such taxation. C.O.Y.T. c. 17, R. 374.

Sheriff's charges on withdrawal, stay, etc., of execution.

388. No sheriff shall collect any fees, costs, poundage or incidental expenses after having been required to have the same taxed without taxation; and upon tender of the amount taxed no fees, costs, poundage or incidental expenses in respect of proceedings subsequently taken shall be allowed to any sheriff. C.O.Y.T. c. 17, R. 375.

Sheriff's costs. Taxation. Tender.

389. It shall be the duty of every taxing officer above referred to grant an appointment for the taxation of and to tax the bills of costs presented to him for taxation as herein required upon payment or tender of his fees and to give when requested a certificate of such taxation and the amount thereof. C.O.Y.T. c. 17, R. 376.

Duty of taxing officer.

Revision of
taxation.

390. Either party dissatisfied with the taxation may appeal to a judge for a revision of such taxation. C.O.Y.T. c. 17, R. 377.

ORDER XXXI.

DISCOVERY IN AID OF EXECUTION.

Examination
of debtor
liable
under
judgment.

391. When an order or judgment is for the recovery or payment of money the party entitled to enforce it may obtain from the clerk of the Court an appointment for the oral examination before him of the debtor liable under such judgment or order, or in the case of a corporation, of any officer thereof as to whether any and what debts are owing to the debtor, and whether the debtor has any or what property or means of satisfying the judgment or order; and the party entitled to enforce such judgment or order may serve upon such debtor a notice requiring him to produce upon such examination any books or documents.

Examination
of clerk or
employee,
former clerk
or employee
or transferee
of debtor's
property.

2. Where judgment has been obtained as aforesaid the Court or judge may *ex parte* on the application of the party entitled to enforce the judgment order any clerk or employee or former clerk or employee of the judgment debtor or any person or officer or officers of any corporation to whom the debtor has made a transfer of his property or effects since the date when the liability or debt which was the subject of the action in which judgment was obtained was incurred to attend before the clerk of the Court or other person to be named in the order and to submit to be examined upon oath as to the estate and effects of the debtor and as to the property and means he had when the liability or debt aforesaid was incurred and as to the property or means he still has of discharging the judgment and as to the disposal he has made of any property since contracting the debt or incurring the liability and as to any and what debts are owing to him.

Use of
examination.

3. The examination shall be for the purpose of discovery only and no order shall be made on the evidence given on such examination but any such examination may be read on any subsequent proceedings between the same parties or between the execution creditor and any transferee of the property or effects of the execution debtor or in any proceeding to obtain payment directly or indirectly whether by attachment of debts, equitable execution or otherwise. [E. 610.] C.O.Y.T. c. 17, R. 378. No. 22 of 1903, s. 28.

Difficulty in
enforcing
judgment
other than
for money.

392. In case of a judgment or order other than for the recovery or payment of money if any difficulty arises in or about the execution or enforcement thereof any party interested may apply to a judge and the judge may make such order thereon for the attendance and examination of any party or otherwise as is just and may direct how such judgment or order may be enforced or executed. [E. 611.] C.O.Y.T. c. 17, R. 379.

393. Any person liable to be examined under any of the preceding rules of this order may be compelled to attend and testify and to produce books and documents in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he is examined as in the case of a witness on a trial.

Compelling attendance.
Production of documents.
Rules of examination.
Disobedience.

2. Any person liable to be examined under subsection 2 of Rule 391 shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court, but no person liable to be examined under the other provisions of the said rule shall be entitled to any conduct money, witness fees or expenses. C.O.Y.T. c. 17, R. 380. No. 22 of 1903, s. 29.

Party entitled to conduct money.

394. The costs of any application under this order and of any proceedings arising from or incidental thereto shall be in the discretion of the judge. [E. 612.] C.O.Y.T. c. 17, R. 381.

Costs.

ORDER XXXII.

ATTACHMENT OF DEBTS AND ARREST OF DEFENDANT.

395. Any plaintiff in an action for a debt or liquidated demand before or after judgment and any person who has obtained a judgment or order for the recovery or payment of money may issue a garnishee summons in the form or to the effect of form C in the schedule hereto. Such summons shall be issued by the clerk upon the plaintiff or judgment creditor, his solicitor or agent filing an affidavit, by the plaintiff or judgment creditor, his solicitor or agent or some person on his behalf having full knowledge of the matters deposed to.

Issue of garnishee summons.

- (a) Showing the nature and amount of the claim or judgment against the defendant or judgment debtor and swearing positively to the indebtedness of the defendant or judgment debtor to the plaintiff or judgment creditor;
- (b) Stating that to the best of the deponent's information and belief the proposed garnishee (naming him) is indebted to such defendant or judgment debtor. It shall not be necessary to state the reason for such belief.

Affidavit therefor.

2. Any number of garnishees may be included in one summons. C.O.Y.T. c. 17, R. 382. No. 22 of 1903, s. 30. No. 8 of 1909, s. 3.

Garnishees may be joined.

396. Service of such summons on the garnishee shall bind all debts, obligations or liabilities owing, payable or accruing due from the garnishee to the defendant or judgment debtor at the time of the service thereof, whether such debt, obligation or liability is payable in money or otherwise, to the extent of the claim of the plaintiff or judgment creditor and costs, which said costs shall be fixed by a judge or clerk of the Court at the time such summons is issued and stated in the summons.

Debts or liabilities whether payable in money or otherwise may be attached.
Costs to be fixed.

Manner of service.

2. The garnishee summons may be served whether on the garnishee, defendant or judgment debtor in any way that a writ of summons may be served; and the provisions relating to service of a writ of summons shall apply to service of a garnishee summons.

Service on defendant or judgment debtor.

3. A copy of the garnishee summons shall be served on the defendant or judgment debtor (or his solicitor) within twenty days after service on the garnishee or such further time as a judge *ex parte* orders. C.O.Y.T. c. 17, R. 383. No. 4 of 1910, s. 3.

No order to go for payment to plaintiff until, etc.

397. No order shall be made for payment out of any money paid into Court by the garnishee until at least ten days after the service of the said summons on the defendant or judgment debtor and on the garnishee, nor when a garnishee summons issues prior to judgment until the plaintiff has recovered a judgment against defendant.

Application to set aside garnishee.

2. The defendant or judgment debtor or the garnishee or any person claiming to be interested in the moneys attached may apply to a judge in chambers to set aside the garnishee summons.

Payment out of court.

3. No money paid into court under these proceedings shall be paid out unless on the written consent of the parties interested except by order of the Court or judge which order may be made *ex parte* or on such notice as the judge directs. C.O.Y.T. c. 17, R. 384. No. 10 of 1904, s. 2.

Garnishee's costs.

398. A garnishee paying money into Court shall be entitled to deduct therefrom the necessary disbursements. C.O.Y.T. c. 17, R. 385. No. 8 of 1909, s. 4.

Ter. Government employe may be garnisheed.

399. The Government of the Yukon Territory may be garnisheed under the provisions of this Ordinance with regard to moneys due or accruing due to persons employed by the Government of the Territory.

Ter. Sec'y to be served.

2. Such garnishee process may be served upon the Territorial Secretary in his office. No. 8 of 1909, s. 5.

Default by garnishee.

400. If the garnishee does not pay into Court the amount due from him to the judgment debtor or an amount equal to the claim or judgment and costs fixed as aforesaid and does not dispute the debt due or claimed to be due from him to such debtor, then the judge may, after judgment has been entered against the judgment debtor or at once when the garnishee summons is founded on a judgment already recovered, order that judgment be entered up against the garnishee for the amount due to the plaintiff or judgment creditor from the defendant or judgment debtor for principal, interest and costs and that execution issue thereon and it may issue accordingly.

2. If the garnishee fails to file any statement or files a statement admitting a debt due to the defendant or judgment debtor, but does not pay the amount claimed or admitted into Court with such statement, the plaintiff, judgment creditor or any interested party (notwithstanding that judgment has not been recovered in the action) may apply *ex parte* to a judge for an

order that such garnishee pay the amount claimed or so admitted into Court forthwith. No. 10 of 1904, s. 5.

401. If the garnishee disputes his liability or claims that the debt is not attachable he shall enter with the clerk within the time specified in the summons or such further time as the judge allows a statement showing the grounds on which he disputes liability or claims that the debt is not attachable. After which, on application of the plaintiff or any other person interested on two days' notice given to the garnishee, the judge may fix a time and place for summarily determining the question of liability or whether the debt is attachable as the case may be; or may order that any issue or question necessary for determining such liability, or whether the debt is attachable be tried and determined in any manner in which any issue or question in any action may be tried or determined and may direct who shall be the parties to such issue or question and any determination under this section whether summarily or otherwise shall form a judgment of the Court and may be enforced as such. [E. 625.]

Dispute by garnishee.

Trial of issue.

2. If upon any trial under said rule whether summary or otherwise it is determined that there is a debt due from the garnishee to the defendant or judgment debtor an order may be made that the garnishee forthwith pay the amount so found to be due from him to the defendant or judgment debtor to the credit of the cause notwithstanding judgment may not have been recovered in the action.

Order for payment in by garnishee.

3. At any time after the filing of a statement by a garnishee such garnishee may be compelled to attend for examination in the same manner as a party might be under the provision of Order XXI, and the provisions of the said order shall apply to the same examination and to the use of the evidence taken thereon. C.O.Y.T. c. 17, R. 388. No. 10 of 1904, s. 6.

Examination for discovery of garnishee.

402. If within two months after the appearance by the garnishee the plaintiff does not proceed to have the question of liability determined as hereby provided the garnishee may apply for an order to set aside the garnishee summons. C.O.Y.T. c. 17, R. 389.

Delay by plaintiff.

Application by garnishee.

403. Whenever it is suggested by the garnishee or any person claiming to be interested that the debt attached belongs to some third person, or that any third person has a lien or charge upon it the judge may order such third person to appear and state the nature and particulars of his claim upon such debt. [E. 626.] C.O.Y.T. c. 17, R. 390.

Suggestion of claim of third party.

404. After hearing the allegations of any third person under such order as in the next preceding rule mentioned and of any other person whom by the same or any subsequent order the judge orders to appear, or in case of such third person not appearing when ordered the judge may order execution to issue to levy the amount due from such garnishee or any issue or question to be tried or determined in manner aforesaid and

Procedure when third person suggested as entitled.

may bar the claim of such third person or make such other order as such judge thinks fit upon such terms in all cases with respect to the lien or charge (if any) of such third person and to costs as the judge thinks just and reasonable. [E. 627.] C.O.Y.T. c. 17, R. 391.

Garnishee discharged by payment or levy.

405. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him against the debtor to the amount paid or levied although such proceeding is set aside or the judgment or order reversed or the plaintiff fails in his action. [E. 628.] C.O.Y.T. c. 17, R. 392.

Costs in garnishee proceedings.

406. The garnishee shall not be liable for the costs of the proceedings unless and in so far only as occasioned by setting up a defence which he knew or ought to have known was untenable; and the plaintiff or judgment creditor in garnishee proceedings shall be entitled to tax against the defendant or judgment debtor and add to the judgment the costs of such proceedings unless the judge otherwise orders and subject to this provision the costs of all parties shall be in the discretion of the judge. C.O.Y.T. c. 17, R. 393.

Execution stayed till money due.

407. No execution shall in any case issue to levy the money owing from any garnishee until and so far only as such money shall become fully due. C.O.Y.T. c. 17, R. 394.

Exemption of employee \$75 per month.

408. Unless the debt sued for or in respect of which the judgment was recovered has been contracted for board and lodging, the wages or salary of a mechanic, workman, labourer, clerk or employee, shall not be liable to seizure or attachment, unless such wages or salary exceeds the rate of seventy-five dollars per month, and then only to the extent of the excess.

2. All payments which have been made on account of such wages or salary during any period in which the same are being earned shall be deducted from the above exemption. No. 22 of 1903, s. 33.

ARREST OF DEFENDANT.

If plaintiff swears \$100 due him, judge or clerk may order arrest of defendant about to quit the territory.

409. If a plaintiff in any action brought for recovery of a debt, or damages arising from breach of contract, by affidavit shows to the satisfaction of a judge of the Court in which the action is brought, or of the clerk of such Court, that such plaintiff has a cause of action arising within the Dominion of Canada against the defendant, or has recovered judgment in the Dominion of Canada against him, to the amount of one hundred dollars or upwards, and that there is probable cause for believing that the defendant, is about to quit the Yukon Territory with intent to defraud creditors generally or the plaintiff in particular, unless he is forthwith apprehended, or has disposed or is about to dispose of his property, or any part thereof, with such intent as aforesaid, it shall be lawful for such judge or clerk by special order to direct that such defendant so about to quit the Yukon Territory, or so having disposed or being about to dispose of

his property as aforesaid, shall be arrested and held to bail for such sum (not exceeding the amount of the debt, money demand, or damages as aforesaid, and costs) as to such judge or clerk seems proper.

2. For the purposes of Rule 409 and all rules pertaining to the arrest of a defendant the Police Magistrate at Whitehorse shall have all the powers of a judge of the Territorial Court. C.O.Y.T. c. 17, R. 396. No. 8 of 1907, s. 1. Powers of
Police
Magistrate at
Whitehorse.

410. It shall be lawful for such judge or clerk, whenever he thinks fit to require security to be given by the plaintiff, to the satisfaction of such judge or clerk, for the defendant's costs and damages consequent on such arrest under such order, if the plaintiff has obtained such order without reasonable and probable cause. C.O.Y.T. c. 17, R. 397. May require
security
before making
order.

411. Every such special order shall bear date on the day of the signing thereof by the judge or clerk, and shall be valid for the period therein specified, not exceeding twelve calendar months. C.O.Y.T. c. 17, R. 398. Order to bear
date on day of
signing and be
good for 12
months.

412. A copy of such special order, under the seal of the Court in which it is made, shall be sufficient authority to any sheriff, deputy sheriff, bailiff or other officer entrusted with the execution thereof, to take into custody and detain the defendant named therein. C.O.Y.T. c. 17, R. 398. Copy
sufficient
authority for
sheriff.

413. The sheriff or other officer to whom any such order is directed shall, within the period specified in the order, but not afterwards, proceed to arrest the defendant thereupon; and such defendant, when so arrested, shall remain in custody until he has given security to the plaintiff, to the satisfaction of the sheriff, for, or, has made deposit of, the sum mentioned in such order, together with such amount for costs as is specified therein. Any officer other than the sheriff, may upon instructions by letter or telegram from the sheriff of the Yukon Territory, arrest the defendant without actually having in his possession a copy of the special order mentioned in the next preceding rule; provided that at the time of such arrest a copy of such special order is in the hands of the said sheriff. C.O.Y.T. c. 17, R. 400. Officer shall
arrest person.

414. Any special order may be made, and the defendant arrested in pursuance thereof, at any time after the commencement of such action and before or after final judgment has been obtained therein. Where such order is applied for at the commencement of an action, no statement of claim need be filed upon the issue of the writ of summons, but such statement of claim shall be filed within three days after the making of such order for arrest; otherwise such order shall become void. C.O.Y.T. c. 17, R. 401. Special order
for arrest may
be made any
time after
commence-
ment of action
or before final
judgment.

415. It shall be lawful for any person arrested upon such order to apply, at any time after such arrest, to a judge of the Plaintiff may
be called on to
show why

arrested person should not be discharged.

court in which the action has been commenced, by notice calling on the plaintiff in such action to show cause why the person arrested should not be discharged out of custody; and it shall be lawful for such judge to make such order upon such notice as the judge sees fit. C.O.Y.T. c. 17, R. 402. No. 7 of 1914, s. 4.

Judge may dismiss defendant if he has no means to satisfy claim.

416. In addition to any other ground upon which such judge may order the discharge of a defendant from custody, he may order such discharge upon being satisfied that such defendant has no means or ability to satisfy the claim or judgment, or any part or further part thereof: Provided always, that if upon such application it appears to the judge, whether by the examination of such defendant or by other evidence, that such defendant has incurred the debt which is the subject of the claim or judgment against him, or any material part thereof, by fraud or false pretences, or that such defendant has concealed or made away with his property, or any part thereof, in order to defeat, delay, or defraud his creditors, or any of them, such judge may order such defendant to be committed to any common jail, with or without hard labour, for any term not exceeding twelve calendar months, unless the claim or judgment is sooner satisfied, and at the termination of such term of imprisonment such defendant shall be entitled to his discharge from custody, unless it is made to appear to the judge, whether by the further examination of such defendant or otherwise, that he has means and ability, or that it is within his power, to satisfy the claim or judgment, or some portion thereof, in which case the judge may order the further detention of such defendant until he satisfies the Court that he is unable to further satisfy the debt. C.O. Y.T. c. 17, R. 403.

If debt incurred by fraud judge may commit defendant to jail not exceeding 12 months.

Notice by person leaving country.

417. If any person who is about to leave the Yukon Territory gives written notice to any person at whose instance he is liable to arrest under the provisions of Rule 409 that he proposes to leave the said Territory on a day named in said notice, such day being not less than ten days after the date of the service of said notice, such person shall not after the expiration of said ten days be subject to arrest at the instance of any person to whom such notice has been given, for any debt then existing, unless proceedings therefor shall have been commenced and order for such arrest made before the expiration of said ten days. No. 2 of 1905, s. 1 and No. 14 of 1906, s. 1.

Imprisonment of debtor shall not operate as discharge of debt.

418. The imprisonment of a judgment debtor under authority of this Order shall not operate as a discharge of the judgment, either in whole or in part, nor operate to bar or suspend any remedies which the creditor may otherwise be entitled to take for the recovery of his demand. C.O.Y.T. c. 17, R. 404.

"Plaintiff" includes judgment creditor, "defendant" judgment debtor.

419. In the next nine preceding rules the term "plaintiff" includes a judgment creditor, and the term "defendant" includes a judgment debtor. C.O.Y.T. c. 17, R. 405.

ORDER XXXIII.

INTERLOCUTORY ORDERS AS TO MANDAMUS, INJUNCTIONS OR
INTERIM PRESERVATION OF PROPERTY.

420. Applications for interlocutory orders for mandamus, injunction or receiver or the interim preservation of property may be made *ex parte* in the first instance or by notice of motion: Interlocutory applications, how made.

Provided that on an *ex parte* application the judge may require notice to be given to any party or parties interested. C.O. Y.T. c. 17, R. 406.

421. Where by any contract a *prima facie* case of liability is established and there is alleged as matter of defence a right to be relieved wholly or partially from such liability the Court or judge may make an order for the preservation or interim custody of the subject matter of the litigation or may order that the amount in dispute be brought into court or otherwise secured. Application for an order under this rule may be made in chambers by notice of motion by any party at any time after his right thereto appears from the pleadings or, if there are no pleadings, is made to appear by affidavit or otherwise to the satisfaction of the court or judge. [E. 657 and 663.] C.O.Y.T. c. 17, R. 407. Interim preservation of property.

422. It shall be lawful for a judge on the application of any party to make any order for the sale by any person or persons named in such order and in such manner and on such terms as the judge thinks desirable of any goods, wares or merchandise which may be of a perishable nature or likely to injure from keeping or which for any other just or sufficient reason it is desirable to have sold at once. [E. 658.] C.O.Y.T. c. 17, R. 408. Order for sale of goods, etc.

423. It shall be lawful for a judge upon the application of any party to a cause or matter and upon such terms as are just to make any order for the detention, preservation or inspection of any property or thing being the subject of such cause or matter or as to which any question may arise therein and for all or any of the purposes aforesaid to authorize any person to enter upon or into any land or building in the possession of any party to such cause or matter and for all or any of the purposes aforesaid to authorize any samples to be taken or any observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence. [E. 659.] C.O.Y.T. c. 17, R. 409. Detent on, preservation or inspection of property.

424. It shall be lawful for the judge by whom any cause or matter is heard or tried with or without a jury or before whom any cause or matter is brought to inspect any property or thing concerning which any question arises therein and in jury cases the judge may make all such orders upon the sheriff or other person as are necessary to procure the attendance of the jury at such a time and place and in such manner as he thinks fit. [E. 660 and 661.] C.O.Y.T. c. 17, R. 410. Inspection by judge or jury.

Order for delivery of specific chattel claimed under lien or payment into court.

425. Where an action is brought to recover or a defendant in his defence seeks by way of counterclaim to recover specific property other than land and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same but claims to retain the property by virtue of a lien or otherwise as security for any sum, the judge may at any time after such last mentioned claim appears from the pleadings or if there are no pleadings by affidavit or otherwise to the satisfaction of such judge, order that the party claiming to recover the property be at liberty to pay into court to abide the event of the action the sum of money in respect of which the lien or security is claimed and such further sum if any for interest and costs as such judge directs and that upon such payment into court being made the property claimed be given up to the party claiming it. [E. 664.] C.O.Y.T. c. 17, R. 411.

Allowance out of estate *pendente lite*.

426. Where any real or personal property forms the subject of any proceedings in the court and the judge is satisfied that the same will be more than sufficient to answer all the claims thereon which ought to be provided for in such proceedings the judge may at any time after the commencement of the proceedings allow to the parties interested therein or to any one or more of them the whole or part of the annual income of the real property or a part of the personal property or the whole or a part of the income thereof up to such times as the judge directs. [E. 665.] C.O.Y.T. c. 17, R. 412.

Injunction.

427. An injunction shall be by a judgment or order and any such judgment or order shall have the effect which a similar judgment or order has in England. [E. 667.] C.O.Y.T. c. 17, R. 413.

Injunction against wrongful act or breach of contract.

428. In any cause or matter in which an injunction has been or might have been claimed the plaintiff may before or after judgment apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of or from the commission of any injury or breach of contract of a like kind relating to the same property or right or arising out of the same contract and the judge may grant the injunction either upon or without terms as is just. [E. 668.] C.O.Y.T. c. 17, R. 414.

MANDAMUS.

Mandamus.

429. The plaintiff in any action in which he claims a mandamus to command the defendant to fulfil any duty in the fulfilment of which the plaintiff is personally interested shall include the claim in his statement of claim. C.O.Y.T. c. 17, R. 415.

Statement of claim.

Order upon defendant for performance.

430. If judgment is given for the plaintiff the Court or judge may by the judgment command the defendant either forthwith or on the expiration of such time and upon such terms as may appear to the Court or judge to be just to perform the duty in

question. The Court or judge may also extend the time for the performance of the duty. [E. 721.] C.O.Y.T. c. 17, R. 416.

431. In the event of non-compliance with the judgment as aforesaid the same may be enforced by prerogative mandamus as in England. C.O.Y.T. c. 17, R. 417. Enforcement.

432. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to a judgment or order for a mandamus. C.O.Y.T. c. 17, R. 418. Protection of person acting under mandamus.

433. No writ of mandamus shall hereafter be issued in any action but a mandamus shall be by judgment or order which shall have the same effect as a similar judgment or order has in England. [E. 722.] C.O.Y.T. c. 17, R. 419. Mandamus to be by judgment or order.

ORDER XXXIV.

RECEIVERS.

434. Where an order is made directing a receiver to be appointed unless otherwise ordered the person to be appointed shall first give security to be allowed by a judge duly to account for what he receives as such receiver and to pay the same as the Court or judge directs and the person so to be appointed shall unless otherwise ordered be allowed a proper salary or allowance to be fixed by the judge on application of such receiver, and the judge may in his discretion direct that the amount of such receiver's salary or allowance be paid to him forthwith, either out of the funds, if any, in Court to the credit of the cause, or by either of the parties to such action as he deems just. C.O.Y.T. c. 17, R. 420. No. 22 of 1903, s. 34. Receiver.
Security.

Salary of receiver to be fixed by judge.

435. When a receiver is appointed with a direction that he shall pass accounts the judge shall fix the days upon which he shall annually or at longer or shorter periods file and pass such accounts and also the days upon which he shall pay the balances appearing due on the accounts so filed or such part thereof as shall be certified as proper to be paid by him and with respect to any such receiver as shall neglect to file and pass his accounts and pay the balances thereof at the times so to be fixed for that purpose as aforesaid the judge before whom any such receiver is to account may from time to time when his subsequent accounts are produced to be examined and passed disallow the salary therein claimed by such receiver and may also if he thinks fit charge him with interest upon the balances so neglected to be paid by him during the time the same appear to have remained in the hands of any such receiver. [E. 674.] C.O.Y.T. c. 17, R. 421. Time for filing accounts and payment of balance.

Neglect of receiver.

Default of
receiver.
Procedure on.

436. In case of any receiver failing to file any account or affidavit or to pass such account or to make any payment or otherwise the receiver or the parties or any of them may be required to attend before the judge to show cause why such account or affidavit has not been filed or such account passed or such payment made or any other proper proceedings taken and thereupon such directions as are proper may be given by the judge including the discharge of any receiver and appointment of another and payment of costs. [E. 677.] C.O.Y.T. c. 17, R. 422.

Receiver's
accounts.

437. When a receivership has been completed the book containing the accounts shall be deposited in the clerk's office. C.O.Y.T. c. 17, R. 423.

Passing
accounts.

438. The accounts of liquidators and of guardians shall be passed and verified in the same manner as receiver's accounts. C.O.Y.T. c. 17, R. 424.

ORDER XXXV.

ATTACHMENT OF PERSONAL PROPERTY.

Attachment
of goods.
Affidavits
required.

439. After the commencement of any suit wherein the claim is for the recovery of a debt of \$50 or upwards from the defendant upon affidavit made by the plaintiff or one of several plaintiffs, if more than one, his or their agent, having a personal knowledge of the matter stating clearly and succinctly from what cause such debt arose and the amount thereof and that he has good reason to believe (giving reasons therefor) that the defendant—

- (a) Is about to abscond or has absconded from the Territory leaving personal property liable to seizure under execution for debt; or
- (b) Has attempted to remove such personal property out of the said Territory or to sell or dispose of the same with intent to defraud his creditors generally or the plaintiff in particular; or
- (c) Keeps concealed to avoid service of process; and
- (d) In every case that the deponent verily believes that without the benefit of the attachment the plaintiff will lose his debt or sustain damage;

and upon the further affidavit of one other credible person that he is well acquainted with the defendant and has good reason to believe (giving such reason) that the defendant is about to abscond or has absconded or has attempted to remove his personal property out of the said Territory or to sell or dispose of the same or keeps concealed with intent as aforesaid as the case may be the judge if satisfied with the reasons aforesaid on application to him *ex parte* may direct the clerk to issue a writ of attachment in form D in the schedule hereto which writ shall be executed by the sheriff according to its tenor:

Application
to judge.

Provided that in any case where the debtor has absconded or is about to abscond from the Territory leaving no wife or family behind no property of such debtor shall be exempt from seizure. C.O.Y.T. c. 17, R. 425. Exemption from seizure.

440. A copy of every such writ shall be served on the debtor against whose effects the same is issued at the time of making any seizure thereunder or as soon thereafter as such service can be effected if the said debtor can be found; but if such personal service cannot be effected a copy thereof shall be left with some grown-up person resident at the place where such seizure is made or if no person is resident, posted in a conspicuous place on the premises. C.O.Y.T. c. 17, R. 426. Copy writ of attachment to be served.

441. Immediately after making a seizure under the said writ the sheriff shall make a return of the writ and with such return transmit annexed thereto an inventory of the property seized and the value thereof according to the best of his judgment and an affidavit of the manner in which service of such writ has been effected. C.O.Y.T. c. 17, R. 427. Sheriff's return and inventory.

442. Upon the seizure of any property under the writ hereinbefore described the person in whose possession it was at the time of seizure may have the same returned to him upon giving the sheriff sufficient security for or paying into court an amount equal to its appraised value as shown by the inventory prescribed by the next preceding rule. C.O.Y.T. c. 17, R. 428. Return of goods seized on giving security or deposit of value claimed.

443. Unless the property seized is redelivered or relinquished by the sheriff under any of the provisions hereof or the said writ is set aside he shall hold the same until the plaintiff obtains judgment in the cause and an execution upon such judgment is delivered to the sheriff: Unless redelivered sheriff to hold until execution issued.

Provided that in case the plaintiff is guilty of any unnecessary delay in the prosecution of his suit to judgment the Court or judge may order the redelivery of the property so seized to the person from whose possession it was taken unless some other writ of attachment or execution against the defendant is in the sheriff's hands for execution. C.O.Y.T. c. 17, R. 429. No. 22 of 1903, s. 35.

444. Notwithstanding the issue of a writ of attachment the cause shall be proceeded with in the ordinary way, and the costs of such writ and all proceedings in such action shall be in the discretion of the judge. No. 22 of 1903, s. 36. Costs of writ of attachment in discretion of judge.

445. A writ of attachment may be set aside by a judge on satisfactory proof by affidavit that the creditor who sued out such writ had not reasonable cause for taking such proceeding. C.O.Y.T. c. 17, R. 431. Setting aside writ.

446. If any horses, cattle, sheep or any perishable goods or chattels such as from their nature cannot be safely kept or conveniently taken care of are taken under any writ of attach- Disposal of cattle or perishable goods pending suit.

ment the officer who seized the same shall have them appraised and valued on oath by two competent persons and in case the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by one or more persons whose sufficiency is approved of by such officer in double the amount of the appraised value of such articles conditioned for the payment of such appraised value to the defendant together with all costs and damages incurred by the seizure and sale thereof in case judgment is not obtained by the plaintiff against the defendant then the sheriff may sell all or any of such enumerated articles at public auction to the highest bidder giving not less than six days' notice of such sale unless any of the articles are of such a nature as not to allow of that delay in which case the officer shall sell such articles last mentioned forthwith and shall hold the proceeds of such sale for the same purpose as he would have held any property seized under the attachment. C.O.Y.T. c. 17, R. 432. No. 22 of 1903, s. 37.

Plaintiff
omitting to
give security.

447. If the plaintiff after notice to himself or his solicitor of the seizure of any articles enumerated in the next preceding rule neglects or refuses to deposit the bond or only offers a bond with sureties insufficient in the judgment of the sheriff then after the lapse of four days next after the notice the sheriff shall be relieved from all liability to the plaintiff in respect to the articles so seized and the sheriff shall forthwith restore the same to the person from whose possession he took such articles. C.O.Y.T. c. 17, R. 433.

ORDER XXXVI.

REPLEVIN.

Recovery
of goods
unlawfully
detained.

448. In any action brought for the recovery of any personal property and claiming whether alone or with any other claim that such property was unlawfully taken or is unlawfully detained the plaintiff may at any time after the issue of the writ of summons obtain a writ of replevin for the delivery of the property to him on his complying with the following rules; such writ shall be in form E in the schedule hereto with such variations as circumstances require; but nothing herein contained shall authorize the replevying any property seized by the sheriff or other officer charged with the execution of any process issued out of the court. C.O.Y.T. c. 17, R. 434.

Property in
custody
of court.

Issue of writ
of replevin.

449. Writs of replevin shall be issued by the clerk of the Court upon the plaintiff or his duly authorized agent filing an affidavit:

Affidavit
therefor.

1. Embodying a description of the property sought to be replevied and the value thereof to the best of the deponent's belief; and a statement that the person claiming is the owner or is entitled to the possession of the said property;

2. Further stating if replevin is sought in the case of property distrained for rent or *damage feasant* that the property was taken under colour of distress for rent or *damage feasant* as the case may be;

3. Or in the case of property wrongfully taken out of the possession of the claimant or fraudulently got out of his possession stating in addition to the particulars required by clause 1 of this rule the time and the wrongful and fraudulent manner in which the same was taken or gotten out of his possession and such facts and circumstances as show that the claimant is entitled to the possession of the property;

4. After the issue of a writ of replevin the defendant or his agent may apply to the judge for an order allowing him to retain or recover possession of the property, upon giving such security to the sheriff as the judge directs, and the judge may, on such application, make such order as he deems just. In the event of the property replevied being returned to the defendant under the provisions of this section, the security given by the defendant therefor shall be assigned in request to the party entitled to the benefit thereof by the sheriff endorsing his name thereon, and such endorsement shall be sufficient to enable such party to bring action in his own name against the several parties who have executed such security. C.O.Y.T. c. 17, R. 435. No. 22 of 1903, s. 38.

Return of property to defendant on giving security.

450. Before the sheriff replevies he shall take a bond in double the value of the property to be replevied as stated in the writ. The bond shall be assignable to the defendant by the sheriff indorsing his name thereon and such indorsement shall enable the defendant to bring an action thereon in his own name against the parties who have executed it. The bond may be in form F in the schedule hereto with such variations as circumstances require and the parties to such bond shall be liable to the defendant and the defendant be entitled to recover from them in such action as well the value of the property replevied as the amount of any judgment in his favour in the original action as also such damages as the defendant has sustained by reason of the detention of the property replevied by means of the said writ. C.O.Y.T. c. 17, R. 440.

Replevin bond.

Assignment of.

Form.

Defendant's rights.

451. A copy of such writ shall be served upon the defendant personally or if he cannot be found left at his usual or last place of abode with his wife or some other grown up person being a member of his family or household or if no such person resident there posted in a conspicuous place on the premises or if the defendant has no known residence posted up in the office of the clerk who issued the writ: but such service or posting shall not be made until the sheriff has replevied the property described in the writ or such part thereof as is found; and in case the said sheriff or other officer has good reason to suspect that the property to be replevied or any part thereof is secured, contained or concealed in any dwelling house, building or enclosure of the defendant or of any other person keeping or holding the same

Service of copy of writ.

Property secured or concealed from sheriff.

and the said sheriff or officer demands from the owner, occupier or other person in charge of the premises aforesaid deliverance of the said property and the same is not delivered upon such demand he may and if necessary he shall (but only between sunrise and sunset) break open such premises and enter and search the same for the purpose of replevying the property demanded and if found therein replevy the same. C.O.Y.T. c. 17, R. 447.

Sheriff's
return to writ.

452. The sheriff shall make a return to the writ to the clerk of the Court whence it issued and shall annex to the return—

1. The names, places of residence and occupation of the sureties in and the date of the bond taken from the plaintiff and the names of the witnesses thereto;

2. The number, quality and quantity of the articles of property replevied and in case he has replevied only a portion of the property mentioned in the writ and cannot replevy the residue he shall state in his return the articles which he cannot replevy and the reasons why not. C.O.Y.T. c. 17, R. 438.

ORDER XXXVII.

INTERPLEADER.

Interpleader.

Cases in
which relief
granted.

453. Relief by way of interpleader may be granted—

1. Where the person seeking relief (hereinafter called the applicant) is under any liability for any debt, money, goods or chattels for or in respect of which he is or expects to be sued by two or more parties (hereinafter called the claimants) making adverse claims thereto;

2. Where the applicant is a sheriff or other officer charged with the execution of process by or under the authority of the Court and claim is made to any property taken or intended to be taken in execution or attachment under any process or to the proceeds or value of any such property by—

(a) Any person other than the person against whom the process issued;

(b) Any landlord for rent;

(c) Any second or subsequent execution creditor claiming priority over any previous judgment, execution, process or proceeding;

(d) The execution or attachment debtor claiming the benefit of any exemptions from seizure allowed by law.

C.O.Y.T. c. 17, s. 439.

Sheriff's
interpleader.
Claim to be
in writing.
Notice to and
by execution
creditor.

454. Where a claim is made to or in respect of any goods or chattels taken in execution under the process of the court it shall be in writing and upon the receipt of the claim the sheriff or his officer shall forthwith give notice thereof to the execution creditor and the execution creditor shall within four days after receiving the notice give notice to the sheriff or his officer that

he admits or disputes the claim. If the execution creditor admits the title of the claimant and gives such notice he shall only be liable to such sheriff or officer for any fees and expenses incurred prior to the receipt of the notice admitting the claim. C.O.Y.T. c. 17, R. 440.

455. Where the execution creditor does not in due time as directed by the next preceding rule admit or dispute the title of the claimant to the goods or chattels and the claimant does not withdraw his claim thereto by notice in writing to the sheriff or his officer the sheriff may apply for an interpleader summons to be issued and should the claimant withdraw his claim by notice in writing to the sheriff or his officer or the execution creditor in like manner serve an admission of the title of the claimant prior to the return day of such summons and at the same time give notice of such admission to the claimant the judge may in and for the purposes of the interpleader proceedings make all such orders as to costs, fees, charges and expenses as are just and reasonable. C.O.Y.T. c. 17, R. 441.

If claim not admitted or abandoned, issue of summons.

Admission or abandonment after summons.

Costs.

456. The applicant shall satisfy the court or judge by affidavit or otherwise—

Matters to be proved by applicant.

1. That the applicant claims no interest in the subject matter or dispute other than for charges or costs; and

2. That the applicant does not collude with any of the claimants; and

3. That the applicant is willing to pay or transfer the subject matter into court or to dispose of it as the court or judge directs. [E. 851.] C.O.Y.T. c. 17, R. 442.

457. The applicant shall not be disentitled to relief by reason only that the titles of the claimants have not a common origin but are adverse to and independent of one another. C.O.Y.T. c. 17, R. 443.

Adverse titles of claimants.

458. When the applicant is a defendant application for relief may be made at any time after service of the writ of summons. [E. 853.] C.O.Y.T. c. 17, R. 444.

Application by defendant.

459. The applicant may take out a summons calling on the claimants to appear and state the nature and particulars of their claims and either to maintain or relinquish them. [E. 854.] C.O.Y.T. c. 17, R. 445.

Summons by applicant.

460. If the application is made by the defendant in an action the Court or judge may stay all further proceedings in the action. [E. 855.] C.O.Y.T. c. 17, R. 446.

Stay of action.

461. If the claimants appear in pursuance of the summons the Court or judge may order either that any claimant be made a defendant in any action already commenced in respect to the subject matter in dispute in lieu of or in addition to the applicant or that an issue between the claimants be stated and tried and

Order on summons.

Issue.

in the latter case may direct which of the claimants is to be plaintiff and which defendant as also the time and place for the trial of such issue. [E. 856.] C.O.Y.T. c. 17, R. 447.

Summary disposal.

462. The judge may if it seems desirable so to do dispose of the merits of their claims and decide the same in a summary manner and on such terms as are just. [E. 857.] C.O.Y.T. c. 17, R. 448.

Question of law.

463. When the question is a question of law and the facts are not in dispute the judge may either decide the question without directing the trial of an issue or order that a special case be stated for the opinion of the Court. If a special case is stated the provisions herein relating to special cases shall as far as applicable apply thereto. [E. 858.] C.O.Y.T. c. 17, R. 449.

Special case.

Claimant not appearing or otherwise in default.

464. If a claimant having been duly served with a summons calling upon him to appear and maintain or relinquish his claim does not appear in pursuance of the summons or having appeared neglects or refuses to comply with any order made after his appearance the Court or judge may make an order declaring him and all persons claiming under him forever barred against the applicant and persons claiming under him but the order shall not affect the rights of the claimants as between themselves. [E. 859.] C.O.Y.T. c. 17, R. 450.

Appeal lies.

465. Subject to the provisions of this order an appeal shall lie to the Court of Appeal of British Columbia from the decision of the Court or a judge in any interpleader proceeding but subject to such appeal the decision of the Court or judge shall be final and conclusive against the claimants and all persons claiming under them. C.O.Y.T. c. 17, R. 451. No. 7 of 1914, s. 5.

Decision otherwise final.

Order for sale of goods seized.

466. When goods and chattels have been seized in execution or under attachment by a sheriff and any claimant alleges that he is entitled under a bill of sale or otherwise to the same by way of security for debt the judge may order the sale of the whole or a part thereof and direct the application of the proceeds of the sale in such manner and upon such terms as are just. [E. 861.] C.O.Y.T. c. 17, R. 452.

Creditor failing to contest claim.

467. In case a sheriff or other officer applies to the Court or a judge for relief by interpleader proceedings and any creditor under writ of attachment or execution after receiving two days' notice of such application does not join in the contesting of the claim of the adverse claimant, the Court or a judge may direct that such creditor shall be excluded from any benefit which may be derived from the contestation of such claim. Such notice may be served upon the solicitor issuing the writ. No. 10 of 1904, s. 7.

468. The rules of court in respect to discovery and inspection shall with the necessary modifications apply in interpleader proceedings and the judge before whom the proceedings are had may finally dispose of the whole matter of the interpleader proceedings including all costs not otherwise provided for. [E. 862.] C.O.Y.T. c. 17, R. 453.

Discovery and inspection.

Powers of judge.

469. In case the sheriff has more than one writ at the suit or instance of different parties against the same property it shall not be necessary for the sheriff to make separate applications on such writs or in each case; but he may make one application and make all the parties who are execution creditors parties to the said application; and the Court or judge before whom the application is made may make such order therein as if a separate application had been made upon and in respect to each writ. C.O.Y.T. c. 17, R. 454.

Application where several executions against same property.

470. Pending the adjudication of any such claim the sheriff may upon sufficient security being given to him by bond or otherwise for the forthcoming and delivery to him of the property so taken or the value thereof when demanded permit the claimant to retain the possession of the same until there is final adjudication in respect of the same; but in every such case it shall be competent for the said sheriff or other officer at any time he sees fit to resume the actual and absolute possession and custody of the said property notwithstanding such bond or security. Horses, cattle, sheep or any perishable goods the subject of interpleader may at the request of either party and upon his furnishing sufficient security or by order of the judge be sold by the seizing officer at public auction to the highest bidder giving not less than ten days' notice of such sale-unless any of the articles are of such a nature as not to admit of delay in which case they may be sold forthwith. C.O.Y.T. c. 17, R. 455.

Delivery of property to claimant pending adjudication.

Sale of cattle or perishable goods.

471. The Court or a judge may in and for the purpose of any interpleader proceedings make all such orders as to costs and all other matters as are just and reasonable. [E. 864] C.O.Y.T. c. 17, R. 456.

Costs and other matters.

472. Where an issue is directed to be tried, the costs of the sheriff incurred in consequence of the adverse claim shall be a first lien or charge upon the moneys or goods which may be found in the issue to be applicable upon the execution. No. 10 of 1904, s. 8.

Sheriff's costs first lien.

473. In case an issue is directed to be tried for the determination of an adverse claim in respect of property seized or taken under an order for writ of attachment or writ of execution, the sheriff (or other officer) to whom such order is delivered or such writ is directed, may have the costs incurred by him in consequence of such adverse claim, taxed and may, when so taxed, serve a copy of the certificate of the costs taxed upon each of the parties to the issue, and the attaching or execution creditor shall forthwith pay the same to the said sheriff (in default of

Sheriff's costs to be taxed.

which payment a writ of execution may issue to enforce the same) and if such creditor is successful upon the issue such costs shall be costs in the cause. (O.R. 1158) and (M.R. 915). No. 10 of 1904, s. 8.

Sheriff's
costs on
compromise.

474. When the proceedings are compromised between the parties thereto, the costs of the sheriff shall be paid by the party by whom the writ of attachment or execution was issued. No. 10 of 1904, s. 8.

ORDER XXXVIII.

SALES OF LAND, PARTITION, ETC.

Court may
order sale of
real estate.

475. If in any cause or matter relating to any real estate it appears necessary or expedient that the real estate or any part thereof should be sold the Court or a judge may order the same to be sold and any party bound by the order and in possession of the estate or in receipt of the rents and profits thereof shall be compelled to deliver up such possession or receipt to the purchaser or such other person as is thereby directed. [E. 680. C.O.Y.T., c. 17, R. 457.]

Mode of
carrying out
sale,
mortgage,
etc., when
ordered by
court.

476. In all cases where a sale, mortgage, partition or exchange is ordered the Court or a judge shall have power in addition to the powers already existing, with a view to avoiding expense or delay or for other good reason, to authorize the same to be carried out—

1. By laying proposals before the judge in chambers for his sanction; or

2. By proceedings altogether out of court, any moneys produced thereby being paid into court or to trustees or otherwise dealt with as the judge in chambers orders:

Provided always that the judge shall not authorize the said proceedings altogether out of court unless and until he is satisfied by such evidence as he deems sufficient that all persons interested in the estate to be sold, mortgaged, partitioned or exchanged are before the Court or are bound by the order for sale, mortgage, partition or exchange and every order authorizing the said proceedings altogether out of court shall be prefaced by a declaration that the judge is so satisfied as aforesaid and a statement of the evidence upon which such declaration is made. [E. 680*a*.] C.O.Y.T. c. 17, R. 458.

Sale by court.

477. Where a judgment or order is given or made whether in court or chambers directing any property to be sold, unless otherwise ordered the same shall be sold with the approbation of the judge to the best purchaser that can be got, the same to be allowed by the judge, and all proper parties shall join in the sale and conveyance as the judge directs. [E. 682.] C.O. Y.T. c. 17, R. 459.

Approval of
judge.

Parties.

478. A mortgagee or mortgagor whether legal or equitable or any person entitled to or having property subject to a legal or equitable charge or any person having the right to foreclose or redeem any mortgage whether legal or equitable may obtain an originating summons returnable in chambers for such relief of the nature or kind following as may by the summons be specified and as the circumstances of the case require that is to say: sale, foreclosure, delivery of possession by the mortgagor, redemption, reconveyance, delivery of possession by the mortgagee. [E. 767a..] C.O.Y.T. c. 17, R. 460. Originating summons for foreclosure, etc.

479. The judge may upon such summons pronounce such judgment and make such orders as the case requires including orders vesting such property in such person or persons as are found or declared entitled thereto for such estate or interest as is requisite. C.O.Y.T. c. 17, R. 461. Judgment or order.

480. The persons to be served with such summons shall be such persons as under the existing practice would be the proper defendants to an action for the like relief as that specified by the summons. [E. 767b.] C.O.Y.T. c. 17, R. 462. Persons to be served.

481. The judge may direct such other persons to be served with the summons as he thinks fit. [E. 768.] C.O.Y.T. c. 17, R. 463. Service on other persons.

482. The application shall be supported by such evidence as the judge requires and directions may be given as he thinks just for the trial of any questions arising thereout. [E. 769.] C.O.Y.T. c. 17, R. 464. Evidence. Trial of questions.

483. The judge may give any special directions touching the carriage or execution of the judgment or order or the service thereof upon persons not parties as he thinks just. C.O.Y.T. c. 17, R. 465. Special directions.

ORDER XXXIX.

MOTIONS AND APPLICATIONS.

484. Applications authorized to be so made by these rules may be made *ex parte*. Other motions in court shall be by notice of motion and other applications in chambers by notice except where otherwise specially provided. But the Court or judge if satisfied that delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief may make any order *ex parte* upon such terms as to costs or otherwise and subject to such undertaking if any as the Court or judge thinks just; and any party affected by such order may move to set it aside or to vary it. [E. 698.] C.O.Y.T. c. 17, R. 466. No. 22 of 1903, s. 39. Ex parte applications. Court motion. Chamber applications. Order ex parte if delay injurious.

- 485.** Every notice of motion or notice to set aside, remit or enforce an award or for attachment or committal or to strike off the rolls shall state in general terms the grounds of the application; and where any motion is made by notice a copy of any affidavit intended to be used shall be served with the notice of motion. [E. 699.] C.O.Y.T. c. 17, R. 467. No. 22 of 1903, s. 40.
- 486.** Unless the Court or a judge gives special leave to the contrary there must be at least two clear days between the service of a notice of motion and the day named in the notice for hearing the motion. [E. 700.] C.O.Y.T. c. 17, R. 468.
- 487.** If on the hearing of a motion or other application the Court or judge is of opinion that any person to whom notice has not been given ought to have or to have had such notice the Court or judge may either dismiss the motion or application or adjourn the hearing thereof in order that such notice may be given upon such terms if any as the Court or judge thinks fit to impose. [E. 701.] C.O.Y.T. c. 17, R. 469.
- 488.** The hearing of any motion or application may from time to time be adjourned upon such terms if any as the Court or judge thinks fit. [E. 702.] C.O.Y.T. c. 17, R. 470.
- 489.** When on any application or motion in court or chambers it appears to the judge desirable that any question of law or fact should be first determined before proceeding with the complete hearing of such application or motion the judge may direct such question to be first argued or determined upon such terms as to costs, adjournment and otherwise as he deems proper and upon the determination of such question the judge may either finally dispose of the motion or application or proceed with a further hearing thereof as is proper. C.O.Y.T. c. 17, R. 471.
- 490.** The plaintiff shall without any special leave be at liberty to serve any notice or motion or other notice or any petition upon any defendant who having been duly served with a writ of summons to appear has not appeared within the time limited for that purpose. [E. 703.] C.O.Y.T. c. 17, R. 472. No. 22 of 1903, s. 41.
- 491.** The plaintiff may by leave of the Court or judge to be obtained *ex parte* serve any notice of motion upon any defendant along with the writ of summons or at any time after service of the writ of summons and before the time limited for the appearance of such defendant. [E. 704.] C.O.Y.T. c. 17, R. 473.
- 492.** No order shall issue for the return of any writ or order to bring in the body of any person ordered to be attached, arrested or committed; but a notice from the person issuing the writ or obtaining the order for attachment, arrest, replevin or committal (if not represented by a solicitor) or by his solicitor

Grounds to be stated in certain cases.

Service of affidavits.

Motions. Length of notice.

Dismissal or adjournment where persons not served.

Adjournment of hearing.

Deciding preliminary question.

Defendant not appearing to writ. Service of notice on.

Service of notice of motion before appearance.

Enforcing return of writ or order by sheriff.

calling upon the sheriff to return such writ or order or to bring in the body within ten days, if not complied with shall entitle such person to apply for an order for the committal of such sheriff. [E. 706.] C.O.Y.T. c. 17, R. 474.

493. Every order shall be dated the day of the month and year on which the same was made, unless the Court or a judge otherwise directs, and shall take effect accordingly. [E. 708.] C.O.Y.T. c. 17, R. 475. Date of orders.

494. Where an order has been made not embodying any special terms nor including any special directions, but simply enlarging time for taking any proceeding or doing any act or giving leave— Certain orders need not be drawn up.

- (a) For the issue of any writ other than a writ of attachment;
- (b) For the amendment of any writ or pleadings;
- (c) For the filing of any document; or
- (d) For any act to be done by any officer of the court other than a solicitor;

it shall not be necessary to draw up such order unless the court or a judge otherwise directs; but the production of a note or memorandum of such order signed by a judge shall be sufficient authority for such enlargement of time, issue or amendment, filing or other act. A direction that the costs of such order shall be costs in any cause or matter shall not be deemed a special direction within the meaning of this section. The solicitor of the person on whose application such order is made shall forthwith give notice in writing thereof to such person, if any, as would if this rule had not been made, have been required to be served with such order. [E. 709.] C.O.Y.T. c. 17, R. 476.

ORDER XL.

APPLICATIONS IN CHAMBERS.

I.—*By Originating Summons.*

495. Proceedings commenced by originating summons in the Supreme Court of Judicature in England may be so commenced under this Ordinance unless otherwise provided and proceeding by a landlord to recover possession of demised premises from an overholding tenant may be so commenced. Proceedings by originating summons.
C.O.Y.T. c. 17, R. 477.

496. An originating summons shall be sealed by the clerk and shall follow form G in the schedule hereto with such variations as are approved by the judge. Sealing and form.
C.O.Y.T. c. 17, R. 478.

497. Unless otherwise ordered, there shall be at least ten clear days between the service and return of an originating summons. Time for appearance.
C.O.Y.T. c. 17, R. 479.

Service.

498. An originating summons may be served in the same manner as a writ of summons. C.O.Y.T. c. 17, R. 480.

Judgment on originating summons.

499. Upon proof by affidavit of the due service of the originating summons or on the appearance in person or by solicitor of the parties served the judge may pronounce such judgment as the nature of the case requires. [E. 770.] C.O.Y.T. c. 17, R. 481.

Special directions as to judgment.

500. The judge may give any special directions touching the carriage or execution of the judgment or the service thereof upon persons not parties as he thinks just. [E. 771.] C.O.Y.T. c. 17, R. 482.

II.—Generally.

Proceeding *ex parte* where party fails to attend.

501. Where any of the parties to a notice of application fail to attend whether upon the return of the notice or at any time appointed for the consideration or further consideration of the matter, the judge, after waiting thirty minutes, may allow the case to proceed *ex parte* if considering the nature of the case, he thinks it expedient so to do; no affidavit of non-attendance shall be required or allowed, but the judge may require such evidence of service as he thinks just. [E. 738.] C.O.Y.T. c. 17, R. 484. No. 22 of 1903, s. 43.

Reconsideration of *ex parte* proceedings.

502. When the case has been allowed to proceed *ex parte* such proceeding shall not in any manner be reconsidered unless the judge is satisfied that the party failing to attend was not guilty of wilful delay or negligence; and in such case the costs occasioned by his non-attendance shall be in the discretion of the judge who may fix the same at the time and direct them to be paid by the party or his solicitor before he shall be permitted to have such proceeding reconsidered or make such order as to such costs as he thinks just. [E. 739.] C.O.Y.T. c. 17, R. 485.

Costs.

Proceeding failing by non-attendance of party.

Costs.

503. When a proceeding in chambers fails by reason of the non-attendance of any party and the judge does not think it expedient to allow *ex parte* proceeding the judge may order such an amount for costs if any as he thinks reasonable to be paid to the party attending by the absent party or by his solicitor personally. [E. 740.] C.O.Y.T. c. 17, R. 486.

Summons not disposed of on return, further attendance.

504. When matters in respect of which notices given are not disposed of upon the return of the notice the parties shall attend from time to time without further notice at such time or times as are appointed for the consideration or further consideration of the matter. C.O.Y.T. c. 17, R. 487. No. 22 of 1903, s. 44.

Jurisdiction of judge in chambers.

505. A judge in chambers shall have jurisdiction to hear and determine any application or motion, except where it is by this Ordinance or by these rules otherwise provided, that may be heard and determined by a single judge or which by the practice

and procedure in the Supreme Court of Judicature in England may be heard and determined by any judge in chambers, master or chief clerk.

2. Where any motion or application is made to the Court or a judge and it appears that the material upon which the same is made is defective and insufficient in substance or in form, if it appears to the Court or judge from statements of counsel or otherwise that such material can be perfected by the applicant within reasonable time, the motion or application shall not be dismissed on account of such defective or insufficient material, but the applicant may be given leave to perfect such material upon payment of the costs occasioned to the opposing party by his additional attendance.

Where material defective motion may be postponed.

3. Upon an application to the Court or a judge to set aside or vacate any rule or order on account of the same having been obtained upon defective or insufficient material, the Court or a judge may allow the party who has obtained such rule or order a reasonable time to perfect the material upon which such rule or order was obtained by filing additional material, upon such terms as are just. C.O.Y.T. c. 17, R. 488. No. 22 of 1903, s. 45.

Party who obtained order on defective material may be given leave to perfect same.

III.—Administration and Trusts.

506. The executors or administrators of a deceased person or the sureties for administrators and the trustees under any deed or instrument or any of them and any person claiming to be interested in the relief sought as creditor, devisee, legatee, next of kin or heir at law of a deceased person or as *cestui que trust* under the trust of any deed or instrument or as claiming by assignment or otherwise under such creditor or other person as aforesaid may obtain an originating summons returnable before the judge in chambers at such time as he appoints, for:—

Originating summons relating to express trusts or administration of estate of deceased person.

- (1.) The administration of the estate of the deceased;
- (2.) The administration of the trust;
- (3.) The determination of any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, next of kin or heir at law or *cestui que trust*;
- (4.) The ascertainment of any class of creditors, legatees, devisees, next of kin or others;
- (5.) The furnishing and vouching of any particular accounts by executors, administrators or trustees;
- (6.) The payment into court of any money in the hands of executors, administrators or trustees;
- (7.) Directing the executors, administrators or trustees to do or abstain from doing any particular act in their character as executors, administrators or trustees;
- (8.) The approval of any sale, purchase, compromise or other transaction;
- (9.) The determination of any question arising in the administration of the estate or trust;
- (10.) An order that no action be brought or that all actions and proceedings pending against trustees, executors or administrators be stayed for such period as to the said judge seems

Staying actions pending

- performance of trusts. necessary or expedient in order that sufficient time be allowed to such trustee, executor or administrator for the performance of the trusts imposed upon him; provided however that any creditor or other person interested in such estate may apply before the expiration of such time for an order discontinuing such stay:
- Interference with discretion of trustee. Provided that the proceedings under this rule shall not interfere with or control any power or discretion vested in any executor, administrator or trustee except so far as such interference or control may necessarily be involved in the particular relief sought. [E. 765.] C.O.Y.T. c. 17, R. 489.
- Service of summons. **507.** The persons to be served with the summons under the next preceding rule shall be such persons as would be the proper defendants to an action for the like relief as that specified by the summons and the summons shall be served upon such other persons as the judge directs and the intended hearing may also be advertised in one or more newspapers as the judge orders. C.O.Y.T. c. 17, R. 490.
- Newspaper notice.
- Evidence. **508.** The application shall be supported by such evidence as the judge requires. [E. 769.] C.O.Y.T. c. 17, R. 491.
- Judgment on summons. **509.** Upon the return of the summons the judge may pronounce such judgment and make such orders as the nature of the case requires. [E. 770.] C.O.Y.T. c. 17, R. 492.
- Special directions. **510.** The judge may give any special directions touching the carriage or execution of the judgment or order or the service thereof upon persons not parties as he thinks proper. [E. 771.] C.O.Y.T. c. 17, R. 493.
- Administration not to be ordered if questions otherwise determinable. **511.** It shall not be obligatory on the Court or judge to pronounce or make judgment or order whether on summons or otherwise for the administration of any trust or of the estate of any deceased person if the questions between the parties can be properly determined without such judgment or order. [E. 772.] C.O.Y.T. c. 17, R. 494.
- Powers of court if administration or trust accounts not rendered. **512.** Upon an application for administration or execution of trusts by a creditor or beneficiary under a will, intestacy or deed of trust where no accounts or insufficient accounts have been rendered the Court or a judge may in addition to the powers already existing:
- (a) Order that the application shall stand over for a certain time and that the executors, administrators or trustees in the meantime shall render to the applicant a proper statement of their accounts with an intimation that if this is not done they may be made to pay the costs of the proceedings;
 - (b) When necessary to prevent proceedings by other creditors or by persons beneficially interested make the usual judgment or order for administration with a

proviso that no proceedings are to be taken under such judgment or order without leave of the judge in person. [E. 772a.] C.O.Y.T. c. 17, R. 495.

513. Any of the following applications may be made by originating summons: Appointment of new trustee and vesting order.

(1) An application for the appointment of a new trustee with or without a vesting or other consequential order;

(2) An application for a vesting order or other order consequential on the appointment of a new trustee whether the appointment is made by the Court or a judge or out of court. C.O.Y.T. c. 17, R. 496.

514. Whenever in an action for the administration of the estate of a deceased person or execution of the trusts of a written instrument a sale is ordered of any property vested in any executor, administrator or trustee the conduct of such sale shall be given to such executor, administrator or trustee unless the judge otherwise directs. [E. 666.] C.O.Y.T. c. 17, R. 497. Sale ordered of trust property. Conduct of sale.

515. The judge may in such way as he thinks fit obtain the assistance of accountants, merchants, engineers and other scientific persons the better to enable any matter at once to be determined and he may act upon the certificate of any such person. [E. 781.] C.O.Y.T. c. 17, R. 498. Judge may obtain assistance of experts.

516. Where a judgment or order is given or made directing an account of debts, claims or liabilities or an inquiry for heirs, next of kin or other unascertained persons unless otherwise ordered all persons who do not come in and prove their claims within the time which is fixed, for that purpose by advertisement shall be excluded from the benefit of the judgment or order. [E. 806.] C.O.Y.T. c. 17, R. 499. Claimants not coming in to prove excluded.

517. The Court or judge may direct that notice of the time so fixed shall be given by publishing an advertisement thereof in some newspaper or newspapers in the Territory as the Court or judge directs and unless otherwise directed no other notice thereof or service shall be necessary. C.O.Y.T. c. 17, R. 500. Advertisement of time for proof of claims.

518. Such notice if the order is made by the Court shall be signed by the clerk as the officer of the court; if made by a judge it shall be signed by him. C.O.Y.T. c. 17, R. 501. Signature of notice.

519. Upon such notice being duly published and such other notice given or published or served as the Court or judge directs, all persons who do not come in and prove their claims within the time so fixed shall be excluded from the benefits of the judgment or order. [E. 806.] C.O.Y.T. c. 17, R. 502. Persons not proving claims within time excluded.

520. Any trustee, executor or administrator may without the institution of a suit upon a written statement verified on Application by trustee, etc., for

opinion and
direction of
court.

oath apply to a judge in chambers for the opinion, advice, or direction of such judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate, notice of such application to be served upon or the hearing thereof to be attended by all persons interested in such application or such of them as the said judge thinks expedient and the said trustee, executor, or administrator acting upon the opinion, advice, or direction given by the said judge shall be deemed so far as regards his own responsibility to have discharged his own duty as such trustee, executor or administrator in the subject matter of the said application:

Exoneration
of trustee, etc.

Fraud or
concealment.

Provided nevertheless that nothing in this rule shall extend to indemnify any trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid if such trustee, executor or administrator has been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction. C.O.Y.T. c. 17, R. 503.

IV.—Guardian ad litem.

Infant or
person of
unsound mind
Guardian ad
litem.

521. At any time during proceedings at chambers under any judgment or order the judge may if he thinks fit appoint a guardian *ad litem* for an infant or person of unsound mind not already so found who has been served with notice of such judgment or order. C.O.Y.T. c. 17, R. 504.

V.—Varying Orders.

Consent to
discharge of
order.

522. The judge may set aside, vary or discharge any order made by him on consent of all parties interested. C.O.Y.T. c. 17, R. 505.

ORDER XLI.

COSTS.

I.—Generally.

Costs
generally in
discretion
of court.

523. Subject to the provisions of this Ordinance and the rules of court the costs of and incident to all proceedings in the Territorial Court including the administration of estates and trusts and compensation or allowance to any executor, administrator, guardian, committee, receiver or trustee shall be in the discretion of the Court or judge:

Proviso as to
trustees.

Provided that nothing herein contained shall deprive an executor, administrator, trustee or mortgagee who has not unreasonably instituted or carried on or resisted any proceedings of any right to costs out of a particular estate or fund to which he would otherwise be entitled:

Costs where
cause tried
by jury.

Provided also that where any action, cause, matter or issue is tried with a jury the costs shall follow the event unless the judge by whom such action, cause, matter or issue is tried or the court for good cause otherwise orders. [E. 976.] C.O.Y.T. c. 17, R. 525.

524. When issues in fact and law are raised upon a claim or counterclaim the costs of the several issues respectively both in law and fact shall unless otherwise ordered follow the event. Costs of issues.
C.O.Y.T., c. 17, R. 526.

525. Where the Court or judge appoints the Public Administrator or a solicitor to be guardian *ad litem* of an infant or person of unsound mind the Court or judge may direct that the costs to be incurred in the performance of the duties of such office shall be borne and paid by the parties or some one or more of the parties to the cause or matter in which such appointment is made or out of any fund in court in which such infant or person of unsound mind is interested and may give directions for the repayment or allowance of costs as the justice and circumstances of the case requires. [E. 988.] Costs of solicitor guardian ad litem.
C.O.Y.T. c. 17, R. 527.

II.—Security for Costs.

526. When the plaintiff in an action resides out of the Territory and in any other case where, by the practice and procedure in England, a defendant is entitled to security for costs, the defendant, or one of the defendants, if more than one, may on affidavit of himself or his agent alleging that the defendant has a good defence on the merits to the action, apply for an order requiring the plaintiff within three months (or such other or further time as the Court or judge deems right) from the service of the order to give security for the defendant's costs and staying all further proceedings in the meantime, and directing that in default of such security being given the action be dismissed with cost unless the Court or judge on special application for that purpose otherwise orders. The application for such security shall be by notice. A copy of the notice and copies of affidavits to be used on behalf of the defendant on the motion shall be served at least four clear days before the notice is returnable. No. 7 of 1914, s. 7. Security for costs.

527. In any cause or matter in which security for costs is required the security shall be of such amount and be given at such times and in such manner and form as the Court or judge directs. [E. 981.] Time and manner of giving security.
C.O.Y.T. c. 17, R. 529.

528. Where a bond is given as security for costs it shall unless the Court or judge otherwise directs be given to the party or person requiring the security and not to an officer of the court. [E. 982.] Obligee where bond given.
C.O.Y.T. c. 17, R. 530.

III.—Taxation and Tariffs of Costs.

529. In all cases and proceedings as also upon interlocutory applications where a party becomes entitled to costs from any other party the same shall be taxed by the clerk in accordance with the authorized tariffs unless the Court or judge by Taxation of costs unless lump sum ordered.

order directs the payment of a sum in gross in lieu of taxed costs and by and to whom such sum in gross shall be paid. C.O.Y.T. c. 17, R. 531.

Sheriff's and clerks' fees.

530. There shall be paid to each sheriff and clerk the fees prescribed by the judge of the Territorial court; and for any necessary services performed for which fees are not so prescribed such fees as are authorized by the judge. C.O.Y.T., c. 17, R. 532.

Cases where solicitor may be deprived of or ordered to pay costs.

531. If in any case it appears to the Court or a judge that costs have been improperly or without any reasonable cause incurred or that by reason of any undue delay in proceeding under any judgment or order or of any misconduct or default of the solicitor any costs properly incurred have nevertheless proved fruitless to the person incurring the same the Court or judge may call on the solicitor of the person by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the solicitor and his client and also (if the circumstances of the case require) why the solicitor should not pay to his client any costs which the client has been ordered to pay to any other person and thereupon may make such order as the justice of the case requires. C.O.Y.T. c. 17, R. 533.

Notice of taxation.

532. One day's notice of taxing costs together with a copy of the bill of costs and affidavit of increase if any shall be given by the solicitor of the party whose costs are to be taxed to the other party or his solicitor in all cases where a notice to tax is necessary. C.O.Y.T. c. 17, R. 534.

Unnecessary if defendant not appeared.

533. Notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person or by his solicitor or guardian. C.O.Y.T. c. 17, R. 535.

Application for review of taxation.

534. Any party who is dissatisfied with the allowance or disallowance by the clerk in any bill of costs taxed by him of the whole or any part of the item or items may on two days' notice to the opposite party specifying the item or items objected to apply to a judge in chambers to review the taxation. C.O.Y.T. c. 17, R. 536.

Evidence on review.

535. Such application shall be heard and determined by the judge upon the evidence which was brought in before the clerk and no further evidence shall be received unless the judge otherwise directs. C.O.Y.T. c. 17, R. 537.

Tariffs to be posted.

536. A copy of the tariff of clerk's and sheriff's fees shall be posted in some conspicuous place in the clerk's and sheriff's offices respectively. C.O.Y.T. c. 17, R. 538.

Witnesses' jurors' and interpreters' fees.

537. Witnesses, jurors and interpreters and parties shall be entitled to the fees and remuneration named in the *Tariff of witnesses', jurors' and interpreters' fees* appended to this Ordinance. C.O.Y.T. c. 17, R. 539.

538. All fees and allowances respectively payable under the said tariffs whether under writs of execution or otherwise shall be paid in advance by the parties at whose instance the service is to be rendered but in cases where the amounts are impossible of ascertainment for any reason then the amount approximated by the officer or fixed by the judge shall be deposited or paid to be accounted for when the correct amount is ascertained. C.O.Y.T. c. 17, R. 540.

Fees payable
in advance.

Deposit
where
unascertain-
able.

539. In all causes and matters in which duly enrolled solicitors holding certificates as such and resident in the Territory are employed they shall be entitled to charge and be allowed such fees as are from time to time prescribed by the judge of the Territorial Court. C.O.Y.T. c. 17, R. 541.

Solicitors'
fees.

ORDER XLII.

MISCELLANEOUS.

I.—Forms.

540. The forms contained in the schedule to this Ordinance shall be used with such variations as circumstances require; and as to all other matters the forms used in the administration of civil justice in England with such variations as will make them respectively applicable to proceedings in the Territorial Court of the Territory may be used. C.O.Y.T. c. 17, R. 546. No. 7 of 1914, s. 9.

Forms.

II.—Actions against Public Officers.

541. All actions and prosecutions to be commenced against any person for anything purporting to be done in pursuance of his duty as a public officer shall be commenced within six months after the act was committed and not otherwise and notice in writing of such action and of the cause thereof must be given to the defendant one month at least before the commencement of the action. C.O.Y.T. c. 17, R. 541.

Venue.

Limitation.
Notice of
action.

III.—*Ex parte* Proceedings; Non-compliance; and Irregularities.

542. In case of *ex parte* proceedings the judge may refuse to proceed *ex parte* and may direct such notice to be given by summons or otherwise to such party or parties as he deems fit. C.O.Y.T. c. 17, R. 545.

Ex parte
proceedings.
Notice may
be required.

543. Non-compliance with any of the provisions of this Ordinance shall not render any proceedings void unless the Court or a judge directs but such proceedings may be set aside either wholly or in part as irregular or amended or otherwise dealt with in such manner and upon such terms as the Court or judge thinks fit. [E. 1037.] C.O.Y.T. c. 17, R. 546.

Non-
compliance,
effect of.

Waiver of irregularity.

544. No application to set aside any proceeding for irregularity shall be allowed unless made within reasonable time nor if the party applying has taken any fresh step after knowledge of the irregularity. [E. 1038.] C.O.Y.T. c. 17, R. 547.

Grounds of irregularity to be stated.

545. When an application is made to set aside proceedings for irregularity the several objections intended to be insisted upon shall be stated in the summons or notice. [E. 1039.] C.O.Y.T. c. 17, R. 548.

Costs of summons.

546. When a summons is taken out or notice given to set aside any process or proceeding for irregularity with costs and the summons or notice is dismissed generally without any special direction as to costs it is to be understood as dismissed with costs. [E. 1040.] C.O.Y.T. c. 17, R. 549.

IV.—*Alias Writs.*

Expiry of process. *Alias* or *pluries*.

547. The expiry of any writs or process without service or execution shall not abate the suit but the suit may be continued by the issue of *alias* or *pluries* writs or process as is necessary. C.O.Y.T. c. 17, R. 550.

V.—*Time for Service.*

Hours for service of pleadings, etc.

548. Service of pleadings, notices, summonses, orders, rules and other proceedings except writs of summons, attachment and replevin shall be effected before six o'clock in the afternoon; service effected after six o'clock in the afternoon shall for the purpose of computing any period of time subsequent to such service be deemed to have been effected on the following day and if effected on Saturday, the following Monday. [E. 971.] C.O.Y.T. c. 17, R. 551.

Reckoning number of days.

549. In any case in which any number of days not expressed to be clear days is prescribed in this Ordinance the same shall be reckoned exclusively of the first and inclusively of the last day. [E. 972.] C.O.Y.T. c. 17, R. 552.

Where time limited under six days holidays excluded.

550. Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding the days on which the offices are closed under the provisions of this Ordinance and the rules of the Court shall not be reckoned in the computation of such limited time. [E. 962.] C.O.Y.T. c. 17, R. 553.

Time expiring on holiday.

551. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices are closed and by reason thereof such act or proceeding cannot be done or taken on that day such act or proceeding shall so far as regards the time of doing or taking the same be held to be duly done or taken if done or taken on the day on which the offices are next open. [E. 963.] C.O.Y.T. c. 17, R. 554.

552. The Court or a judge shall have power to enlarge or abridge the time appointed by this Ordinance or the rules of court or fixed by any order enlarging time for doing any act or taking any proceedings upon such terms if any as the justice of the case requires and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed. C.O.Y.T. c. 17, R. 555.

Enlargement
or abridge-
ment of time.

VI.—Sittings of the Court and Vacation.

553. Subject to the provisions of section 49 of the Yukon Act and until the times and places of sittings are appointed under that section, the Territorial Court, presided over by a single judge for the transaction of the business of the Court, may sit and act at any time and place in the Yukon Territory that the judge of the Court appoints.

Judges may
fix sittings of
court.

2. Between the first and twenty-fifth days, inclusive, of every month, if there is any business to dispose of there shall be at least one sitting of the Court at Dawson in said Territory on every day of the month, except on holidays and Saturdays.

Court to sit
from 1st to
25th of each
month.

3. Every sitting of the Court shall commence at the hour of 10 o'clock in the forenoon, unless otherwise ordered by the judge who is to hold the sitting, or by the judges.

Sittings to
commence at
10 a.m.

4. At the conclusion of the sitting of the Court on any day, unless the presiding judge otherwise orders, and, if no judge attends at any time or place appointed for a sitting of the Court, then, at three of the clock in the afternoon of the day appointed, the Court shall be deemed to be adjourned until the hour of ten of the clock in the forenoon of the next day fixed by this Ordinance or appointed for a sitting of the court. C.O.Y.T. c. 17, R. 556.

At conclusion
of sittings or
if no judge
attends, court
to adjourn
until 10 a.m.
next day.

554. There shall be a vacation to extend from the first day of November in every year to the last day of February in the year following, inclusive of both of said days.

Vacation.

2. During vacation no contested business other than under Part III. of this Ordinance, except as in this section provided, shall be transacted, and no party to a cause in which the defendant has appeared, shall be compelled to deliver any pleading. If the time for delivering any pleading in any such cause has not expired before the first day of vacation, it shall, without any order to that effect, stand extended until the expiration of five days after the last day of vacation.

No contested
business to be
transacted in
vacation.

3. Provided that during vacation:

What may be
done during
vacation.

(a) Notice of motion to set a cause down, for trial may be given and heard.

(b) Any process may be issued.

(c) Any *ex parte* business and any contested business, if the parties to such contested business by their solicitors or counsel consent, may be transacted.

(d) Judgment by default may be entered in any cause in which no appearance has been entered. The Court at its

Leave to
strike out
appearance.

discretion may give leave that application may be made to strike out appearance, and order for judgment may be made and all proceedings had as provided by Order X.

(e) Costs may be taxed, and

(f) Any cause or matter may be heard and any proceedings may be had or taken if the Court or a judge authorizes such proceedings to be had or taken notwithstanding vacation. C.O.Y.T. c. 17, R. 557. No. 10 of 1905, s. 1 and No. 14 of 1906, s. 1.

PART II.

Lunatics, Infants and Probate.

ORDER XLIII.

LUNATICS.

Petition to
judge.
Verification.

555. Proceedings in lunacy shall be by petition to the judge filed with the clerk of the Court for that purpose verified on oath setting forth the ground on which the application is made and the relations or connection of the petitioner to or with the alleged lunatic and his property and estate as also a description and value of the same separating real and personal estate. C.O.Y.T. c. 17, R. 559.

Hearing of
petition.

556. Upon presentation of such petition the judge shall appoint a time and place at which he will hear the same; at which time and place (all necessary parties having been duly notified) the judge shall inquire into the facts and hear such evidence under oath as is adduced and thereupon determine whether or not the person who is the subject of the inquiry is at the time of such inquiry of unsound mind, has property and is incapable of managing such property. C.O.Y.T. c. 17, R. 560.

Service on
lunatic.

557. A copy of such petition and notice of the intended application shall be served on the alleged lunatic unless such service is dispensed with by the judge. C.O.Y.T. c. 17, R. 561.

Commission
to take
evidence.

558. The judge may order the issue of a commission to take evidence to be used on any such hearing as in any ordinary suit in court and all depositions taken thereunder shall be received in evidence at the hearing saving all just exceptions. C.O.Y.T. c. 17, R. 562.

Appointment
of guardian.

559. If the judge determines such person to be a lunatic, and that he has property the judge shall forthwith order the appointment under the seal of the Court of one or more persons as guardian or guardians to his estate. C.O.Y.T. c. 17, R. 563.

560. On every such inquiry the alleged lunatic if he is within the jurisdiction of the court shall be produced and examined by the judge unless such examination is dispensed with. C.O.Y.T. c. 17, R. 564. Examination of lunatic.

561. The judge may order the costs, charges and expenses of and incidental to proceedings in matters of lunacy to be paid either by the party presenting the petition or the party opposing the same (if opposition is made) or out of the estate or partly one way and partly the other. C.O.Y.T. c. 17, R. 565. Costs.

562. In every case unless otherwise specially provided by order of the judge the following provisions shall be complied with:

1 The guardian of the estate shall before receiving his appointment furnish his own bond together with those of two or more persons approved of by the judge as sureties in double the approximate value of the personal estate and of the annual value of the real estate for duly accounting for the same once in each year or oftener if required by the judge or Court such bond to be (in form approved of by the judge) to the clerk of the court and his successors in office or legal assigns, which bond shall be filed in court; Security by guardian.

2. The guardian of the estate shall within six months after appointment file in court a true inventory of the whole real and personal property and estate of the lunatic stating the income and profits thereof and setting forth the debts, credits and effects of the lunatic so far as the same have come to the knowledge of the guardian; Inventory.

3. If any property belonging to the estate is discovered after the filing of the inventory the guardian shall file a true account of the same from time to time as the same is discovered; Supplementary inventory.

4. Every inventory shall be verified by the oath of the guardian. C.O.Y.T. c. 17, R. 566. Verification.

563. Whenever the personal estate of a lunatic is not sufficient for the discharge of his debts,—

1. The guardian of his estate may apply by petition to the judge for authority to mortgage or sell so much of the real estate as is necessary for the payment of such debts; Where personal estate insufficient for debts. Petition for realization on realty.

2. Such petition shall set forth the particulars and amount of such estate (real and personal) of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate;

3. The judge shall make or cause to be made inquiries into the truth of the representations made in the petition and hear all parties interested in the real estate; Inquiry by judge.

4. If the judge is satisfied as to the result of such inquiries, that the personal estate is not sufficient for the payment of the debts and that the same has been applied to that purpose as far as the circumstances of the case render proper the judge may order the real estate or a sufficient portion of it to be mortgaged or sold by the guardian and the moneys thus raised shall be employed for the payment of the debts of the estate and if Order for sale or mortgage.

Bond by
guardian.

insufficient shall be distributed in the same way as intestates' estates are distributed by law the guardian having first provided a bond with sureties similar in terms to that provided by clause (1) of the next preceding rule for duly accounting for the proceeds so raised. C.O.Y.T. c. 17, R. 567.

Sale of
mortgage of
real estate for
maintenance
of lunatic or
family.

564. When the personal estate and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance or that of his family or for the proper education of his children or when for any other cause it appears desirable so to do on application made by the guardian or by any member of the family of the insane person the judge may after inquiry as hereinbefore provided in the case of debts order the mortgaging or sale of the whole or part of the real estate of the lunatic by the guardian the guardian having first provided a bond with sureties as required by the next preceding rule. C.O.Y.T. c. 17, R. 568.

Clerk's fees.
Costs.

Guardian's
remuneration.

565. The judge may order such fees to the clerk of the Court and costs of and relating to any petition, order, direction and conveyance including remuneration to the guardian as he considers reasonable to be paid and raised from the lands, rents or personal estate of the lunatic in respect of whom the same may be respectively incurred, made, or caused. C.O.Y.T. c. 17, R. 569.

Removal of
guardian.

566. On sufficient grounds shown the judge may remove a guardian and appoint another in his stead. C.O.Y.T. c. 17, R. 570.

Intituling
proceedings.

567. In the proceedings aforesaid the petitions and papers may be intituled as follows.

In the Territorial Court,

In the matter of

C.O.Y.T. c. 17, R. 563.

ORDER XLIV.

INFANTS.

I.—Guardians.

Guardian-
ship of
infants and
their estates.

Letters of
appointment.

568. The Court or a judge thereof may appoint guardians of infants and of their estates (but unless the Court or judge otherwise orders no guardian shall be appointed to the person or estate of any infant of the age of fourteen years or over without the consent of such infant) and letters of appointment may be obtained as in the case of letters of administration. A record of every appointment and removal shall be made and the like record thereof kept with the papers upon which the appointment and removal are made in like manner as near as may be as in the case of probate and administration. C.O.Y.T. c. 17, R. 572.

569. The Court or judge may upon hearing the petition of the mother of an infant whose father is dead appoint the mother or some other person to take the guardianship of the person of the infant notwithstanding any testamentary provisions to the contrary or any appointment of another person as guardian by the father if it appears just and proper; and may also make an order for the maintenance of the infant by the payment out of any estate to which the infant is or shall be entitled of such sum or sums of money from time to time as according to the value of the estate such Court or judge thinks just and reasonable. C.O.Y.T. c. 17, R. 573.

Mother may be appointed notwithstanding other appointment by father.

Maintenance of infant.

570. The Court or judge may give effect to the testamentary appointment of guardians by the mother of infant children either as respects the person or estate or one or both notwithstanding the previous appointment of guardians by testament of the father of such infants upon petitions presented and facts proved, if it seems advisable and in the interest of the infants to do so; and make an order for the maintenance of the infants as in the next preceding rule mentioned. C.O.Y.T. c. 17, R. 574.

Testamentary appointment of mother may be preferred to that of father.

Maintenance.

571. Testamentary guardians and trustees may be removed for proper cause in the same manner as other guardians and trustees. C.O.Y.T. c. 17, R. 575.

Testamentary guardians and trustees. Removal.

572. In all matters and applications touching or relating to the appointment of guardians, control or removal of guardians of any infants and the security to be given by such guardians or otherwise, the Court or judge shall have full power and authority to summon and order the attendance of witnesses and to order the examination of the same before the Court or judge and to order the production of deeds, writings and documents and generally to enforce all orders, decrees and judgments in such manner as seems expedient according to the practice and procedure of the court in that behalf and in such manner as the Court or judge directs. C.O.Y.T. c. 17, R. 576.

General powers of court or judge.

573. Upon the written application of any infant or the friend or friends of any infant and upon notice thereof to the mother of such infant if living in the Territory the Court or judge may upon a proper case made out for that purpose appoint some suitable and discreet person or persons to be guardian or guardians of such infant. C.O.Y.T. c. 17, R. 577.

Appointment of guardian on notice to mother.

574. There shall be taken from the guardian or guardians appointed by the Court a bond in the name of the infant or infants in such penal sum and with or without sureties as the Court or judge directs or approves having regard to the circumstances of each case; and such bond shall be conditioned that the said guardian or guardians shall and will faithfully perform the said trust and that he or they, his or their executors or administrators shall and will when the said ward becomes of the full age of twenty-one years or whenever thereunto required by the Court or a judge render to his or their said ward or his or

Security by guardian.

their executors or administrators a true and just account of all goods, moneys, interests, rents and profits of property of such ward which have come or which might but for his or their default have come into the hands of such guardian or guardians and that he or they shall and will thereupon without any delay deliver and pay over to the said ward or to his or her executors or administrators the property or the sum or balance of money which may be in the hands of the said guardian or guardians belonging to such ward deducting therefrom and retaining a reasonable sum for the expenses and charges of the said guardian or guardians; and such bond shall be filed and recorded in the books in the office of the clerk of the court but in cases where the estate is of small value such bond or bonds may be dispensed with. C.O.Y.T. c. 17, R. 578.

May be dispensed with.

Apprenticing infants.

575. The guardian or guardians of the person of an infant so appointed may during the continuance of his or her guardianship in case the infant is under the age of fourteen years with the approbation of two justices of the peace and the consent of such ward or in the case the infant is not under the age of fourteen years then with the consent of the ward only place or bind him or her an apprentice to any lawful trade, profession or employment; such apprenticeship in the case of males not extending beyond the age of twenty-one years and in the case of females not beyond the age of eighteen years or the marriage of the ward within that age. C.O.Y.T. c. 17, R. 579.

Discharging apprenticeship.

576. The Court or judge may on proper cause being shown for that purpose discharge any such ward from the apprenticeship in the next preceding rule mentioned and order the articles or instrument of apprenticeship to be delivered up to be cancelled or make such other order in respect of the master or apprentice or either of them as under the circumstances appears to be proper and just; and may also upon reasonable complaint made and sustained remove any guardian or guardians from his or their guardianship and if it appears necessary appoint another guardian or guardians in his or their stead. C.O.Y.T. c. 17, R. 580.

Removal of guardian.

Practice and procedure.

577. The practice and procedure in respect of guardianship and all questions relating thereto shall conform as nearly as the circumstances will admit to the practice and procedure in England:

Provided always that the Court or judge may in any case where the circumstances warrant it to save expenses vary the same. C.O.Y.T. c. 17, R. 581.

II.—*Custody of Infants.*

Order for access of mother.

578. The Court or judge upon application by the mother of any infant being in the sole custody or control of the father thereof or any other person by his authority or of any other person without his authority or of any guardian after the death

of the father may make an order for the access of the mother to such infant at such times and subject to such regulations as the Court or judge thinks convenient and just; and if such infant is within the age of twelve years may make an order for the delivery of such infant into the custody and control of the mother and there to remain for such time and under such conditions as the Court or judge prescribes; and in dealing with any such application the Court or judge may also make an order for the maintenance and education of such infant by payment by the father thereof or by payment out of any estate to which such infant is entitled of such sum or sums of money from time to time as according to the pecuniary circumstances of such father or the value of such estate the Court or judge thinks just and reasonable. As a rule the father shall have the custody and control of his infant children but it shall be lawful for the Court or a judge on a proper case made for that purpose to order any infant child or children to be delivered into the sole custody and control of the mother on such conditions and subject to such regulations as the circumstances and facts of the case render proper, reasonable and just, wherever such child or children may be or under whatever authority or control they may have been placed, any law, usage or custom to the contrary notwithstanding. C.O.Y.T. c. 17, R. 582.

Delivery to mother.

Maintenance and education.

Custody of infants generally.

579. On the investigation of the facts on any application mentioned in the next preceding rule the Court or judge may enforce the attendance of any person before the Court or judge and take evidence under oath touching the matter of the application by rule or order made for that purpose and on failure of the person to attend for the purpose aforesaid, after notice of the rule or order in that behalf, the Court or judge may order that such person shall be committed for contempt of court or may decide such application on affidavits received and filed or to be received and filed or on the evidence taken *viva voce* and such affidavits. C.O.Y.T. c. 17, R. 583.

Evidence on application.

580. All orders and rules made by a judge or by the Court under any of the preceding rules may in addition to all other remedies be enforced by the judge or by the Court (according as the same shall be made by a judge or the Court) by attachment or process for contempt. C.O.Y.T. c. 17, R. 584.

Enforcement of orders.

581. No order directing that the mother shall have the custody of or access to an infant shall be made in virtue of the preceding rules in favour of a mother against whom adultery has been established or to whom the custody or control of an infant could not be safely confided on account of improper conduct or habits of life. C.O.Y.T. c. 17, R. 585.

Mother unsuitable for care of infant.

III.—*Estate and Property of Infants.*

582. When an infant is seized or possessed of or entitled to any real estate in fee simple or for a term of years or otherwise in the Territory and the Court or judge is of opinion that a sale, disposition of property of infant under order of court.

Disposition of property of infant under order of court.

lease or other disposition of the same or any part thereof is expedient, necessary or proper in the interest of the infant or for the maintenance or education of the infant or that by reason of any part of the property being exposed to waste and dilapidation or to depreciation from any other cause satisfactory to the Court or judge, his interest requires or will be substantially promoted by such sale, lease or other disposition, the Court or judge may order the sale, letting for a term of years or other disposition of such real estate or any part thereof, to be made under the direction of the Court or judge or by the guardian of the infant or by any person appointed for the purpose in such manner and with such restrictions as seem expedient and may order the infant to convey or demise or otherwise dispose of the estate as the Court or judge thinks proper. C.O.Y.T. c. 17, R. 586.

Application,
by whom.
Consent of
infant.

583. The application shall be made in the name of the infant by his next friend or by his guardian but shall not be made without the consent of the infant if he is of the age of seven years or upwards. C.O.Y.T. c. 17, R. 587.

Execution of
conveyance
for infants.

584. When the Court or judge deems it convenient that a conveyance should be executed by some person in the place of the infant the Court or judge may direct some other person in the place of the infant to convey the estate. C.O.Y.T. c. 17, R. 588.

Conveyance
to be
effectual.

585. Every such conveyance whether executed by the infant or some person appointed to execute the same in his place shall be as effectual as if the infant had executed the same and had been of the age of twenty-one years at the time., C.O. Y.T. c. 17, R. 589.

Disposition of
moneys
raised.

586. The moneys arising from any such sale, lease or other disposition shall be laid out, applied and disposed of in such manner as the Court or judge directs. C.O.Y.T. c. 17, R. 590.

Moneys
raised from
land to
devolve as
land.

587. On any sale, lease or other disposition so made the moneys so raised or the securities taken or the surplus thereof shall be of the same nature and character as the estate sold or disposed of and the heirs, next of kin or other representatives of the infant shall have the like interest in any surplus which may remain of the proceeds at the decease of the infant as they would in the estate sold or disposed of if no sale or other disposition had been made thereof. C.O.Y.T. c. 17, R. 591.

Incumbered
estate.
Acceptance or
permanent
investment of
sum in lieu of
incumbrance.

588. If any real estate of an infant is subject to any incumbrance and the person entitled to such incumbrance consents in writing to accept in lieu of such incumbrance any gross sum of money which the Court or judge thinks reasonable or the permanent investment of a reasonable sum of money in such manner that the interest thereof is made payable to the person entitled to such incumbrance during her or his life the Court or judge may direct the payment of such sum or the investment of such other

sum of money out of the proceeds or other disposition of the real estate of the infant:

Provided always that it shall be competent for the Court or judge in any case where the estate of the infant is subject to any lien or incumbrance of uncertain duration to compute the reasonable value of the same and to order the sale or other disposition of the estate of the infant freed or discharged from such incumbrance and direct the payment of the value of such incumbrance out of the proceeds of the sale or other disposition of the real estate of the infant. C.O.Y.T. c. 17, R. 592.

Where incumbrance of uncertain duration.

589. In any proceeding for the selling, letting or other disposition of the estate of an infant it shall not be necessary that the infant shall appear *in propria persona* before the Court or judge unless so ordered; but the ground of the proceedings must be made out to the satisfaction of the Court or judge before the application is granted. C.O.Y.T. c. 17, R. 593.

Appearance of infant in person on application.

590. In case of any sale or other disposition of any real estate of an infant under the provisions of these rules the interest and estate sold or otherwise disposed of may be conveyed to the purchaser by the vesting order of the Court which shall be to all intents and purposes as effectual to pass the interest and estate so sold or disposed of as a conveyance duly executed as provided in these rules. C.O.Y.T. c. 17, R. 594.

Estate of infant may be conveyed by vesting order.

ORDER XLV.

PROBATE AND LETTERS OF ADMINISTRATION.

591. Every person to whom letters of administration or guardianship are committed shall give a bond or bonds to the judge granting the same with one or more sureties as may be required by the said judge in such form and in such penalty as he directs or in cases where the estate to be administered is of small value such bond or bonds may be dispensed with. Such security may be furnished by bond or agreement of any guarantee company approved by the judge. C.O.Y.T. c. 17, R. 595.

Security by administrator or guardian.

592. Any person interested in the estate may by leave of the Court or judge institute proceedings in his own name on the bond or bonds without an assignment thereof to him. C.O.Y.T. c. 17, R. 596.

Proceedings on bond.

593. Where any probate or letters of administration or other legal document purporting to be of the same nature or an exemplification thereof granted by a court of competent jurisdiction in the United Kingdom or in any Province or Territory of the Dominion or in any other British Possession is produced to and a copy thereof deposited with the clerk of the Territorial Court of the Yukon Territory and the prescribed

Ancillary probate or letters of administration.

fees are paid as on a grant of probate or administration the probate or letters of administration or other document aforesaid shall under the direction of a judge of the said Territorial Court be sealed by the said clerk with the seal of the Territorial Court and shall thereupon be of the like force and effect in the Territory as if the same had been originally granted by the said Territorial Court and shall be subject to any order of the Court or any appeal therefrom as if the probate or letters of administration had been granted thereby.

Security on
issue of
ancillary
probate, etc.

2. The letters of administration shall not be sealed with the seal of the Territorial Court until a certificate has been filed under the hand of the clerk or other officer of the court wherever the same issued that security has been given in a sum sufficient to cover as well the assets within the jurisdiction of the said court as the assets within the Territory or in the absence of such certificate until security is given to the judge as in the case of granting original letters of administration. C.O.Y.T. c. 17, R. 597.

Proceedings
before
probate to
restrain
waste.

594. Before probate of a will or letters of administration of the personal estate and effects of a deceased person are granted any person may institute proceedings to restrain any one committing waste by dealing or intermeddling with the estate. When such proceedings have been taken in good faith for the preservation of the property the party instituting such proceedings shall be entitled to costs of the action unless the Court or judge otherwise orders. C.O.Y.T. c. 17, R. 598.

Administra-
tor *ad litem*.

595. Where no probate of the will of a deceased person or letters of administration to his estate have been granted and representation of such estate is required in any action or proceeding in court the judge shall appoint the Public Administrator administrator *ad litem* according as the case requires. C.O.Y.T. c. 17, R. 599.

Direction of
citations,
summonses,
etc.

596. Citations, summonses or notices issued by the Court or judge in the exercise of probate jurisdiction may in the discretion of the judge instead of being directed to any person or persons by name be directed generally to the next of kin, creditors and other persons interested in the estate. C.O.Y.T. c. 17, R. 600.

Newspaper
publication of
citations, etc.

597. All citations, summonses or notices issued by the Court or judge in the exercise of probate jurisdiction may by order of a judge be published in such newspaper or newspapers published in the Territory as such judge directs and for such time as he directs and in that case no other notice or service thereof shall be necessary unless the judge otherwise directs. C.O.Y.T. c. 17, R. 601.

Order for
creditors to
send in claims.

598. A judge may on the application of any executor or administrator or of any trustee grant an order for creditors and others to send in to the executor, administrator or trustee claims against the estate of the testator, intestate or the trust

estate as the case may be together with a statement of the securities if any held by them within such time as the judge fixes and notice of such order shall be published in such newspaper or newspapers as the judge directs and the executor or administrator on the same being so published may at the expiration of the time so fixed be at liberty to distribute the assets of the testator or intestate or any part thereof and the trustee may in like manner be at liberty to distribute the trust estate or any part thereof amongst the parties entitled thereto having regard to the claims of which such executor, administrator or trustee has then notice and shall not be liable for the assets or any part thereof or the trust estate or any part thereof as the case may be so distributed to any person of whose claim such executor, administrator or trustee shall not have had notice at the time of the distribution of the said assets or trust estate or part thereof as the case may be but nothing in this rule shall prejudice the right of any creditor or claimant to follow the assets or trust estate or any part thereof into the hands of the person or persons who have received the same respectively. C.O.Y.T. c. 17, R. 602.

Publication.

Distribution of estate thereafter.

599. Every creditor or other person presenting or sending in a claim to any executor, administrator or trustee shall verify the same by a statutory declaration and shall therein state whether he holds any security for his claim or any part thereof and shall give full particulars of the same; and if such security is on the estate of the debtor or on the estate of a third party for whom such debtor is only secondarily liable he shall put a specified value thereon and the executor, administrator or trustee may either consent to the right of the creditor or person presenting the claim to rank for the claim after deducting such valuation or he may require from the person presenting the claim an assignment of the security at the specified value to be paid out of the trust property or estate when sufficient is realized therefrom and in such case the difference between the value at which the security is retained by the executor, administrator or trustee and the just amount of the gross claim shall be the amount for which the creditor or other person shall rank in respect of the estate.

Verification of claims.

Security to be valued.

2. If a creditor or other person holds a claim based upon negotiable instruments upon which the debtor is only indirectly or secondarily liable and which is not mature or exigible such creditor or other person shall be considered to hold security within the meaning of this rule and shall put a value on the liability of the party primarily liable thereon as being his security for the payment thereof but after the maturity of such liability and its non-payment he shall be entitled to amend and revalue his claim.

Security consisting of negotiable instruments.

3. If a person presenting a claim holds security for his claim or any part thereof and he fails to value such security as required by these rules a judge of the Territorial Court sitting in chambers may on summary application by the executor, administrator or trustee or by any other person interested in the trust

Omission to value security.

property or estate, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed upon such security and notified in writing to the executor, administrator or trustee within a time to be limited by the order such claimant shall in respect of the claim or the part thereof for which the security is held be wholly barred of any right to share in the proceeds of such trust property or estate; and if a specified value is not placed on such security and notified in writing to the executor, administrator or trustee according to the exigency of such order the said claim or the said part as the case may be shall be wholly barred as against such trust property or estate. C.O.Y.T. c. 17, R. 603.

Administrators to file accounts.

600. Every administrator to whom letters of administration have been issued shall within two years after the grant of letters of administration or such further time as the Court or judge allows file in the office of the clerk of the Territorial Court a statement and an account verified by his oath showing his administration of the estate and apply to a judge to have his accounts passed and allowed whereupon a summons may be issued calling upon the creditors, next of kin and all persons interested in the estate to attend the passing of the accounts. Any moneys remaining in the hands of the administrator after payment of legal charges thereon and such remuneration for his service as administrator as the judge allows shall be paid into court. On the final winding up of the estate the judge may order the administration bond to be cancelled and the administrator and the sureties discharged.

Application to pass accounts.

Cancellation of bond.

Undisposed of moneys.

2. Any money paid into court under the provisions of this rule shall after deducting such charges and fees for services rendered in connection therewith as the judge allows be transferred over to the general revenue fund of the Territory. C.O. Y.T. c. 17, R. 604.

Proceedings by public administrator.

601. The Public Administrator may obtain an originating summons as plaintiff under rule 506 of these rules as if he were a creditor or one of the next of kin of the deceased upon obtaining special leave of a judge to do so, which leave shall be granted by the judge *ex parte* upon his being satisfied by affidavit or otherwise that it is expedient to grant it. C.O.Y.T. c. 17, R. 605.

Action in which infant interested. Public administrator to be served and be guardian *ad litem*.

602. Whenever an action is brought or is pending in respect of any property or estate in which one or more infants is or are interested the writ and statement of claim shall be served on the Public Administrator together with a statement giving the full name, age and address of such infant or infants, his or their father, mother or guardian; and the Public Administrator shall be the guardian *ad litem* and shall enter an appearance for such infant or infants and shall for all purposes represent the infant or infants in such action.

Duties.

2. It shall be the duty of the Public Administrator to make all necessary or proper inquiries, to take all necessary or proper proceedings and to protect and actively attend to the interests of the infant.

3 The costs of the guardian *ad litem* shall be taxed as Costs. between party and party and shall, subject to the discretion of the judge, generally be paid out of the estate. C.O.Y.T. c. 17, R. 606.

603. In any case in which it appears desirable the Court or judge may appoint the Public Administrator guardian of the estate of any infant or of the estate of any lunatic. Public administrator may be guardian. C.O.Y.T. c. 17, R. 607.

604. The Public Administrator and all executors and administrators shall be entitled to such remuneration for their services (in addition to the costs of the grant of the probate or administration) as the judge allows, to be charged against and deduced from the estate passing through their hands or to be paid by the successor of the Public Administrator out of the assets of the deceased; and such remuneration shall be a first charge on the estate after payment of the costs of probate or administration, funeral and testamentary expenses. Remuneration of public administrator. C.O.Y. T. c. 17, R. 608.

PART III.

SMALL DEBT PROCEDURE.

ORDER XLVI.

605. In all claims and demands for debt, account, breach of contract or covenant or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$100, and in all personal actions where the amount claimed does not exceed \$100 and in all actions of replevin where the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$100, and in all claims and demands for debt where the amount claimed does not exceed \$200 and the claim is liquidated by the signature of the defendant, the procedure shall, unless otherwise ordered or allowed by a judge be as in this part provided. Procedure in case of debt, etc., for \$100 or less. But in all cases where the claim exceeds \$100 and in the opinion of the trial judge difficult or important questions of law or fact are involved which in his judgment are proper for trial under the general jurisdiction, he may order the case to be transferred to the Court to be tried under its general jurisdiction and thereafter the action shall be continued in all respects with respect to practice and procedure as if the action had been originally commenced under the general jurisdiction. When debt does not exceed \$200. Where claim exceeds \$100. C.C.Y.T. c. 17, R. 609. No. 3 of 1908, s. 2.

606. A minor may sue under this part for wages not exceeding \$100 in the same manner as if he were of full age. Minor may sue. No. 3 of 1908, s. 2.

Cause of action cannot be divided.

607. A cause of action shall not be divided into two or more actions for the purpose of bringing the same within the jurisdiction of this part. No. 3 of 1908, s. 2.

No jurisdiction in

Actions for recovery of land, etc.

For libel, slander, etc.

In disputes relative to a devise, bequest, etc.

Against Justice of the Peace.

Entry of action.

Particulars of claim.

608. Jurisdiction is not given under this part and no action can be maintained under this part in any of the following cases:

1. Actions for recovery of land or actions in which the right or title to any corporeal or incorporeal hereditaments is *bona fide* in question, or any toll or franchise comes in question.

2. Actions for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage.

3. Actions in which the validity of any devise, bequest, or limitation under any will or settlement is disputed.

4. Actions against any justice of the peace for anything done by him in the execution of his office. No. 3 of 1908, s. 2.

609. Every plaintiff when he enters an action with the clerk shall do so by leaving with him (by post or otherwise) a simple statement in writing (with a copy to file and one for each copy of writ desired) of the cause of action in the case of an account the particulars may be in the usual form of items of an account or otherwise; in the case of a bill, note or order a copy thereof shall be furnished and in the case of a claim under any other written instrument a copy shall be furnished or a concise statement of the purport or effect of the same shall be given to the extent of exhibiting the grounds of action so that in each case it may be known or understood by a person of ordinary intelligence what the action is brought for and the clerk shall attach such statement to the summons and shall attach to each copy of the summons a copy of such statement and such summons shall contain or have endorsed thereon a notice of the date and place fixed for the next two sittings of the Court for the trial of Small Debts Cases. C.O.Y.T. c. 17, R. 610. No. 8 of 1907, s. 3.

Address of parties.

610. The plaintiff shall also at the time he so delivers his statement to the clerk inform him of his post office address and of the full name of the defendant where practicable and also of his place of residence and post office address with as much certainty and particularity as possible. C.O.Y.T. c. 17, R. 611.

Issue of summons.

611. Upon receipt of such claim and upon payment of the proper fees therefor the clerk shall enter such claim in the procedure book to be kept by him for that purpose and shall issue a summons corresponding in substance with form H in the schedule hereto where the cause of action is within rule 616 hereof and with the form J in the schedule hereto where the cause of action is not within the said rule and shall make out as many copies of the said summons as there are defendants. C.O.Y.T. c. 17, R. 612.

Delivery of summons.

612. Upon the issue of the said summons the clerk shall deliver or transmit the same and the copies thereof with the copies of claim attached thereto to the plaintiff or as he directs

and shall attach to the original summons as many copies of the affidavit of service in form K in the schedule hereto as there are defendants in the said suit. C.O.Y.T. c. 17, R. 613.

613. The summons shall be returnable—

1. Where the defendant resides within a distance of ten miles from the court house at Dawson at the expiration of eight days from the service thereof;

Time for
return of
summons.

2. Where the defendant resides outside the aforesaid distance of ten miles from the court house at Dawson, one additional day shall be allowed for appearing to the writ of summons for each and every additional ten miles;

3. Where the defendant resides in any place in Canada outside the Territory or in the United States of America, at the expiration of thirty days from the service thereof;

4. Where the defendant resides in any part of the United Kingdom, at the expiration of thirty days from the service thereof;

5. In any of the above cases it shall not be necessary to obtain an order for service out of the jurisdiction. C.O.Y.T. c. 17, R. 614.

614. After the service of the said summons upon the defendant the plaintiff shall forthwith cause it to be returned to the clerk accompanied by an affidavit of service thereof in the said form K. C.O.Y.T. c. 17, R. 615.

Return to
clerk after
service.

615. After the receipt of such summons with the affidavit of service thereof the clerk shall, after the expiration of the time limited therein for appearance thereto, notify the plaintiff or his solicitor whether the defendant has or has not entered a dispute to the same. C.O.Y.T. c. 17, R. 616.

Clerk to
notify
plaintiff if
dispute
entered.

616. In actions where the claim or demand is a mere account or is ascertained by some instrument signed by the defendant as a merchant's account, the price of goods sold and delivered, a claim for work and services, money paid, money lent, rent, a promissory note, a bill, order, bond, covenant for the payment of money or other memorandum showing liability for the payment of a sum certain or which may be ascertained by computation and the defendant does not appear according to the writ of summons the clerk may upon the said summons being returned to him with an affidavit of the due service thereof, after the time for appearance has expired, sign judgment for the amount of the claim and costs against the defendant by entering in his procedure book the words "judgment against the defendant by default," stating the date of such entry and such entry shall be the judgment of the court in the cause and execution may issue and other lawful proceedings be taken thereon:

Entry of
judgment
by default
of dispute.

Execution.

Provided always that it shall be competent for any judge on application by the person feeling himself aggrieved by any such judgment to set aside the said judgment and to let the

Setting aside
judgment.

defendant in to defend the said action, or to stay proceedings on such terms as to costs and otherwise as to him seem just. C.O.Y.T. c. 17, R. 617.

Notice of dispute.

617. If the defendant desires to defend any action or suit he must cause a written dispute note in form L in the schedule hereto to be delivered by post or otherwise to the clerk before the entry of judgment in which shall be stated briefly the nature or grounds of his defence and where a claim is disputed in part only he shall state what part thereof or the items he disputes.

2. The defendant shall in his notice of dispute give his post office address. C.O.Y.T. c. 17, R. 618.

Set-off or counterclaim.

618. A defendant in any action may set off or set up by way of counterclaim against the claim of the plaintiff any right or claim whether such set-off or counterclaim sound in damages or not; such set-off or counterclaim shall have the same effect as if such relief were sought in a cross-action so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross-claim. C.O.Y.T. c. 17, R. 619.

Judge to fix dates of trials.

619. The Judge of the Territorial Court shall, as soon as possible after Long Vacation in each year, fix the days and times for the trial of actions under Order 46 and for the disposing of summonses under "The Collection Ordinance"; but in the absence of such fixing of dates the days and times previously fixed shall continue to be the days and times for such hearings. No. 8 of 1907, s. 4.

Date of trial when dispute is filed.

620. If a dispute is filed the trial of the case shall be held at the next sittings of the Court, held six days after the time limited for the entering of such dispute, and the defendant shall receive no further or other warning of such trial, or of the time and place thereof. No. 8 of 1907, s. 4.

Suit erroneously brought under general procedure or recovery of less than \$100.

621. Unless the judge otherwise orders, in case any action falling within the class provided for in this order is brought under the general procedure and the plaintiff succeeds or in case in an action of debt brought under the general procedure to recover over \$100 the plaintiff recovers less than that sum he shall recover only such costs as he would have recovered had the action been brought under the provisions of this order and the defendant in any such action shall be entitled to tax his costs of suit between solicitor and client and so much thereof as exceeds the taxable costs of defence which would have been incurred had the proceedings been had under this Order shall on entering judgment be set off and allowed by the clerk against the plaintiff's costs to be taxed or against the costs to be taxed and the amount of the judgment if it be necessary and if the amount of the costs so set off exceeds the amount of the plaintiff's judgment and taxed costs the defendant shall be entitled to judgment for the excess against the plaintiff. C.O.Y.T. c. 17, R. 623.

Costs.

622. In every case where an action is defended and a solicitor is employed by the successful party the clerk in addition to all other costs shall unless otherwise ordered by the judge tax to the successful party a solicitor's fee equal to ten per cent of the amount of the judgment recovered if such fee is taxable by the plaintiff or equal to ten per cent of the amount claimed by the plaintiff in the action if such fee is taxable to the defendant:

Provided that in no case shall the fee so taxable be less than \$1 and except as herein provided no other counsel or solicitor's fee shall be taxable or payable as between party and party. C.O.Y.T. c. 17, R. 624.

623. There shall be paid to the clerk or deputy clerk and sheriff or deputy sheriff respectively for their services in actions or suits within the provisions of this order the fees prescribed by the tariff of clerk's and sheriff's fees in the *Small Debt Tariff* contained in the schedule hereto. C.O.Y.T. c. 17, R. 625.

624. Witnesses and interpreters in actions and suits within the provisions of this Order shall be entitled to the fees and remuneration set forth in *The Small Debt Tariff* contained in the schedule hereto and such fees shall be taxable to or against the successful party as the case may be to the same extent as they are taxable in other cases under these rules:

Provided that the judge may in any case direct the taxation to either party of the reasonable costs and expenses of obtaining evidence by commission or otherwise. C.O.Y.T. c. 17, R. 626.

625. Except as to the matters specially provided for in this Order the procedure or practice under the preceding Orders and rules where not inconsistent herewith shall be adopted and applied in actions brought under this Order. C.O.Y.T. c. 17, R. 627.

626. It shall not be necessary upon the commencement of any proceeding or the issue of any process in actions coming under the provisions of this Order for any party to file a *praecipe* nor shall it be necessary to indorse upon any such process the name of the person by whom or on whose behalf the same was issued. C.O.Y.T. c. 17, R. 628.

627. No proceedings under this Order shall be deemed invalid for informality provided the same are a substantial compliance with the requirements of this Order as to such proceeding. C.O.Y.T. c. 17, R. 629.

SCHEDULE.

FORM A.

(Rule 1.)

WRIT OF SUMMONS.

In the Territorial Court of the Yukon Territory.

Between

Plaintiff,

and

Defendant.

GEORGE V: (*or name of the reigning Sovereign as the case may be*) by the Grace of GOD of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, KING (*or as the case may be*), Defender of the Faith, etc., etc., etc.,

To the above named defendant:

You are notified that the plaintiff has entered an action against you in the above named court for the recovery of the claim or demand, a statement of which is filed in court and annexed to this summons; and you are commanded that if you dispute the said claim either in whole or in part you do within the time allowed by subsections (2) and (3) of rule 3, a copy of which appears at the foot hereof, cause to be entered for you in the office of the clerk of this court an appearance and within six days thereafter file with the clerk a statement of the grounds on which such dispute is based.

And take notice that in default of your so doing the plaintiff may proceed in his said action and judgment may be given in your absence and without further notice to you.

Issued at

the

day of

A.D. 19

I.J.,

(L.S.)

Clerk of the Court.

"NOTE—

"Rule 3. (2.) If the writ of summons is served within a distance of ten miles from the clerk's office whence it issued, the time for appearance shall be eight days from such service, and if it is served at a distance of more than ten miles from such office an additional day for every additional ten miles shall be added to such time for appearance."

"Rule 3. (3) A judge may by order shorten the time for appearance."

MEMORANDA TO BE INDORSED ON WRIT.

N.B.—This writ is to be served within twelve months from the date thereof; or if renewed, within six months from the day of the last renewal including the day of such date and not afterwards.

This writ was issued by the plaintiff who resides at and (if residence over three miles from the clerk's office) whose "address for service" is at

Or, This writ was issued by _____ of solicitor for the plaintiff whose "address for service" (if the solicitor's office is over three miles from the clerk's office) is at

AA

(Rule 20.)

WRIT OF SUMMONS

IN THE TERRITORIAL COURT OF THE YUKON
TERRITORY.

Between

Plaintiff,

And,

Defendant,

George V, (or name of the reigning Sovereign as the case may be) by the Grace of GOD of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, KING, Defender of the Faith, etc., etc., etc.

To the above named defendant:

You are notified that the plaintiff has entered an action against you in the above named court for the recovery of the claim or demand, a statement of which is filed in court and annexed to this summons; and you are commanded that if you dispute the said claim either in whole or in part you do within _____ days from the service of this writ on you, exclusive of the day of such service, cause to be entered for you in the office of the clerk of this court an appearance and within six days thereafter file with the clerk a statement of the grounds on which such dispute is based.

And take notice that in default of your so doing the plaintiff may proceed in his said action and judgment may be given in your absence and without further notice to you.

Issued at _____ the _____ day
of _____ A.D. 190 _____

I.J.

Clerk of the Court.

(L.S.)

Memorandum TO BE INDORSED ON WRIT.

N.B.—This writ is to be served within twelve months from the date thereof; or if renewed within six months from the day of the last renewal including the day of such date and not afterwards.

FORM B.

(Rule 366.)

WRIT OF EXECUTION.

In the Territorial Court of the Yukon Territory.

Between

Plaintiff,

and

Defendant.

George V. (*or the name of the reigning Sovereign as the case may be*)
 by the Grace of GOD of the United Kingdom of Great Britain
 and Ireland and of the British Dominions beyond the Seas,
 KING, (*or as the case may be*) Defender of the Faith, etc., etc.,
 etc.

To the Sheriff of the Yukon Territory:

You are commanded that of the goods and chattels (*or lands
 as the case may be*) of _____ you cause to be
 made _____ dollars and _____ cents which
 _____ lately by the judgment (*or order
 as the case may be*) of the said court recovered against him and
 that you have the said money and in what manner you shall
 have executed this writ make appear to the said court at
 _____ immediately after the execution hereof
 before the said court at _____ together
 with this writ.

Issued at _____ this _____ day
 of _____ A.D. 19 _____
 I.J.,
 Clerk of the Court.

(L.S.)

FORM C.

(Rule 395.)

GARNISHEE SUMMONS.

In the Territorial Court of the Yukon Territory.

Between

Plaintiff,

and

Defendant.

and

Garnishee.

To the above named Garnishee,

You are hereby notified that a suit has been entered in this
 court in which the plaintiff claims of the defendant the sum
 of _____ as shown

by his statement of claim filed in court (or You are hereby notified that the plaintiff has recovered a judgment in this court against the defendant for

) and it is alleged on affidavit filed that you are indebted to the said defendant.

And you are required within ten days from the service hereof to appear at the clerk's office and state in writing whether or not there is any debt due or accruing due from you to the defendant (or judgment debtor) and, if so, what debt and why you should not pay the same into court to the extent of the plaintiff's claim and \$ costs.

Issued at this day
of A.D. 19 .

(L.S.) I.J.,
Clerk of the Court.

(To be indorsed same as a Writ of Summons.)

FORM D.

(Rule 439.)

WRIT OF ATTACHMENT.

In the Territorial Court of the Yukon Territory.

Between

and

Plaintiff,
Defendant.

GEORGE V, (or the name of the reigning Sovereign as the case may be) by the Grace of GOD of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, KING (or as the case may be), Defender of the Faith, etc., etc., etc.

To the Sheriff of the Yukon Territory:

You are commanded to attach, seize and safely keep all the personal estate, credits and effects together with all evidences of title, debts, books and book accounts or other documents, vouchers or papers belonging thereto or otherwise of the above-named defendant to secure and satisfy the plaintiff the sum of with his costs of action and to satisfy the debt and demand of such other creditors of the said defendant as shall prosecute their claims to judgment and lodge executions with you the said sheriff within the time allowed by *The Creditor's Relief Ordinance* to entitle them to share in the distribution of the proceeds.

And we command you the said sheriff that so soon as you have executed this writ you do return the same with an affidavit of service and a certificate of your action thereunder.

Issued at this day of A.D. 19

(L.S.) I.J.,
Clerk of the Court.

FORM E.

(Rule 448.)

WRIT OF REPLEVIN.

In the Territorial Court of the Yukon Territory,

Between

Plaintiff,

and

Defendant.

George V. (*or the name of the reigning Sovereign as the case may be*)
 by the Grace of GOD of the United Kingdom of Great Bri-
 tain and Ireland and of the British Dominions beyond the
 Seas, KING (*or as the case may be*), Defender of the Faith,
 etc., etc., etc.

To the Sheriff of the Yukon Territory:

You are hereby commanded without delay to cause to be
 replevied to the plaintiff his goods, chattels and personal prop-
 erty following that is to say:

which the said _____ alleges to be of the
 value of _____ dollars and which the defendant
 has taken and unjustly detained (*or unjustly detains as the
 case may be*) as it is alleged, in order that the plaintiff may
 have his just remedy in that behalf.

Issued at _____ this _____ day
 of _____ A.D. 19 _____

G.H.,
 Clerk of the Court.

(L.S.)

FORM F.

(Rule 450.)

BOND FOR REPLEVIN.

Know all men by these presents that we, A.B., of
 E.F., of _____ and
 G. H., of _____
 are jointly and severally held and firmly bound to _____ the
 sheriff of the Yukon Territory in the sum of _____
 dollars of lawful money to be paid to the said sheriff, his successor
 in office or either of their assigns for which payment well and
 truly to be made we bind ourselves and each and every of us in
 the whole, our and every of our heirs, executors and adminis-

trators firmly by these presents. Scaled with our seals, dated
 this day of one thousand nine
 hundred

Whereas the said *A.B.* has obtained a writ of replevin against
C.D. to obtain possession of certain chattels (*or* goods) to wit
 which the said *A.B.*
 asserts to be his property;

Now the condition of this obligation is such that if the said
A.B. shall prosecute his suit in which the said writ is issued with
 effect and without delay or if suit is carried on and continued
 between the said *A.B.* and *C.D.* touching the property of the said
 chattels (*or* goods) and the Court adjudges that the said chattels
 (*or* goods) be restored to the said *C.D.* with damages for detaining
 the same and during such detention then if the said *A.B.* shall
 comply with such adjudication and pay and satisfy any judgment
 that may be obtained against him this bond shall be void.

Signed scaled and delivered in the presence of	}	<i>A.B.</i> , [L.S.] <i>E.F.</i> , [L.S.] <i>G.H.</i> , [L.S.]
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*(When the plaintiff himself does not join in the bond the form
 must be altered to conform to the facts.)*

FORM G.

(Rule 496.)

ORIGINATING SUMMONS.

In the Territorial Court of the Yukon Territory.

(Here insert style of cause or matter.)

Let all parties concerned attend at judge's chambers at
 in on the
 day of on the hearing of an application on the part
 of that *(here set out the object of the application.)*

If you do not attend either in person or by your solicitor
 at the' time and place above-mentioned such order will be
 made in your absence as seems just and expedient.

K.L.,

(Seal of Court.)

J.S.C.

This summons was taken out by
 solicitor for the applicant.

TARIFF OF WITNESSES', JURORS' AND INTERPRETERS' FEES.

(Rule 537.)

Witnesses and jurors may be allowed the following fees:

For every day necessarily absent from residence, in going to, staying at and returning from trial or other proceeding	
When residence is within two miles of place of trial.....	\$ 4 00
When over two miles.....	5 00
For every mile necessarily travelled by other means than railway.....	0 25
When railway used, actual fare paid.	
Professional men, when acting professionally in addition to mileage as other witnesses, per day.....	25 00

INTERPRETERS.

Interpreters may when used be allowed the same mileage as witnesses and for each day actually engaged as interpreters.....	5 00
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FORM H.

(Rule 611.)

Small Debt Summons A.

In the Territorial Court of the Yukon Territory

Between _____ of _____ Plaintiff,
 _____ and _____
 _____ of _____ Defendant.

To the above named defendant:

You are notified that the plaintiff has entered an action against you in the above named Court for the recovery of the claim or demand, a statement of which is filed in Court and attached or indorsed hereon. You are notified that this summons is returnable on the _____ day after the day of the service thereof upon you. If you dispute the claim or any part thereof you are to leave with the clerk of this Court at _____ in said Territory, within _____ days after the said service upon you, the dispute note hereto attached or one to the like effect. Otherwise after such return day has passed the clerk may sign judgment against you by default for the plaintiff's claim and costs, but in case you give or send by mail or otherwise said dispute note to the said clerk, together with the sum of twenty-five cents for his fees, and he receives the same within said time, the cause will be tried at the next

sittings of this Court to be held six days after the time limited for the entering of such dispute note, and you shall receive no further or other warning of such trial or of the time and place thereof.

1st next sittings of Small Debt Court will be held at the _____ day of _____ 19____, at _____ o'clock a.m.

2nd next sittings of Small Debt Court will be held at the _____ day of _____, 19____, at _____ o'clock a.m.

Dated at Dawson this _____ day of _____, 19____,

By the Court, _____ Clerk.
(L.S.)

FORM J

(Rule 611.)

Small Debt Procedure.

In the Territorial Court of the Yukon Territory

Between _____ of _____ Plaintiff,
_____ and _____
_____ of _____ Defendant.

To the above named defendant:

You are notified that the plaintiff has entered an action against you in the above named Court for the recovery of the claim or demand, a statement of which is filed in Court and attached or indorsed hereon.

If you dispute the same or any part thereof, you are to leave with the clerk of this Court at _____ in said Territory within _____ days after the said service upon you the dispute note hereto attached or one to the like effect.

In case you give or send by mail or otherwise the said dispute note to the said clerk, together with the sum of twenty-five cents for his fees and he receives the same within the said time, the cause will be tried at the next sittings of this Court, to be held six days after the time limited for the entering of such dispute note, and you shall receive no further or other warning of such trial or of the time and place thereof.

If no such dispute note is filed the plaintiff may proceed in his said action and judgment may be given in your absence.

1st next sittings of Small Debt Court will be held at the _____ day of _____, 19____, at _____ o'clock a.m.

2nd next sittings of Small Debt Court will be held at the _____ day of _____, 19____, at _____ o'clock a.m.

Dated at Dawson this _____ day of _____, 19____,
(L.S.) _____ Clerk.

FORM K.

(Rule 612.)

SMALL DEBT—AFFIDAVIT OF SERVICE.

In the Territorial Court of the Yukon Territory.

Between

A. B.,
Plaintiff,

and

C. D.,
Defendant.I, _____ of _____ (occupation)
make oath and say:

1. That I did on _____ the _____ day
of _____ 19 _____, personally serve C. D., the above
named defendant with a true copy of the summons herein and
hereunto annexed by delivering the said copy to and leaving
the same with the said defendant at _____.

2. That at the time of such service there was attached to
the said copy of summons so served a true copy of the particulars
of claim attached to or indorsed upon the said annexed summons.

3. That at the time of such service there was also attached
to the said copy of summons a blank form entitled in this cause
of which the form marked "L" is a true copy.

4. That to effect such service I necessarily travelled
_____ miles. (*Jurat.*)

FORM L.

(Rule 617.)

SMALL DEBT—DISPUTE NOTE.

In the Territorial Court of the Yukon Territory.

Between

A. B.,
Plaintiff,

and

C. D.,
Defendant.

Take notice that I dispute the plaintiff's claim on the following
grounds:—

(*Here state briefly the grounds of defence in such manner that the
particular nature of the defence may readily be ascertained.*)

My post office address is:

C. D.,

N.B.—This note must be sent by mail or otherwise to the
clerk of the Territorial Court at Dawson, Y. T.
within _____ days from service.

FORM M.

(Rule 173.)

NOTICE OF TRIAL.

IN THE TERRITORIAL COURT OF THE YUKON TERRITORY.

Between:

Plaintiff;

—And—

Defendant.

Take notice of trial of this in _____ for the _____ day of _____ next.

Dated _____

Plaintiff's Solicitor.

To the Defendant's Solicitor.

SMALL DEBT TARIFF.

(Rules 623 and 624.)

CLERK'S FEES.

The following fees and no others shall be paid to clerks of the court for the several services under the Small Debt procedure herein provided for:

	cts.
Receiving claim, entering in procedure book and issuing summons.....	75
Garnishee summons or writ of attachment, including examining affidavits.....	50
Every original subpoena.....	50
Every copy of summons, garnishee or subpoena.....	10
Entering dispute note, or appearance by garnishee.....	25
On payment of money into court without dispute note.....	25
Every notice of trial.....	20
Hearing fee in contested cases.....	50
Every chamber summons or judge's order including entering.....	25
Every commission to examine witnesses or exemplification of judgment.....	50
Every appointment.....	10
Every search.....	10
Entering every judgment by default including searching for dispute and taxation of costs and necessary filings.....	50

	cts.
Entering every judgment after trial or order for judgment.....	50
Filing every exhibit at trial (no other filings to be allowed) .	10
Every reference to the clerk, per hour actually engaged . . .	75
Every certificate.....	25
Every writ of execution.....	50
Every renewal thereof.....	25
Copies of documents, per folio.....	10
Necessary postages.	

SHERIFF'S FEES.

The following fees and no others shall be allowed to sheriffs, deputy sheriffs and bailiffs for services under the Small Debt procedure:

Service of summons or other process including affidavit of service, oath and return.....	\$ 50
Every seizure.....	50
Schedule of goods seized, including copy for person whose goods seized.....	75
When over 500 words, per every 100 over 500.....	10
Every mile necessarily travelled one way to serve summons or process, or in going to effect seizure under an attachment or under execution where money made or settlement effected after levy, provided that there shall be only one allowance of mileage fees in and about a seizure and the sale consequent thereon....	10
Every bond including affidavits.....	1 00
Notice of sale.....	30
Each copy not exceeding five including posting up.....	10
Notice of postponement including copies.....	25
All necessary disbursements for removal and care of property seized.....	
For poundage on executions, five per cent, but not upon any sum greater than called for by the writ under which the officer acts.....	

WITNESS FEES.

In cases under Small Debt procedure—

Attendance, per day.....	\$ 1 00
Mileage, each way.....	10

Where railway can conveniently be used witnesses shall only be allowed such sum as would be sufficient to pay railway fare in coming to and returning from place of trial in no case to exceed mileage at above rate.

INTERPRETERS.

In cases under Small Debt procedure—

Per day employed.....	\$ 2 00
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revised

CHAP. 49.

An Ordinance Respecting Juries.

1. This chapter may be cited as *The Juries Ordinance*. Short title. No. 1, 1905, s. 1.

QUALIFICATIONS.

2. Every British subject who has resided for twelve months within the Yukon Territory shall be qualified and liable to serve as juror in said Territory. No. 1, 1905, s. 2. Qualifications.

3. The following persons shall be exempted from serving as jurors, that is to say:— Exemptions from service as jurors.

EXEMPTIONS AND DISQUALIFICATIONS.

1. Members of the Privy Council or of the Senate or House of Commons of Canada.

2. Members of the Yukon Council.

3. Members of the Royal North West Mounted Police.

4. Barristers and solicitors.

5. The Superintendent of Schools, and teachers employed by the Commissioner of the Territory.

6. Clergymen and Ministers of the Gospel.

7. Medical Practitioners.

8. Mail Carriers.

9. Persons actually engaged in the operating of railway trains and steamboats.

10. Telegraph and Telephone operators in actual employment as such.

11. Persons actually in charge of a steam engine, and firemen while working on a mining claim.

12. Officers and clerks of the Dominion or Territorial Government.

13. Judges, magistrates and officers of any Court of Justice actually exercising the duties of their office.

14. Persons who are affected with blindness, deafness or with mental or physical infirmity incompatible with the discharge of the duties of jurors.

15. Persons under twenty-one and above sixty years of age.

16. Persons residing more than fifteen miles from the Court House at Dawson. No. 1, 1905, s. 3.

4. No person shall be liable to serve as a juror more than twice in one year except in case of his being summoned in obedience to a new *venire facias* issued under the provisions of this Chapter for the return of jurors when sufficient number of jurors have not attended. Not liable to serve more than twice in one year.

No person convicted of criminal offence shall serve.

2. No person shall serve as a juror who has been convicted of any criminal offence for which he was sentenced to death or any term of imprisonment with hard labour for a period exceeding three months. No. 1, 1905, s. 4.

PREPARATION OF LISTS.

Lists to be prepared.

5. The Territorial Court shall, when, and as often as it is deemed necessary, cause to be prepared a list of not less than two hundred persons qualified and liable to serve as jurors.

In Form "A."

2. Such list shall be in form "A" in the schedule to this Ordinance, and shall contain in alphabetical order the surnames of each person qualified and liable to serve as a juror, with his Christian name or one or more of the initials thereof, and shall state his place of residence, his occupation or addition and any appellation by which he is known for the purpose of distinction.

Judges to direct preparation.

3. The list shall be prepared in accordance with such direction as the judges or a majority of them may give and shall be subject to such amendment by adding or striking off names as the judges or a majority of them may decide.

List not open to inspection.

4. The said list as so signed shall be kept in the office of the clerk and shall not be open to inspection.

5. The Court may, at any time, and from time to time order the names of any persons to be struck off or the names of any persons to be added to said list.

Jury list for Whitehorse and other places.

6. The Court may, at any time and from time to time, order a similar list to be prepared for Whitehorse or for any other place in the Yukon Territory and in such case all the provisions of said Chapter shall apply as if the name Whitehorse or the name of such other place and the deputy clerk and deputy sheriff at Whitehorse or at such other place, were substituted for the name Dawson and for Clerk and Sheriff in said Chapter: provided that the list shall be prepared with such direction as a judge or the Court may give and shall be subject to such amendment by adding or striking off names as the judge or the Court may decide: provided also that the said list may contain the names of less than two hundred persons qualified and liable to serve as jurors as the Court or judge may direct. No. 1, 1905, s. 5 No. 4, 1906, s. 1.

DRAWING JURORS.

Method of drawing Jury.

6. When a jury is required, the clerk of the court shall prepare a jury box and tickets for use in drawing jurors.

Tickets to be placed in box.

2. The tickets, on which shall be written, as in the jury list, the names with the residences and occupations or additions of all persons on the jury list, each ticket having one name thereon shall be placed in the jury box.

Tickets to be folded.

3. Every ticket shall be so folded as to conceal the name written thereon.

Number to be written on ticket.

4. The clerk, instead of writing the name, residence and occupation or addition of each person on the ticket, may write thereon a number corresponding to a distinguishing number to be placed opposite the name of the person in the jury list.

5. The names of the jurors may be drawn in open Court or by the order of the Court they may be drawn in the presence of such persons as the Court directs.

Names to be drawn in open Court or otherwise.

6. The tickets shall be placed promiscuously in the jury box.

To be placed promiscuously in box.

7. When the panel of jurors is drawn for service the clerk shall enter on the jury list opposite the name of each person so drawn, the date of drawing.

Clerk to enter date.

2. If any person who is liable to serve as a juror has been drawn, but for any cause has not been summoned to attend, or has not attended, the entry of drawing in the jury list shall be cancelled. No. 1, 1905, s. 7.

Entry to be cancelled in certain cases.

PANEL OF JURORS.

8. The panel of jurors to be drawn for the trial of jury causes shall be composed of such number as the court or judge directs and shall consist of the persons qualified and liable to serve whose names correspond to such number of tickets first drawn. No. 1, 1905, s. 8.

Composition of Panel.

9. At the close of the drawing the clerk shall make a list containing the names, residences and occupations or additions of the persons drawn and such list shall be signed by the judge presiding in court at the time of drawing or the person so ordered by the Court to attend such drawing and shall constitute the panel of jurors to serve for the then next ensuing month. No. 1, 1905, s. 9.

Clerk to make list.

10. The clerk, when any such panel is required, shall issue and deliver to the sheriff a writ of *venire facias* for the summoning of the person constituting such panel to attend during the sittings for which it is drawn. No. 1, 1905, s. 10.

Writ to issue.

SUMMONING JURORS.

11. The clerk may issue a writ of *venire facias* without any fiat or order therefor. No. 1, 1905, s. 11.

Summons.

12. The sheriff shall summon each person named in the panel by delivering to him a notice in writing under the hand of the sheriff, containing the substance of such writ of *venire facias*. No. 1, 1905, s. 12.

Sheriff to notify.

13. The writ of *venire facias* and the summons may be in the forms B and C in the schedule to this Ordinance or to the like effect. No. 1, 1905, s. 13.

Forms.

14. The sheriff, at least twelve hours before the time appointed for their attendance, shall summon such jurors provided that such twelve hours' service shall not be necessary when a judge otherwise orders. No. 1, 1905, s. 14.

Twelve hours' notice.

Sheriff to report.

15. The sheriff shall in his return to the writ of *venire facias*, report his proceedings as to the summoning or attempting to summon the persons whose names appear in such panel.

To annex affidavit.

2. He shall annex thereto any affidavit made by any such person showing that such person is exempted from serving. No. 1, 1905, s. 15.

ATTENDANCE AND ORGANIZATION OF JURIES.

Drawing.

16. The clerk shall on each day on which the jurors are required to stand, call,—

(a) Upon the opening of the Court, the names of all jurors, and

(b) Upon any jury cause being called for trial, the names of the jurors required to compose the jury, and shall make an entry of the fact if any juror does not answer to his name. No. 1, 1905, s. 16.

Six to constitute jury.

17. Every jury for the trial of a civil or criminal cause shall consist of six persons selected from the said panel. No. 1, 1905, s. 17.

Challenging.

18. In civil causes the plaintiff or plaintiffs on one side and the defendant or defendants on the other side may on each side, except in the case of a special jury, peremptorily challenge three jurors including talesmen. No. 1, 1905, s. 18.

Names to be written on tickets.

19. The clerk shall write the names of the jurors on tickets, each ticket having one name thereon, and having folded such tickets so as to conceal the name, shall place them promiscuously in a box. No. 1, 1905, s. 19.

Requisite number to be drawn from box.

20. When any cause to be tried with a jury is called, he shall draw from such box the names of jurors to the prescribed number, exclusive of the names of those who are not in attendance, and if any of the jurors whose names are so drawn are challenged and set aside, he shall draw from the names until the prescribed number is obtained.

Jurors first drawn.

2. The jurors who are first drawn and who are in attendance and are not challenged and set aside, shall be sworn or permitted to affirm in the usual manner and shall be the jury to try the cause.

Names to be returned to box.

3. The names of the jurors so drawn who were not in attendance or who were challenged and set aside, shall then be returned to the box.

But not before other names have been drawn.

4. The names of the persons so sworn shall not be returned to the box to be drawn again until all the names in the box have been drawn in obtaining juries for subsequent trials. No. 1, 1905, s. 20.

When number insufficient. Talesmen.

21. When a number of jurors in attendance—

(a) Is insufficient, or

(b) Is so reduced by challenge or by other causes as to be insufficient, to constitute a jury, a *tales de circumstantibus*

may, in a civil cause, at the instance of either party, and in a criminal cause, on application on behalf of the Crown or of the defendant, be ordered and summoned, and returned immediately for service. No. 1, 1905, s. 21.

22. The presiding judge at any trial may excuse the jurors from attendance during any part of the sittings and may at any time discharge them from further attendance. No. 1, 1905, s. 22. Judge may discharge jurors.

SPECIAL JURIES.

23. The Court or a judge may, upon sufficient cause therefor being shown by affidavit, order that a special jury be drawn for the trial of any civil cause. Special jury.

2. When a special jury is required for the trial of a cause the clerk shall, at a time of which due notice has been given to both parties to the cause, draw (omitting the names of any persons then serving as jurors), one hundred names of persons on the jury lists.

3. A list shall be kept of the names drawn, showing the order of drawing. Each party or his solicitor or agent shall have the right to object to twenty-five names on such list and to no more. The first right to object shall belong to the party who applied for the special jury and the next to the other party and so on alternately. List showing order of drawing. Each party may object to 25.

4. When each party has exhausted his objections the clerk shall take from such list the names of the twenty-four first on said list to whom there has been no objection and such twenty-four shall be the panel from which the special jury shall be drawn. The names on such panel shall be delivered by the clerk to the sheriff with a *venire facias* and such special jury shall be summoned at least two days before the time appointed for its attendance. Special jury; how drawn. Sheriff to give 2 days' notice.

5. The names of the special jurors so summoned shall be written on tickets, each ticket having one name thereon, and such ticket shall be folded so as to conceal the name, and shall be placed promiscuously in a box. Names to be written on separate tickets.

6. The clerk when the cause is called, shall draw from the box the names of jurors to the prescribed number, and the jurors whose names are first drawn and who are in attendance, shall be the jury for the trial of the cause. No. 1, 1905, s. 23. No. 4, 1906, s. 2. Jurors first drawn to try cause. Fees.

FEEES AND PAYMENT OF JURORS.

24. The fees for travel and attendance of jurors in civil and criminal causes, shall be as follows:— Fees.

For each mile necessarily travelled, going and coming from residence to Court House—per mile.....\$ 25
For every day's attendance..... 5.00
No. 1, 1905, s. 24.

Deposit
required
for jury.

25. The party requiring an ordinary jury in a civil cause shall, before the panel for such jury is drawn, deposit with the clerk of the Court the sum of one hundred dollars and shall before the commencement of the trial of such cause on each day subsequent to the first day, deposit with such clerk the further sum of thirty dollars. No. 1, 1905, s. 25.

Deposit for
special jury.

26. No special jury shall be ordered unless the party who has applied therefor has first deposited with the clerk of the court the sum of two hundred dollars, such party shall before the commencement of the trial of such cause on each day subsequent to the first day, deposit with the said clerk the further sum of thirty dollars. No. 1, 1905, s. 26.

How sums
applied.

27. The sums deposited with the clerk of the Court under the next two preceding sections shall be applied so far as required, to the payment of the fees of the jurors and any balances shall be paid to the persons respectively by whom they were deposited. No. 1, 1905, s. 27.

APPORTIONMENT OF COST OF JURY.

Expenses of
jury trials
to be borne
by Crown
and
litigants pro-
portionately.

28. If criminal and civil trials with jury are held at the same sittings the cost of summoning the panel and of the travel of the jurors shall be apportioned between the Crown and the civil litigants, in proportion to the number of causes for trial with a jury and the portion assigned to the civil litigants shall be equally apportioned among the several causes.

Fees to be
apportioned.

2. The jury fees for daily attendance shall be apportioned among the several criminal and civil causes tried in the proportion of the respective times occupied in the trial of such causes. No. 1, 1905, s. 28.

PAYMENT PREPARING FOR JURY LIST.

Clerk to be
paid.

29. The clerk shall be paid a sum not exceeding fifty dollars for every jury list prepared by him in pursuance of the order of the Court. No. 1, 1905, s. 29.

SITTINGS OF THE COURT WITH JURY.

Sittings of
Territorial
Court.

30. There shall, if necessary, be a sitting of the Territorial Court for the trial of criminal causes with a jury, beginning on the first Monday of every month. No. 1, 1905, s. 30.

NOTICE TO BE GIVEN BY CROWN PROSECUTOR.

Crown
Prosecutor
notify clerk
of jury
being
required.

31. The Crown Prosecutor shall, six clear days before the first Monday of every month, notify the clerk of the Court if a jury is required for trial of criminal causes. No. 1, 1905, s. 31.

TRIAL OF CIVIL CAUSES WITH JURY.

Civil causes
to be tried
after
criminal.

32. All civil causes for trial with a jury shall be tried immediately after the criminal causes, or if no criminal causes, then on

the first Monday of every month and on the days following required for trial of such causes. No. 1, 1905, s. 32.

FINES FOR NON-ATTENDANCE.

33. Any juror who does not answer to his name when called in Court in any civil or criminal cause, may be fined. No. 1, 1905, s. 33. Jurors absent may be fined.

34. The fine payable by a juror shall be five dollars for the first day, and for every subsequent day such sum not exceeding twenty dollars, as the Court directs. No. 1, 1905, s. 34. Fines.

35. All fines for non-attendance of jurors may be recovered by warrant of distress in the form "D" in the Schedule to this Ordinance or to the like effect to be made out and delivered by the clerk to the sheriff immediately after the calling of the jurors each day or at such other time as the Court orders. How recovered.

2. The sheriff shall forthwith enforce the warrant and return to the clerk a statement of all fines received by him, and the reasons why any fines which have been imposed have not been collected, and shall pay over to the Comptroller of the Territory the full amount by him recovered, deducting ten per centum for his services. Sheriff to make return of fines.

3. The clerk shall immediately lay such statement before the judge who presided at the sitting. No. 1, 1905, s. 35.

GENERAL PROVISIONS.

36. No omission to observe the directions in this Ordinance contained, or any of them, as respects— Verdict not to be impeached on account of errors.

(a) The qualifications, exemptions or disqualifications of jurors;

(b) The preparation of the list of jurors, or the form of the lists or requirements in respect to the list;

(c) The drawing or summoning of juries, or

(d) The striking of a special jury;

shall be ground for impeaching the verdict in any cause. No. 1, 1905, s. 36.

37. No jury shall be kept without meat, drink or any other comfort while it is considering its verdict. Meat and drink to be supplied jury.

2. If during the trial of a cause, civil or criminal, the jurors are not allowed to separate, the sheriff may provide such lodging and refreshment as is necessary and proper for them, and the cost thereof certified by the sheriff, shall be paid in the same manner and from the same funds as jury fees. No. 1, 1905, s. 37. Lodging and refreshment to be provided.

38. Every person who—

(a) Knowingly puts the name of any person upon the jury list who is not qualified or liable to serve, or Penalties for failure to act, &c.

(b) Wilfully fails to perform any duty imposed upon him by this Ordinance, shall be liable to a penalty of not less than fifty dollars, nor more than two hundred dollars. No. 1, 1905, s. 38.

SCHEDULE.

FORM A.

(Section 5.)

LIST OF JURORS.

THE YUKON TERRITORY—

The return of the Clerk of the Territorial Court of certain persons residing within the Yukon Territory liable to serve as jurors:—

Surname and Christian name at full length.	Residence.	Occupation or Addition.
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FORM B.

(Section 13.)

VENIRE FOR JURY.

YUKON TERRITORY, L. S.—

George the Fifth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, etc.

To _____ Esquire,
(Seal.) Sheriff of our said Territory.

GREETING.

We command you that you cause to come before our Justice of the Territorial Court at the Court House at Dawson in said Territory, on the _____ day of _____ 19____ at _____ o'clock, in the _____ noon, the (insert number) jurors, whose names are contained in the panel hereunto annexed, then and there to attend the said Territorial Court as jurors for the trial of all such causes as may be then and there pending between ourselves and party from time to time as they shall put themselves upon that jury by virtue of any issue formed during the sitting of said Courts, and have you then and there the panel, with the names of the jurors so annexed as aforesaid, and this writ, and make due return of your doings thereon.

Witness: The Honourable

Judge of our said Court at Dawson in the Yukon Territory this _____ day of _____ A.D. 19____

Clerk of the Territorial Court.

N.B.—To this writ must be attached a panel, containing the name, residence and occupation or addition of each juror, and which will be entitled as follows:

Panel of jurors drawn in open Court (or before the person named by the Court), to attend the sittings of the Territorial Court at Dawson aforesaid on the _____ day of _____ 19____

Names.	Residences.	Occupations or Additions.
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FORM C.

(Section 13.)

SUMMONS TO JUROR.

Dawson, 19

Sheriff's Office.

Sir,—

You are hereby required to attend His Majesty's Territorial Court at the Court House at Dawson, Y. T., on the day of 19 at o'clock in the noon, and following days of the sitting as a juror.

Any application for exemption from service as above must be made in Court, upon oath or upon affidavit, on the first day of the sitting.

Fine for non-attendance per day as the Court directs.

Sheriff of the Yukon Territory.

FORM D.

(Section 35.)

WARRANT FOR COLLECTION OF FINE IMPOSED ON A JUROR.

The Yukon Territory.

L. S.

George the Fifth by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Etc:

To .

Sheriff of our Yukon Territory.

GREETING.

Whereas (name of juror) of (residence and occupation) was duly summoned to attend before a Justice of Our Territorial Court at Dawson in said Territory on the day of 19 to serve as a juror;

AND WHEREAS the said failed to attend such Court and serve as such juror thereat for the period of days, and for such non-attendance he, the said was by such Court fined and ordered to pay the sum of dollars.

We command you therefore, forthwith to levy of the goods
and chattels of the said _____ the said sum of
_____ dollars, and make due return to our Territorial
Court at Dawson aforesaid what you shall do in the premises
and have you there this writ.

WITNESS the Honourable
Judge of our Territorial Court at Dawson aforesaid this
day of _____ A.D. 19____

Clerk of the said Court.

Amended

CHAP. 50.

An Ordinance Respecting the Legal Profession.

SHORT TITLE.

1. This Ordinance may be cited as *The Legal Profession Ordinance*. C.O.Y.T. c. 47, s. 1. Short title.

BARRISTERS AND SOLICITORS ROLL.

2. The Territorial Secretary shall cause to be prepared a Roll to be called the Barristers and Solicitors Roll for the Yukon Territory. C.O.Y.T. c. 47, s. 2. Territorial Secretary to prepare roll of Barristers.

3. He shall forthwith cause to be entered on such roll, in proper order according to the time of admission to the Bar in the Yukon Territory, the names of all persons who are at the date of the passing of this Ordinance enrolled as advocates of the Yukon Territory on the roll prepared by, and in the custody of, the clerk of the Territorial Court, together with the respective dates of their admission as such Advocates. The Secretary shall also, from time to time enter on such roll the name of the person who fills the office of Legal Adviser for the Commissioner of the Yukon Territory and for the Yukon Council together with the date of the appointment of such persons to such office. Who to be entered on roll.

2. The clerk of the Territorial Court shall forthwith furnish the Territorial Secretary with a list of persons so enrolled as advocates. Clerk of Court to furnish Territorial Secretary with list.

3. The Territorial Secretary shall, upon production of the certificate of the Territorial Court hereinafter provided for, that any person is entitled to be called to the Bar as a Barrister and admitted to practise as a solicitor in said Court, cause the name of such person to be entered on the said roll with the date of such entry. Territorial Secretary to enter persons producing certificate from Court.

4. If any name is improperly omitted from or inserted in said Roll, or if any mistake occurs in any name on such roll, the Territorial Court may, upon proper notice being given, cause such name to be added to, or struck from such roll, or to be properly corrected, and the Territorial Secretary shall add, strike off or correct such name in the manner directed by the Court, and shall note opposite the name affected, the date and authority for the change. Mistakes in roll to be corrected.

5. The roll prepared by the Secretary shall be and remain deposited with the said Secretary and shall be open to inspection by any person upon payment of a fee of fifty cents. Roll to be kept by Territorial Secretary.

6. The clerk of the Territorial Court shall keep on file at his office at Dawson, in said Territory, a copy of the said roll, with the additions, alterations and changes made therein from time to time, and such copy shall be open to inspection at all reasonable times at the said office. Clerk of the Court to keep copy.

Until roll prepared clerk of the courts roll to be the roll.

Copy of roll to be evidence.

7. Until such roll is prepared by the Territorial Secretary, the roll of advocates prepared by, and in the custody of, the clerk of said Court, shall be the roll of barristers and solicitors in the Yukon Territory.

8. Whether any person is enrolled as a barrister and solicitor or not shall be sufficiently proved by production of the copy of the roll in the custody of the clerk of the Court or by production of a certificate of the Territorial Secretary as to the fact. C.O.Y.T. c. 47, s. 3.

ADMISSION OF BARRISTERS AND SOLICITORS.

Additional persons to be admitted.

4. In addition to the persons entitled at the time of coming into force of this Ordinance to be enrolled as Barristers and Solicitors, as provided in the next preceding section of this Ordinance, every person who is a British subject of the age of twenty-one years and upwards, and of good moral character, and possesses any one of the following qualifications, that is to say:

Barristers of Great Britain.

Barristers of the Provinces or

Students who have served three years in Province.

Barristers of any other colony.

Articled clerks who have served five years

and passed examinations.

(a.) Is a Member of the Bar of England, Scotland or Ireland (excluding the Bar of Courts of merely local jurisdiction), or,

(b.) Has been duly called to the Bar of any of His Majesty's Superior Courts in any of His Majesty's Provinces or Territories of the Dominion of Canada, or,

(c.) Has duly served under articles of clerkship for a period of five years in any such Province with a duly qualified Barrister of such Province and has passed the examinations and possesses the other qualifications required by such Province to entitle him to be called and admitted to such bar, or,

(d.) Has been called to the Bar of any of His Majesty's Dominions or Colonies, and would, by reason thereof, be entitled to admission to the Bar in any of His Majesty's Provinces of the Dominion of Canada, or,

(e.) Has passed the prescribed preliminary and final examinations and has served under articles of clerkship for a period of five years after filing such articles with the Territorial Secretary:

Provided that nothing herein contained shall apply to any person who at the date of the coming into force of this Ordinance is enrolled as an articled clerk or otherwise admitted to or has entered upon the study of law under the provisions of the said Ordinance, or;

(f.) Has passed the preliminary examination prescribed in any Province or Territory of Canada and has served under articles of clerkship in such Province or Territory time which would be counted on the time of service required in such Province or Territory for admission to the Bar thereof and has also served under articles of clerkship in the Yukon Territory, after filing such articles with the Territorial Secretary, such time as together with the time so served in such Province or Territory equals five years, and has passed the prescribed final examination, shall be entitled to a certificate from the Territorial Court that he is entitled to be enrolled as a Barrister and Solicitor.

2. Such certificates shall be signed by the clerk of the Court and sealed with the seal of the Court.

3. The Court may allow as part of the time of service under articles of clerkship required by this section, time spent by a clerk at a recognized law school of such standing as the Court deems satisfactory. C.O.Y.T. c. 47, s. 4. No. 16, 1914, s.s. 1, 2, and 3.

5. No such certificate shall be granted by the Court unless notice of application thereof has been given by publication of such notice in the *Yukon Official Gazette* for two consecutive weeks before such application. Such notice shall state the name and residence of the person seeking a certificate, the qualification upon which he relies, and the time and place at which the application will be made. Provided that this section shall not apply to any articulated clerk who has passed the prescribed final examination in this Territory. C.O.Y.T. c. 47, s. 5.

Notice of application for admission to be published.

6. Before any person is enrolled by the secretary he shall pay to the Territorial Treasurer a fee of \$200 and shall satisfy such secretary that such payment has been made. No. 8, 1911, s. 1.

Fee for enrollment \$200.

LEGAL PROFESSION.

7. Any person who has become an articulated clerk under any Ordinance in force in the Yukon Territory before the passing of this Ordinance, shall be entitled to be enrolled as a Barrister and Solicitor upon completing the term of service prescribed by such Ordinance if he has passed the examination, and produces the evidence of educational attainment that he would have been required to pass and produce under such Ordinance, upon producing to the secretary a certificate to that effect of the Territorial Court and paying the fee prescribed by such Ordinance. C.O.Y.T. c. 47; s. 7.

Other articulated clerks to be admitted.

8. In case any person gives evidence of such educational attainments and service in the office of a Barrister and Solicitor of the Yukon Territory, whether in active practice or occupying an official position in said Territory, whether under articles or otherwise, or of a course in a law school, as in the opinion of a judge of the Territorial Court, are equivalent to the preliminary examination and service required by this Ordinance, and passes the final examination prescribed for articulated clerks, the said judge may recommend the admission of such person as a Barrister and Solicitor, and the Court upon the production of a certificate in writing from the said judge to such effect, and a certificate of his having passed such final examination, may admit such person as a Barrister and Solicitor notwithstanding the non-compliance of such person with the requirements contained in section 4 of this Ordinance. C.O.Y.T. c. 47, s. 8.

In other cases judge may certify to sufficiency of service.

No person to practise except as provided herein.

9. No person shall be called to the Bar as a Barrister or admitted to practise as a Solicitor in the Territorial Court save in accordance with the provisions of this Ordinance. C.O.Y.T. c. 47, s. 9.

OATH OF BARRISTER AND SOLICITOR.

Oath to be taken.

10. Before any person enrolled as a Barrister and Solicitor begins the practice of his profession as such he shall be presented to the Court by a Barrister in good standing and shall in open Court take the oath set out in the schedule to this Ordinance. Such oath shall be administered by the clerk of the Court. C.O.Y.T. c. 47, s. 10.

ANNUAL FEE.

Annual fee.

11. There shall be due and payable annually by every practising Barrister and Solicitor to the Territorial Treasurer on or before the thirtieth day of June in each year the sum of twenty-five dollars, and each such Barrister and Solicitor shall obtain from the said Treasurer and file with the Territorial Secretary on or before said date a receipt for said sum.

Certificate to be given on payment of annual fee.

2. Upon presentation of such receipt the said Secretary shall issue to the practising Barrister and Solicitor presenting the same a certificate stating that such Barrister and Solicitor is entitled to practise within the Yukon Territory for one year from the thirtieth day of June of the year in which the certificate is issued.

Penalty for practising without taking out annual certificate.

3. If any Barrister and Solicitor, or any member of any firm of Barristers and Solicitors, either in his own name or in the name of the firm, or in the name of any person or persons practises the profession of law in the Yukon Territory, or any of the Courts thereof, without having taken out a certificate for the current year, as directed by this section, he shall for every such offence be liable to a penalty of one hundred dollars and shall be, after the thirtieth day of June on or before which such payment is due, disqualified from the practice of such profession until the said sum of twenty-five dollars and the said penalty of one hundred dollars are paid to the said Treasurer and a certificate obtained from the Territorial Secretary as aforesaid. Such certificate shall be in force only from the thirtieth day of June, on or before which such sum of twenty-five dollars was due and payable.

Form of certificate.

4. Such certificate may be in the form in the schedule to this Ordinance. C.O.Y.T. c. 47, s. 11.

List of subjects to be prepared by judges.

12. The judges or a judge of the Territorial Court shall prepare, whenever application is made to them for that purpose, a list of subjects for examination of persons seeking to become articled clerks, and also a list of subjects for persons seeking to pass the final examination for admission to the bar. Such list shall contain the text books upon which the respective candidates shall be examined.

2. Any such person may make application to the Court by directing a notice to the clerk of the Court, giving his name and address and stating which of the examinations he desires to pass.

3. The judge may at any time before any such application is made, prepare and publish, by posting in the office of the clerk of the Court, such lists of subjects, and in such case no application or further preparation or publication shall be necessary. C.O.Y.T. c. 47, s. 12.

13. There shall be an examination held annually of persons seeking to be enrolled as Barristers and Solicitors. Such examinations shall be conducted by one or more examiners, appointed by the Commissioner of the Yukon Territory, and shall be held at such time in the month of September and at such place or places as the Commissioner directs. Annual examination.

2. Every such person shall give notice of his intention to take any such examination to the Territorial Secretary, not later than the twenty-fifth day of August preceding such examination, and at the time of giving such notice shall deposit with the Territorial Treasurer the sum of \$100, and in the event of the candidate passing the examination such deposit shall be credited to the fee required to be paid by section 6 of this Ordinance. If the said candidate fails to pass such deposit examination the said deposit shall form a part of the consolidated revenue of the Yukon Territory. \$100 to be paid by candidate before examination.

3. The Commissioner may at any time direct that a special, additional or supplemental examination of any such person be held. C.O.Y.T. c. 47, s. 13. No. 8, 1911, s. 2. Special examination.

ARTICLED CLERKS.

14. Before any person is entitled to be enrolled as an articulated clerk he shall pass the prescribed preliminary examination, and shall be bound by contract in writing, to serve as a clerk to a duly qualified Barrister or Solicitor practising in the Yukon Territory. Preliminary examination.

2. Such contract, with a declaration of the execution thereof by the parties thereto, shall within three months after the execution of such contract be filed with the Territorial Secretary. The secretary shall indorse upon such contract the memorandum of the date of filing. Articles to be filed.

3. Every assignment of such contract, together with a declaration of the execution thereof, shall be filed within three months after the execution of such assignment. Every such declaration shall show that the Barrister and Solicitor with whom the clerk is articulated is in good standing and shall also show that such contract or assignment was executed by the several parties thereto and shall state the name of every such party and his place of abode, and shall also state the day on which such contract or assignment was actually executed by the parties thereto. Assignment of articles to be filed.

Legal adviser to be duly qualified Barrister.

4. The Legal Adviser for the Commissioner of the Yukon Territory and for the Yukon Council shall be deemed a duly qualified Barrister and Solicitor practising in the Yukon Territory. C.O.Y.T. c. 47, s. 14.

Roll of articulated clerks.

15. The Territorial Secretary shall enter upon a roll, to be called The Roll of Articled Clerks, the name, residence and addition of every articled clerk whose articles have been filed with him and who has also filed a certificate of the examiner appointed as aforesaid of such clerk having passed the preliminary examination; such roll shall show the date upon which the articles of every clerk were filed, the date of any assignment of such articles and the date of entry of the name of such clerk on such roll. C.O.Y.T. c. 47, s. 15.

No Barrister to have more than two articled clerks.

16. No Barrister and Solicitor shall have under such articles as aforesaid more than two clerks at one time, nor shall he have any such clerk after he has discontinued practising his profession or while he is employed as a clerk by any other Barrister or Solicitor. Services by a clerk in contravention of this section shall not be deemed service under this Ordinance. C.O.Y.T. d. 47, s. 16.

Articles may be discharged or assigned on Barrister ceasing to practise.

17. If any Barrister and Solicitor, before the termination of the articles of a clerk bound to him becomes bankrupt or insolvent, or discontinues practice, or becomes or is employed as a clerk by any other Barrister and Solicitor, or dies, the Court may, upon application of the clerk so bound, permit such articles to be discharged or assigned to such other person upon such terms and in such manner as the Court shall state. C.O.Y.T. c. 47, s. 17.

Clerk may enter into other articles for balance of term.

18. Whenever any such articles as aforesaid have been discharged as aforesaid or cancelled by consent of the parties thereto, or determined by the death of a Barrister and Solicitor, the clerk may be bound by other articles in writing to serve as a clerk to any other practising Barrister and Solicitor during the residue of the term for which he was bound by such first mentioned articles and service under such second articles subject to the provisions herein contained shall be as effectual for the purpose of this Ordinance as if such service had been performed under the first articles. C.O.Y.T. c. 47, s. 18.

Time to count only from date of filing articles or assignment.

19. If any such articles or assignment, with a statutory declaration or declarations in respect thereto hereinbefore required are not filed as aforesaid within the time hereinbefore limited therefor, the same may afterwards be filed with the said secretary, but the service of the clerk shall be reckoned only from the day of such filing unless the Court in its discretion for special reasons otherwise orders. C.O.Y.T. c. 47, s. 19.

DISCIPLINARY.

20. All Barristers and Solicitors shall be officers of the Territorial and other Civil Courts of the Territory and the Territorial Court, or any judge thereof shall possess and exercise the same powers and jurisdiction over and in respect of such Barristers and Solicitors as at the time of the passing hereof is possessed by the Supreme Court of Judicature in England over and in respect of Solicitors of the said last mentioned Court. C.O.Y.T. c. 47, s. 20.

Court to have same powers over Barristers as Supreme Court of Judicature in England.

21. No Barrister and Solicitor shall wilfully and knowingly act as the professional agent of any person not duly enrolled and qualified to act as a Barrister and Solicitor or suffer his name to be used in any such agency on account of or for the profit of an unqualified person, or send any process to such person, or do any other act to enable such person to practise in any respect as a Barrister and Solicitor, knowing him not to be qualified, and no Barrister and Solicitor shall enter into any partnership agreement or arrangement in the nature of a partnership, or into any agreement or arrangement for sharing or dividing costs, proceeds or profits, or the fruits of any litigation or of any legal business transacted by such Barrister and Solicitor with any person not duly enrolled and qualified to practise as a Barrister and Solicitor in the Yukon Territory. C.O.Y.T. c. 47, s. 21.

Barrister not to act as agent of unqualified person.

22. The Legal Adviser shall inquire into and thoroughly investigate any complaint made to such Legal Adviser by any person against any Barrister or Solicitor for any just cause whatsoever, or against any person for any violation of any of the provisions of this Ordinance, and it shall be the duty of such Legal Adviser to whom such complaint is made if the same is well founded, to take such proceedings for disciplining or otherwise punishing such Barrister and Solicitor or other such person in the manner provided therefor in this Ordinance. C.O.Y.T. c. 47, s. 22.

Legal adviser to investigate complaints made against Barrister.

23. If, upon application, at the instance of any person, supported by affidavit made to the Court, it shall *prima facie* appear that a Barrister and Solicitor has been guilty of professional misconduct or of conduct unbecoming a Barrister and Solicitor, or for default by him in payment of moneys received by him as a Barrister and Solicitor, or has been guilty of such misconduct as would, in England, be sufficient to bring a Solicitor under the punitive powers of the Supreme Court of Judicature, or has been guilty of any breach of the provisions of this Ordinance, the Court shall cause notice to be given to such Barrister and Solicitor, calling upon him to answer the facts, and at the time appointed by such notice shall hear the complainant and the Barrister and Solicitor, and any evidence adduced by them or either of them, and if the Court finds the complaint well founded it may direct that the name of such Barrister and Solicitor be struck off the roll of Barristers and Solicitors, or may

Proceedings against Barrister for unprofessional conduct.

suspend such Barrister and Solicitor from practising for such period as may be considered just. C.O.Y.T. c. 47, s. 23.

Court may order notice of application be given to Legal Adviser.

24. The Court may order that notice of any application made under the next preceding section be given by the complainant to the Legal Adviser, and to such other person or persons as the Court thinks proper, and the Legal Adviser or the person or persons so notified, may appear in person or by Barrister and Solicitor on such application, and the conduct of such application may be entrusted by the Court to the Legal Adviser. C.O.Y.T. c. 47, s. 24.

Name of Barrister not to be inserted on Roll of Proceedings unless ordered by Court.

25. In any application to the Court under the provisions of the next three preceding sections the name of the Barrister and Solicitor complained of shall be suppressed and all proceedings shall be headed: "In the matter of——— a Barrister and Solicitor" until the Court directs the insertion of the name of such Barrister and Solicitor. C.O.Y.T. c. 47, s. 25.

When Barrister struck off roll or suspended. Clerk of Court to notify Territorial Secretary.

26. Whenever any Barrister and Solicitor is struck off the Roll of Barristers and Solicitors or suspended from practising, the clerk of the Court shall certify the same under his hand and seal of the Court to the Territorial Secretary, who shall file such certificates and shall make a note opposite the name of such person on the said Roll of his having been struck off the same or suspended (as the case may be), and in case of suspension, the time of such suspension. C.O.Y.T. c. 47, s. 26.

Privilege of Barrister to cease on being struck off roll.

27. Upon a Barrister and Solicitor being struck off the roll as aforesaid, all his rights and privileges as a Barrister and Solicitor shall cease and determine, or in case he is suspended, he shall, during the period of his suspension possess no rights or privileges as a Barrister and Solicitor, and notice of his being struck off the roll or suspended shall forthwith be given by the Secretary to the Judge of the Territorial Court. C.O.Y.T. c. 47, s. 27.

Court may order Barrister struck off rolls to be restored.

28. The Territorial Court may, on application made for that purpose, and when in the opinion of such Court the subsequent conduct of the Barrister and Solicitor, or the facts warrant it, order the name of any Barrister and Solicitor struck off the Roll to be restored thereto upon such terms as to the payment of money or otherwise as the Court directs, and in such case the clerk of the Court shall certify the same under his hand and the seal of the Court to the Territorial Secretary, who shall file such certificate and make a note opposite the name of such person on the said Roll of his having been restored thereto. C.O.Y.T. c. 47, s. 28.

Notice of application to be given to Territorial Secretary.

29. Notice of such application shall be given to the Territorial Secretary and such other person or persons as the Court or a Judge upon *ex parte* application directs and the person so notified may, in person or by Barrister and Solicitor appear and oppose or consent to such application. C.O.Y.T. c. 47, s. 29.

30. Provided that before being entitled to be restored to the Roll hereunder such person whose name is sought to be restored shall pay all arrears of fees due by him to the said Treasurer, including the fees for the period which has elapsed since he was struck off the Roll. C.O.Y.T. c. 47, s. 30.

Barrister to pay all fees in arrears before being restored to roll.

31. Whenever a person being an articulated clerk shall be found by the Court or a judge, after due inquiry, to have been, either before or after the coming into force of this Ordinance, guilty of professional misconduct or conduct unbecoming an articulated clerk, it shall be lawful for the Court or judge to strike the name of such clerk from the roll of articulated clerks. C.O.Y.T. c. 47, s. 31.

Articled clerk guilty of unprofessional conduct, to be struck off roll.

32. No person other than Barristers and Solicitors duly qualified and admitted to practise in the Yukon Territory shall act as Barrister and Solicitor in the Yukon Territory or practise in any Court in the said Territory, or advise for fee or reward, directly or indirectly in matters pertaining to the law, or sue out any writ or process, or commence, carry on, solicit or defend any action or proceeding in any such Court, or assume to act or hold himself out to the public in any way as a person qualified to act as a Barrister or Solicitor, or shall in this Territory hold himself out with the object of obtaining legal practice in the Territory to be a Barrister at Law, Advocate, Solicitor or Attorney of any other Province, Territory or country, or be, or hold himself out as a partner or agent of any Barrister or Solicitor, or participate in the profits, as profits of the office, or any business of any Barrister or Solicitor of the Yukon Territory carried on or transacted as such Barrister or Solicitor, and any person contravening any provision of this section or assisting any person to contravene any provision of this section, shall be liable to and shall pay a fine or penalty of not less than three hundred and not more than five hundred dollars for the first offence, which fine or penalty may be imposed upon summary conviction by any justice of the peace upon an information being laid in the name of the Bar of the Yukon Territory, upon the oath of the Secretary thereof that he is informed and believes that the person charged has committed the acts alleged, or may be recovered by action brought by the Territorial Secretary in the Territorial Court, and such person, if a Barrister and Solicitor, shall be struck off the Roll, and for every subsequent offence such person contravening any provision of this section or assisting any person to contravene any provision of this section, shall be liable to and shall pay a fine or penalty of five hundred dollars, to be imposed or recovered as aforesaid, and if a Barrister and Solicitor shall be struck off the Roll and disqualified from practising as a Barrister and Solicitor.

No one to practise, except Barrister duly entered on roll.

2. Any contravention of any provision of this section shall constitute a contempt of court and may be dealt with by the Territorial Court as such.

Contravention of this section to be contempt of Court. Barrister not on roll not to collect fees or disbursements.

3. Any person doing any of the acts prohibited by this section shall be incapable of recovering any fee, reward or disbursement on account thereof, and any sum paid to such

person therefor may be recovered back by the person paying the same.

Not to prevent person acting in his own behalf.

4. This section shall not be deemed to prevent any person acting on his own behalf in any action, cause, suit or matter. C.O.Y.T. c. 47, s. 32.

Legal adviser may institute proceedings.

33. The Legal Adviser may institute or authorize the institution of any proceedings under this Ordinance for any breach of its provisions. C.O.Y.T. c. 47, s. 33.

SCHEDULE.

OATH OF BARRISTER AND SOLICITOR.

Oath British subject.

I, A. B., do swear (or being one of the persons allowed by law to affirm in judicial cases, do affirm) that I am a British subject by birth (or naturalization as the case may be) and that I am of full age of twenty-one years. So help me God.

Oath of allegiance.

I, A. B., do sincerely promise and swear (or affirm) that I will be faithful and bear true allegiance to His Majesty, King George V., as lawful sovereign of Great Britain and Ireland and of the Dominion of Canada, dependent on and belonging to the said United Kingdom, and that I will defend him to the utmost of my power against all traitorous conspiracies and attempts whatever which shall be made against his power, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to His Majesty, his heirs and successors, all treason and traitorous conspiracies and attempts which I shall know to be against him or any of them, and all this I do swear (or affirm) without any equivocation, mental evasion or secret reservation. So help me God.

The proper officer under the direction of the Court shall say to the barrister:

"You are called to the degree of barrister to protect and defend the rights and interests of such persons as may employ you. You shall conduct all causes faithfully and to the best of your ability. You shall neglect no man's interest nor seek to destroy any man's property. You shall not be guilty of champerty or maintenance. You shall not refuse causes of complaint reasonably founded, nor shall you promote suits upon frivolous pretences. You shall not pervert the law to favour or prejudice any man, but in all things shall conduct yourself truly and with integrity. In fine the King's interests and your fellow subjects you shall uphold and maintain according to the constitution and laws of this Territory."

Oath of Barrister.

To which the barrister shall answer:

"All this I swear (or affirm) to observe and perform to the best of my knowledge and ability. So help my God."

“ I, A. B., do further swear that I will truly and honestly demean myself in the practice of a solicitor according to the best of my knowledge and ability. So help me God.”

CERTIFICATE OF PAYMENT OF ANNUAL FEE.

Yukon Territory.

Annual Certificate No.

This is to certify that _____ has paid to the Territorial Treasurer under the provisions of the Ordinance respecting the legal profession the sum of twenty-five dollars, and that the said _____ is hereby entitled to practise as a barrister and solicitor in the Yukon Territory for one year from the thirtieth day of June, A.D. 19 .

Dated _____, A.D. 19 .

Territorial Secretary.

CHAP. 51.

An Ordinance respecting Liens in favour of Mechanics and others.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Mechanics Lien Ordinance*. C.O.Y.T. c. 53, s. 1.

INTERPRETATION.

Interpretation. **2.** In this Ordinance

"Contractor." 1. The expression "contractor" means a person contracting with or employed directly by the owner for the doing of work or placing or furnishing of machinery or materials for any of the purposes mentioned in this Ordinance;

"Sub Contractor." 2. The expression "sub-contractor" means a person not contracting with or employed directly by the owner for the purposes aforesaid but contracting with or employed by the contractor or under him by another sub-contractor;

"Owner." 3. The expression "owner" shall extend to and include a person having any estate or interest in the lands upon or in respect of which the work is done or materials or machinery are placed or furnished at whose request and upon whose credit or on whose behalf or consent or for whose direct benefit any such work is done, or materials or machinery placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials or machinery furnished have been commenced to be furnished. C.O.Y.T. c. 53, s. 2.

LIEN FOR WORK OR MATERIALS.

Agreement as to liens. **3.** No agreement shall be held to deprive any one otherwise entitled to a lien under this Ordinance and not a party to the agreement of the benefit of the lien but the lien shall attach notwithstanding such agreement. C.O.Y.T. c. 52, s. 3.

Third party's rights.

Nature of lien. **4.** Unless he signs an express agreement to the contrary, every mechanic, machinist, builder, miner, labourer, contractor, or other person doing work upon or furnishing materials to be used in the construction, alteration or repair of any building or erection, or erecting, furnishing or placing machinery of any kind in, upon or in connection with any building, erection or mine, shall, by virtue of being so employed or furnishing, have a lien for the price of the work, machinery or materials, upon the building, erection or mine, and the lands occupied thereby or enjoyed therewith, limited in amount to the sum justly due to the person entitled to the lien. C.O.Y.T. c. 53, s. 4.

5. The lien shall attach upon the estate and interest of the owner, as defined by this Ordinance, in the building, erection or mine, in respect of which the work is done or the materials or machinery placed or furnished and the land occupied thereby or enjoyed therewith.

Property upon which lien shall attach.

2. In cases where the estate or interest charged by the lien is leasehold, the land itself may also with the consent of the owner thereof, be subject to said lien provided such consent is testified by the signature of such owner upon the claim of lien at the time of the registering thereof and duly verified.

Where estate charged is leasehold.

3. In case the land upon or in respect of which any work as aforesaid is executed or labour performed or upon which materials or machinery are placed is encumbered by a prior mortgage or other charge and the selling value of the land is increased by the construction, alteration or materials or machinery, the lien under this Ordinance shall be entitled to rank upon the increased value in priority to the mortgage or other charge. C.O.Y.T. c. 53, s. 5.

Prior mortgage.

6. Without prejudice to any lien which he may have under the preceding sections every mechanic, labourer or other person who performs labour for wages upon the construction, alteration or repairs of any building or erection or in erecting or placing machinery of any kind in, upon or in connection with any building, erection or mine shall to the extent of the interest of the owner have upon the building, erection or mine and the land occupied thereby or enjoyed therewith a lien for such wages, not exceeding the wages of thirty days or a balance equal to his wages for thirty days.

Claim for wages.

2. The lien for wages given by this section shall attach when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done, upon the estate or interest of the wife in such property as well as upon that of her husband. C.O.Y.T. c. 53, s. 6.

7. In all cases the owner shall in the absence of a stipulation to the contrary be entitled to retain for a period of thirty days after the completion of the contract ten per centum of the price to be paid to the contractor. C.O.Y.T. c. 53, s. 7.

Owner to retain 10% of contract price for 30 days.

8. In case the lien is claimed by a sub-contractor the amount which may be claimed in respect thereof shall be limited to the amount payable to the contractor or sub-contractor (as the case may be) for whom the work has been done or the materials or machinery have been furnished or placed. C.O.Y.T. c. 53, s. 8.

Lien claimed by sub-contractor.

9. All payments up to ninety per centum of the price to be paid for the work, machinery or materials as defined by section 4 of this Ordinance, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such

Payments made in good faith without notice of lien.

owner, contractor or sub-contractor (as the case may be) of the claim of such person, shall operate as a discharge *pro tanto* of the lien created by this Ordinance, but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Ordinance.

2. A lien shall in addition to all other rights or remedies given by this Ordinance, also operate as a charge to the extent of ten per centum of the price to be paid by the owner for the work, machinery or materials, as defined by section 4 of this Ordinance, up to ten days after the completion of the work or of the delivery of the materials in respect of which such lien exists and no longer, unless notice in writing be given as herein provided.

3. A lien for wages for thirty days, or for a balance equal to the wages for thirty days, shall, to the extent of the said ten per cent of the price to be paid to the contractor, have priority over all other liens under this Ordinance and over any claim by the owner against the contractor for, or in consequence of the failure of the latter to complete his contract. C.O.Y.T. c. 53, s. 9.

Lien not to increase liability of owner.

10. Save as herein provided, the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor. C.O.Y.T. c. 53, s. 10.

Persons having claims against the lien-holders.

11. All persons furnishing material to or doing labour for the person having a lien under this Ordinance in respect of the subject of such lien, who notify the owner of the premises sought to be affected thereby, within thirty days after such material is furnished or labour performed, of an unpaid account or demand against such lien holder for such material or labour, shall be entitled, subject to the provisions of sections 6 and 9 of this Ordinance, to a charge therefor *pro rata* upon any amount payable by such owner under said lien; and if the owner thereupon pays the amount of such charge to the person furnishing material and doing labour as aforesaid, such payment shall be deemed a satisfaction *pro tanto* of such lien. C.O.Y.T. c. 53, s. 11.

Disputes to be settled by action or arbitration.

12. In case of a dispute as to the validity or amount of an unpaid account or demand, of which notice is given to the owner under the next preceding section, the same shall be first determined by action in the Territorial Court in that behalf, or by arbitration in manner mentioned in section 14 of this Ordinance, at the option of the person having the unpaid account or demand against the lien holder; and pending the proceedings to determine the dispute, so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien. C.O.Y.T. c. 53, s. 12.

Failure to pay.

13. In case the person primarily liable to the person giving such notice as mentioned in section 11 of this Ordinance, fails to pay the amount awarded within ten days after the award

is made or judgment given, the owner, contractor, or sub-contractor may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished or placed in respect of which the debt arose; and such payment, if made after an award or judgment, or if made without any arbitration or suit having been previously had or dispute existing, then, if the debt in fact existed, and to the extent thereof shall operate as a discharge *pro tanto* of the moneys so due as aforesaid to the person primarily liable. C.O.Y.T. c. 53, s. 13.

14. In case a claim is made by a sub-contractor in respect of a lien on which he is entitled, and a dispute arises as to the amount due or payable in respect thereof, the same shall be settled by arbitration. Arbitration of sub-contractor's claim.

2. One arbitrator shall be appointed by the person making the claim, one by the person by whom he was employed, and the third arbitrator by the two so chosen.

3. The decision of the arbitrators or a majority of them shall be final and conclusive.

4. In case either of the parties interested in any such dispute refuses or neglects within three days after notice in writing requiring him to do so, to appoint an arbitrator, or if the arbitrators appointed fail to agree upon a third, the appointment may be made by a judge of the Territorial Court. C.O.Y.T. c. 53, s. 14.

15. During the continuance of a lien no portion of the property or machinery affected thereby shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the Territorial Court or a judge thereof. Material affected by lien not to be removed. C.O.Y.T. c. 53, s. 15.

REGISTRATION OF LIEN.

16. A claim of lien applicable to the case may be deposited in the land titles office of the Yukon land registration district and shall state: Registration of lien.

- (a) The name and residence of the claimant, and of the owner of the property to be charged and of the person for whom and upon whose credit the work is done or materials or machinery furnished and the time or period within which the same was or was to be done or furnished;
- (b) The work done or material or machinery furnished;
- (c) The sum claimed as due or to become due;
- (d) The description of the property to be charged;
- (e) The date of expiring of the period of credit agreed to by the lien holder for payment for his work, materials or machinery where credit has been given.

2. Such claim shall be verified by the affidavit of the claimant or his agent. C.O.Y.T. c. 53, s. 16.

Claim for wages. Uniting several claims.

17. A claim for wages may include the claims of any number of mechanics, labourers or other persons aforesaid who may choose to unite them, in such case each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim and an affidavit substantially in accordance with form D in the schedule to this Ordinance shall be sufficient. C.O.Y.T. c. 53, s. 17.

Claims to be filed as an incumbrance.

18. The registrar upon payment of the proper fee shall enter and register the claim as an encumbrance against the land or the estate or interest in land therein described as provided in *The Land Titles Act*. The said claim of lien may be described as a mechanic's lien. C.O.Y.T. c. 53, s. 18.

Lien-holder a purchaser *pro tanto*.

19. Where a claim is so deposited the person entitled to the lien shall be deemed a purchaser *pro tanto*. C.O.Y.T. c. 53, s. 19.

Time for registration.

20. Where the lien is for wages under section 6 or 9 of this Ordinance the claims may be registered:

- (a) At any time within thirty days after the last day's labour for which the wages are payable; or
- (b) At any time within thirty days after the completion of the construction, alteration or repair of the building or erection or after the erecting or placing of the machinery in or towards which, respectively, the labour was performed and the wages earned but so that the whole period shall not exceed sixty days from the last day's labour aforesaid.

2. Such lien shall not be entitled to the benefit of the provisions of sections 6 and 9 of this Ordinance after the said respective periods unless the same is duly registered before the expiration of the said periods so limited.

3. Such lien shall have the same priority for all purposes after as before registration. C.O.Y.T. c. 53, s. 20.

Time for registration.

21. In other cases the claim of lien may be deposited before or during the progress of the work or within thirty days from the completion thereof or from the supplying or placing the machinery. C.O.Y.T. c. 53, s. 21.

PROCEEDINGS TO REALIZE LIEN.

Actions to enforce unregistered lien. Time for.

22. Every lien which has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the Court in which or judge before whom the proceedings are instituted) is duly filed in the land titles office of the Yukon land registration district. C.O.Y.T. c. 53, s. 22.

Action to enforce registered lien.

23. Every lien which has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist

after the expiration of ninety days after the work has been completed or materials or machinery furnished or wages earned or the expiry of the period of credit where such period is mentioned in the claim of lien filed unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the Court in which or judge before whom the proceedings are instituted) is duly registered in the land titles office of the Yukon land registration district. C.O.Y.T. c. 53, s. 23.

24. If there is no period of credit or if the date of expiry of the period of credit is not stated in the claim so filed the lien shall cease to exist upon the expiration of ninety days after the work has been completed or materials or machinery furnished unless in the meantime proceedings shall have been instituted pursuant to section 23 of this Ordinance. C.O.Y.T. c. 53, s. 24. Time for action if no period of credit or none stated.

25. In all cases the lien may be realized in the Territorial Court according to the ordinary procedure of that court. C.O.Y.T. c. 53, s. 25. Lien realizable in Territorial Court.

26. Any number of lien-holders may join in one action and any action brought by a lien-holder shall be taken to be brought on behalf of all the lien-holders of the same class who shall have registered their liens before or within thirty days after the commencement of the action or who shall within the said thirty days file in the proper office of the court from which the writ issued a statement of their respective claims intituled in or referring to the said action. Lien-holders joining in action.
Action enuring to class.

2. In the event of the death of the plaintiff or his refusal or neglect to proceed any other lien-holder of the same class who has registered his claim or filed his statement in the manner and within the time above limited for that purpose may be allowed to prosecute and continue the action on such terms as are considered just and reasonable by the Court or judge. Death of plaintiff or refusal to proceed.

3. In case of a sale of the estate and interest charged with the lien the Court or judge may direct the sale to take place at any time after one month from the recovery of judgment and it shall not be necessary to delay the sale for a longer period than is requisite to give reasonable notice thereof. Sale of land.
Time for.

4. The said Court or judge may also direct the sale of any machinery and authorize its removal. Machinery.

5. When judgment is given in favour of a lien the Court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action. Costs.

6. Where there are several liens under this Ordinance against the same property each class of the lien-holders shall, subject to the provisions of sections 5, 9 and 11 of this Ordinance, rank *pari passu* for their several amounts against the said property and the proceeds of any sale shall, subject as aforesaid, be distributed amongst such lien-holders *pro rata* according to their several classes and rights and they shall respectively be Class to rank.
pari passu.

entitled to execution for any balance due to them respectively after said distribution.

Removing
lien on terms.

7. Upon application the Court or judge may receive security or payment into court in lieu of the amount of the claim and may thereupon vacate the registry of the lien.

Annulling
registration.

8. The Court or judge may annul the said registry upon any other ground.

Summary
hearing and
deter-
mination.

9. In any of the cases mentioned in subsections (7) and (8) the Court or judge may proceed to hear and determine the matter of the said lien and make such order as seems just and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof or without just cause claims a larger sum than is found by such Court or judge to be due the Court or judge may order and adjudge him to pay the costs to the other party. C.O.Y.T. c. 53, s. 26.

DEATH OF LIEN-HOLDER.—ASSIGNMENT OF LIEN.

Death of
holder.
Assignment
of lien.

27. In the event of the death of a lien-holder his right of lien shall pass to his personal representatives and the right of a lien-holder may be assigned by any instrument in writing. C.O.Y.T. c. 53, s. 27.

DISCHARGE OF LIEN.

Discharge
of lien.

28. A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing acknowledging payment and verified by affidavit and filed, such receipt shall be numbered and entered by the registrar like other instruments but need not be copied in any book; the fees shall be the same as for registering a claim of lien. C.O.Y.T. c. 53, s. 28.

Discharge
to be at
contractor's
costs.

29. When there is a contract for the prosecution of the work as hereinbefore mentioned the registration of all discharges of liens shall be at the cost of the contractor unless a court or judge otherwise orders. C.O.Y.T. c. 53, s. 29.

EXECUTION AGAINST PERSON SUPPLYING MATERIAL.

Materials
exempt from
execution.

30. Where any mechanic, artisan, machinist, builder, miner, contractor or any other person has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine at the request of and for some other person, such materials shall not be subject to execution or other process to enforce any debt (other than for the purchase thereof) due by the person furnishing or procuring such materials, and whether the same have or not been in whole or in part worked into or made part of such building or erection. C.O.Y.T. c. 53, s. 30.

LIENS ON CHATTELS.

31. Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists but not afterwards in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law to sell the chattel or thing in respect of which the lien exists on giving one month's notice by advertisement in a newspaper published in the locality in which the work was done, or in case there is no newspaper published in such locality or within ten miles of the place where the work was done, then by posting up not less than five notices in the most public places within the locality for one month, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the residence or last known place of residence, if any, of the owner as the case may be or by mailing the same to him by registered letter if his address is known.

Liens for
improvement
of chattels
Enforcing.

(a) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due him and the cost of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. C.O.Y.T. c. 53, s. 31.

FORMS.

32. The forms in the schedule hereto shall be deemed sufficient for the purposes specified in such schedule. C.O.Y.T. c. 53, s. 32.

SCHEDULE.

FORM A.—Sec. 16.

CLAIM OF LIEN.

A.B., (*name of claimant*) of (*here state residence of claimant*), Forms.
(*if so, as assignee of state name and residence of original lienholder*) claims a lien under *The Mechanics Lien Ordinance* upon the estate of (*here state the name and residence of the owner of the land upon which the lien is claimed*) in the undermentioned land in respect of the following work (*or materials*) that is to say: (*here give a short description of the work done or materials furnished and for which the lien is claimed*) which work was (*or is to be*) done (*or materials furnished*) for (*here state the name and residence of the person upon whose credit the work is done or materials furnished*) on or before the _____ day of _____

The following is the description of the work done (or material or machinery furnished, as the case may be):

(State the work done or material or machinery furnished)

The amount claimed as due (or to become due) is the sum of \$

The following is the description of the land to be charged: (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Where credit has been given insert: The said work was done (or materials were furnished) and the period of credit agreed to expired (or will expire) on the _____ day of _____ 19 .

Dated at _____ this _____ day
of _____ A.D. 19 .

(Signature of Claimant.)

FORM B.—Sec. 16.

CLAIM OF LIEN FOR WAGES.

A.B. (name of claimant) of (here state residence of claimant) (if so, as assignee of state name and residence of original lienholder) claims a lien under *The Mechanics Lien Ordinance*, upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed) in the undermentioned land in respect of _____ days work performed thereon while in the employment of (here state the name and residence of the person upon whose credit the work was done) on or before the _____ day of _____

The amount claimed as due is the sum of \$

The following is the description of the land to be charged: (here set out a concise description of the land to be charged sufficient for the purpose of registration.)

Dated at _____ this _____ day
of _____ A.D. 19 .

(Signature of Claimant.)

FORM C.—Sec. 17.

CLAIM OF LIEN FOR WAGES WHEN SEVERAL CLAIMANTS.

The following persons claim a lien under *The Mechanics Lien Ordinance* upon the land of (here state the name and residence of the owner of the land) in respect of wages for labour performed

thereon while in employment of (*here state name and residence or names and residence of employers of the several persons claiming the lien*).

A.B., of (<i>residence</i>)	\$	for	days wages.
C.D., of	\$	for	days wages.
E.F., of	\$	for	days wages.*

The following is the description of the land to be charged: (*here set out a concise description of the land to be charged sufficient for the purpose of registration.*)

Dated at _____ the _____ day of _____ A.D. 19 _____

(*Signatures of the several claimants.*)

*[*If any of the above named claimants are assignees of the original lien-holder that fact must be stated and the name and residence of the original lien-holder stated.*]

FORM D.—Sec. 16.

AFFIDAVIT VERIFYING CLAIM.

I, A. B., named in the above (*or annexed*) claim do make oath that the said claim is true (*or the said claim so far as it relates to me is true*).

Or,

We A. B. and C. D., named in the above (*or annexed*) claim, do make oath and each for himself saith that the said claim, so far as it relates to him, is true.

(*Where affidavit is made by agent or assignee, a clause must be added to the following effect: I have full knowledge of the facts set forth in the above or annexed claim.*)

Sworn before me at _____ }
 in the Yukon Territory, }
 this _____ day }
 of _____ A.D. 19 }.

Or,

The said A. B. and C. D. were }
 severally sworn before me at }
 in the Yukon Ter- }
 ritory, this _____ day of }
 A.D. 19 _____ }.

Or,

The said E. F. was sworn before }
 me at _____ in the }
 Yukon Territory, this }
 day of _____ A.D. 19 }.

CHAP. 52.

An Ordinance respecting Liens in favour of Miners.

Short title. **1.** This Ordinance may be cited as *The Miners Lien Ordinance* No. 14, 1903, s. 1.

"Owner." **2.** In this Ordinance:

1. The expression "owner" extends to and includes a person having any estate or interest in the mine upon or in respect to which the work is done or wood placed or furnished, at whose request and upon whose credit or on whose behalf or consent, or for whose direct benefit any such work is done or wood placed, and all persons claiming under him whose rights are acquired after the work in respect to which a lien is claimed, is commenced or the wood furnished has been commenced to be furnished;

"Layman." 2. The expression "layman" means any person other than the owner who is working said mine or a part thereof for an interest or share of the minerals or ore produced therefrom;

"Registering and registration." 3. The word "registering" or "registration" means the filing or depositing of an instrument with the Mining Inspector, or Gold Commissioner.

"Miner." 4. The word "miner" means any person working upon a mine or in connection therewith. No. 14, 1903, s. 2.

LIEN FOR WORK OR WOOD.

3. Any person who performs any work or service upon or in respect to, or furnishes any wood to be used in the mining or working of any placer or quartz mining claim, or lands held under hydraulic mining lease, dredging lease or otherwise for mining, shall, by virtue thereof, have a lien for the price of such work or service or wood, upon the minerals or ore produced from said mining claim, lands held under hydraulic mining lease, dredging lease or otherwise for mining, upon or in respect to which such work or service is performed, as well as upon the dredges, drills, steam shovels, elevators, wood and all machinery and chattels, upon or used on such mining claim or lands held as aforesaid for mining; limited however in amount to the sum justly due to the person entitled to the lien.

2. Such lien, upon registration as in this Ordinance provided, shall attach and take effect upon the date of the registration as against subsequent purchasers, mortgagees or other encumbrances whose mortgages or encumbrances are registered subsequent to the performance of such work or the furnishing of such wood. No. 2, 1910, s. 1.

4. The lien shall attach upon the estate or interest of the owner and all persons having any interest in the minerals or ore produced from said mining claim or lands held as aforesaid,

Persons furnishing wood on quartz or placer mining claims to have lien on product of mine. Also on dredges, machinery, etc.

To take effect as against subsequent mortgages.

Lien to attach as against

dredges, steam shovels, elevators, wood, machinery and chattels upon or used on such mining claim or lands. No. 2, 1910, s. 1. owner and others interested.

5. Any lien registered under the provisions of this Ordinance shall, as to an undivided one-half interest in the said minerals or ore, dredges, drills, steam shovels, elevators, wood, machinery and chattels, take priority over all mortgages and encumbrances against the same; provided, that a lien registered under this Ordinance shall not have priority over mortgages or encumbrances registered prior to the ninth day of June, 1910. No. 2, 1910, s. 1. Liens take precedence over all mortgages as to one-half except mortgages prior to June 9th, 1910.

REGISTRATION OF LIEN.

6. A claim of lien may be deposited in the office of the Mining Recorder for the district in which the mine is situated and shall state: Claim of lien.

(a) The name and residence of the claimant and of the owner of the property to be charged, and of the person for whom and upon whose credit the work is done or wood furnished, and the time or period within which the same was or was to be done or furnished; Particulars.

(b) The work or wood furnished;

(c) The sum claimed as due or to become due;

(d) The description of the property to be charged; and,

(e) The date of the expiring of the period of credit agreed to by the lien-holder for payment for his work or wood where credit has been given.

2. Such claims shall be verified by the affidavit of the claimant or his agent having a personal knowledge of the facts sworn to. No. 14, 1903, s. 6. No. 2, 1910, s. 2. How verified.

7. A claim may include the claims of any number of miners, labourers or other persons aforesaid who may choose to unite them in such case; each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim. No. 14, 1903, s. 7. No. of claims.

8. The claim may be registered at any time within thirty days after the last day's labour for which the wages are payable, or on which wood was furnished, or within thirty days after the time fixed for payment, or if the labour is performed or wood furnished between the first day of November in any year and the thirtieth day of April in the following year, at any time before the said thirtieth day of April. No. 14, 1903, s. 8. Registration.

9. The Mining Recorder in whose office the lien is deposited shall forthwith forward to the Gold Commissioner a copy of such lien certified by him to be a true copy and the Gold Commissioner shall enter a memorandum thereof against the claim described in said lien. No. 14, 1903, s. 9. No. 2, 1910, s. 2. Lien forwarded to Gold Commissioner.

10. Every lien which has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the Failure to deposit lien.

expiration of the time hereinbefore limited for the registration thereof. No. 14, 1903, s. 10.

PROCEEDINGS TO REALIZE LIEN.

When lien ceases to exist.

11. Every lien which has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist after the expiration of sixty days after the registration of such lien unless in the meantime proceedings are instituted to realize the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the Court in which, or judge before whom, the proceedings are instituted) is duly filed in the office of the Gold Commissioner. No. 14, 1903, s. 11.

How enforced.

12. Liens may be enforced by originating summons in which shall be set forth the grounds upon which such lien is claimed. Such summons shall be granted upon affidavit of the facts set forth in said summons. No. 14, 1903, s. 12. No. 2, 1910, s. 3.

Court may fix liability.

13. Upon such summons being granted the Court or judge may after notice given to the various parties interested, including the workmen on such claim, summarily determine and fix the liability of such owner or layman for wages due to the claimant and other workmen who have filed claims and also his liability to any other person who has filed a lien for wood supplied. No. 14, 1903, s. 13.

Actions for liens united.

14. Any number of lien-holders may join in one summons and any action brought by a lien-holder shall be taken to be brought on behalf of all the lien-holders who shall have registered their liens before or within thirty days after the commencement of the action, or who shall within the said thirty days file in the proper office of the court from which the summons issued a statement of their respective claims intitled in or referring to the said action.

Proceedings in case of death of plaintiff.

2. In the event of the death of the plaintiff or his refusal or neglect to proceed, any other lien-holder who has registered his claim or filed his statement in the manner and within the time above limited for that purpose may be allowed to prosecute and continue the action on such terms as are considered just and reasonable by the Court or judge;

Sale to satisfy lien.

3. If the minerals or ore produced from said mine are not sufficient to satisfy the liens registered against it, the Court or a judge may direct a sale of the estate and interest charged with the lien, to take place at any time after one month from the recovery of judgment, and it shall not be necessary to delay the sale for a longer period thereafter than is requisite to give reasonable notice thereof;

Sale of wood.

4. The said Court or judge may also direct the sale of any wood, machinery and chattels charged with the lien;

Costs.

5. When judgment is given in favour of a lien-holder the Court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action;

6. Upon application the Court or judge may receive security Security. or payment into Court in lieu of the amount of the claim, and may thereupon vacate the registration of the lien;

7. The Court or judge may annul the said registration upon Court may annul. any other ground;

8. In any case the Court or judge may proceed to hear and determine the matter of the said lien and make such order as is Court may make order. just, and in case the person claiming to be entitled to such lien has wrongfully refused to give a discharge thereof or without just cause has filed said lien or claims a larger sum than is found by such Court or judge to be due, the Court or judge may order and adjudge him to pay the costs of the other party. No. 14 1903, s. 14. No. 2, 1910, s. 4.

DEATH OF LIEN-HOLDER.

15. In the event of the death of a lien-holder his right of lien Death of lien-holder. shall pass to his personal representatives and the right of a lien-holder may be assigned by any instrument in writing. No. 14, 1903, s. 15.

DISCHARGE OF LIEN.

16. A lien may be discharged by a receipt signed by the Discharge. claimant or his agent and verified by affidavit and filed; such receipt shall be numbered and entered like other instruments but need not be copied in any book. No. 14, 1903, s. 16.

FEES.

17. The fee for registering any instrument under this Ordinance shall be \$2. Fees. No. 14, 1903, s. 17.

ENCUMBERED MINES.

18. Every owner or layman, or if such owner or layman is an Encumbrances. incorporated company, or is absent from the Territory, the manager or agent of such owner or laymen, who hires any person to perform any work or service upon or in respect to or to place or furnish any wood to be used in the working of any mine which was encumbered prior to the passing of this Ordinance, shall immediately upon such hiring give notice in writing to every person holding any encumbrance upon such mine of the fact of such hiring. Such notice may be in form A of the schedule to this Ordinance.

2. Any person so hired may at any time give similar notice to every encumbrancee of such mine in form B of said schedule. Form of notice. No. 14, 1903, s. 18.

19. Any person failing to give such notice who fails to pay Penalty for failure to give notice. any such person hired by him as in the next preceding section mentioned the full amount of wages due such person, shall be liable to a penalty of not exceeding two hundred and fifty dollars

and in default of payment of such penalty and the wages due such person to imprisonment for a term not exceeding three months unless he sooner pay such penalty and all wages due such person unpaid in respect to such claim. No. 14, 1903, s. 19.

Where notice given wages take priority.

20. In every case where such notice has been given the claim of every such person so hired for wages due in respect of such hiring shall be a first lien on one-half of the output of such mine unless the encumbrancee has, by notice in writing posted conspicuously on such mine or given personally to every such person so hired, forbidden every such person to perform work or service upon or in respect to or to place or furnish any wood to be used in the working of such mine. No. 14, 1903, s. 20.

No gold to be removed after the lien has been registered.

21. After a lien has been registered by any person so hired, for money due him in respect of such hiring, against any placer mine, it shall not be lawful for the owner or layman to remove any gold from such mine, if the majority of the workmen to whom wages are due for working in such mine, give him a written notice in form C in the schedule to this Ordinance. After such notice is given any person interested in such mine either on account of wages due him for working in such mine or as owner, layman or encumbrancee, may notify the mining inspector residing nearest to such mine, that a lien has been registered against such mine, and that a majority of the workmen to whom wages are due for working in such mine have forbidden the removal of any gold therefrom, and upon receipt of such notice the said mining inspector shall forthwith by himself or his agent take possession of every dump, sluice box and all gold dust produced from such mine, and make provision for obtaining the gold therefrom at the expense of the owner or layman, and apportioning so much of such gold dust as is necessary to pay every such person not exceeding in the whole one-half of the gold produced from such mine, if the same was encumbered prior to the registration of such lien and paying the proper portion to every such person, and the balance to the owner of the mine or the encumbrancee.

Proceeding in case of dispute.

2. If there is any dispute as to the amount of wages due any workman in such mine, the said mining inspector shall deposit with the clerk of the Territorial Court the gold dust produced from such mine to abide the decision of a judge upon any action to enforce such lien. No. 14, 1903, s. 21.

Representative at clean-up.

22. At every clean-up on any placer mine the men so hired shall be entitled to have a representative present thereat, and at the weighing of the gold dust obtained thereby, and it shall be the duty of such owner or layman to give to such representative, if required, a statement in writing of the quantity of gold obtained from time to time from every such mine. No. 14, 1903, s. 22.

Penalty for violation.

23. Any owner or layman who violates any of the provisions of the next two preceding sections and fails to pay to every such person so hired the amount due to such person in respect of such

hiring, shall be liable to a penalty not exceeding \$250 and in default of payment of such penalty and the wages due by him, to imprisonment for a term not exceeding three months, unless he sooner pay such penalty and the amount due and unpaid in respect to such wages. No. 14, 1903, s. 23.

FORMS.

24. The forms prescribed in the Mechanics Lien Ordinance ^{Forms.} may be used in all proceedings under the Miners Lien Ordinance. No. 14, 1903, s. 24.

SCHEDULE.

FORM A.—Sec. 18.

To _____ Take notice that I have hired the following men to work mining claim No. _____ (here give the ordinary description of the claim so as to clearly identify it and a list of the men hired) and that I propose to work such claim and appropriate one-half of the gold received therefrom to pay for the labour of such men, and of any other men who may be hired to work same, whose names will be furnished by me to you when they are hired.

Take further notice that unless you give notice in writing objecting to such hiring, that the wages of such men will be given priority to your mortgage as to such one-half of the gold received.

FORM B.—Sec. 18 (2).

To _____ Take notice that A. B. (naming mine owner or layman) has hired me and certain other men to work mining claim number _____ (here give the ordinary description of the claim so as to clearly identify it) and that he proposes to work such claim and to appropriate one-half of the gold therefrom to pay the wages of myself and such men and any other men who may be hired by him for the same purpose.

Take further notice that unless you give notice in writing objecting to such hiring, that the wages of myself and such other men will be given priority to your mortgage as to such one-half of the gold dust received.

FORM C.—Sec. 22.

To _____ Take notice that (name of workman who has filed a lien) has filed a lien against mining claim No. _____ (here give the ordinary description of the claim so as to clearly identify it) and that we the undersigned being a majority of the workmen on said claim, forbid the further working of the same by you until all wages due to the workmen on said claim are paid.

repealed

CHAP 53.

An Ordinance respecting Liens in favour of Woodmen and Others.

Short title. **1.** This Ordinance may be cited as the *Woodman's Lien Ordinance*. No. 8, 1905, s. 1.

2. Where the words following occur in this Ordinance, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

Logs or timber.

1. The words "logs or timber" shall mean and include logs, timber, piles, posts, telegraph and telephone poles, ties, mining props, shingle bolts, staves, fire wood or any of them;

Labour, &c.

2. The words "labour," "service," or "services" shall mean and include cutting, skidding, felling, hauling, scaling, banking, piling, driving, running, rafting or booming any logs or timber, and any work done by cooks, blacksmiths, artisans, and others usually employed in connection therewith;

3. The word "person" in section 3 of this Ordinance shall be interpreted to include cooks, blacksmiths, artisans and all others usually employed in connection with such labour and services. No. 8, 1905, s. 2.

Labourer to have lien on logs.

3. Any person performing any labour service or services in connection with any logs or timber in the Yukon Territory shall have a lien thereon for the amount due for such labour, service or services, and the same shall be deemed a first lien or charge on such logs or timber, and shall have precedence of all other claims or liens thereon, except any lien or claim which the Crown may have upon such logs or timber for or in respect of any dues or charges, or which any timber slide company, or owner of slides and booms, may have thereon for or in respect of tolls. No. 8, 1905, s. 3.

Statement in writing must be filed.

4. The lien provided for in section 3 shall not attach or remain a charge on the logs or timber unless and until a statement thereof in writing, verified upon oath by the person claiming such lien or some one authorized on his behalf, shall be filed in the office of the clerk of the Territorial Court of the Yukon Territory. No. 8, 1905, s. 4.

What to contain.

5. Such statement shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant, as near as may be, over and above all legal claims by way of set-offs or counter claims, and a description of the logs or timber upon or against which the lien is claimed, and shall be in the form set out in the schedule to this Ordinance or to the like effect. No. 8, 1905, s. 5.

6. Such statement shall be filed within thirty days after the last day such labour or services were performed; provided that no sale or transfer of the logs or timber upon which a lien is claimed under this Ordinance during the time limited for the filing of such statement of claim, and previous to the filing thereof, or after filing thereof and during the time limited for the enforcement thereof, shall in anywise affect such lien, but such lien shall remain and be in force against such logs or timber in whosoever possession the same shall be found, except sawn timber sold in the ordinary course of business. No. 8, 1905, s. 6. Time.

7. Any person or persons having a lien upon or against any logs or timber may enforce the same by suit in the Territorial Court of the Yukon Territory; and such lien claim shall cease to be a lien upon the property named in such statement unless the proceedings to enforce the same be commenced within thirty days after the filing of the statement of claim or after the expiry of the period of credit. In all such suits the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant. Time within which proceedings must be taken.

2. There shall be attached to or indorsed upon such writ of summons a copy of the statement of claim filed as hereinbefore provided; and no other statement of claim shall be necessary unless ordered by the Court or judge, and no pleadings or notice of dispute or defence, other than such as are required in a suit or proceeding in the said court, shall be necessary. In case no defence is filed, judgment may be signed and execution issued, according to the practice of the said Court. No. 8, 1905, s. 7. Copy of lien claim on writ.

8. The Court or judge may order any particulars to be given or any proper or necessary amendments to be made, or may add or strike out the names of parties at any time, and may set aside judgment and permit a defence to be entered or filed, on such terms as to the Court or judge shall appear proper. The writ shall be in the form as near as may be, of that in use in the Territorial Court of the Yukon Territory and the practice thereafter shall follow as nearly as may be that of the said Court. Writs may be served anywhere in the Territory in the same manner as in other cases, and the judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. No. 8, 1905, s. 8. Particulars may be ordered.

9. Where an execution has issued and has been placed in the sheriff's hands for execution, and no attachment has been issued; the proceedings for the enforcement of the lien shall be by sale under the execution; and the proceedings relating to proof of other claims, and the payment of money into court and the distribution of the moneys and otherwise, shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. No. 8, 1905, s. 9. Execution sale.

Statement
of claim
and defence.

10. Where an attachment issues in the first instance, the statement of claim and defence, and proceedings to judgment, may be the same, as hereinbefore provided; where a suit has been begun by writ of summons, and where an attachment issues after proceedings have been begun by writ of summons, the proceedings shall continue and be carried to judgment under the writ of summons, except such as are necessary to be taken under the attachment. No. 8, 1905, s. 10.

Form of
attachment
same as in
use in
Territorial
Court.

11. The form of writ of attachment shall be as nearly as may be, the same as is in use in the Territorial Court of the Yukon Territory. The Judge of the Territorial Court of the Yukon Territory may prepare and adopt rules and forms not inconsistent with the provisions of this Ordinance for the more convenient carrying out in the said Court the provisions of this Ordinance. No. 8, 1905, s. 11.

Judge may
dispose of
summarily.

12. The judge may direct that any case shall be disposed of summarily by him in chambers without waiting for the regular sittings of the Court, upon such terms as to notice and otherwise as the order shall provide, and the same may be so heard and disposed of.

Judge may
decide
motion to
set aside
seizure.

2. The judge may also entertain in chambers any application to set aside a writ of summons or of an attachment or seizure, or to release logs or timber that have been seized, and may summarily dispose of the same. No. 8, 1905, s. 12.

Under what
circum-
stances
attachment
to issue.

13. Upon the production and filing of a copy of such claim and affidavit, and upon the filing of an affidavit made and sworn by the claimant of the amount of the claim due and owing, and showing that the same has been filed as aforesaid, and stating that:—

(a) He has good reason to believe, and does believe, that the logs or timber are about being removed out of the Yukon Territory; or

(b) That the person indebted for the amount of such lien has absconded or is about to abscond from the said Territory with intent to defraud or defeat his creditors; or

(c) That the logs or timber are about being cut into lumber or timber or otherwise dealt with so that the same cannot be identified;

(d) And that he is in danger of losing his claim if an attachment do not issue, and if affidavits corroborating the affidavit of the plaintiff in respect of paragraphs (a), (b) or (c) be also filed, then the clerk of the Territorial Court of the Yukon Territory shall issue a writ of attachment directed to the sheriff of the Yukon Territory, commanding him to attach, seize and take and safely keep the said logs or timber, or such portion of them as may be necessary to satisfy the amount claimed and the costs of the suit, and of proceedings to enforce the lien.

Second
seizure
may be
made.

2. Where additional claims are made, or the amount of claim is increased, or a sufficient seizure has not been made, a second or subsequent seizure may be made either under execution or attachment. No. 8, 1905, s. 13.

14. The plaintiff may, at any time within six months from the date of the original writ of attachment, issue from the office whence the original writ issued one or more concurrent writ or writs of attachment, to bear test on the same day as the original writ, and to be marked by the officer issuing the same with the word "Concurrent" in the margin, which concurrent writ or writs of attachment shall be directed to the sheriff of the Yukon Territory, and need not be sued out in duplicate, or be served on the defendant but shall operate merely for the attachment of the said logs or timber in aid of the original writ. No. 8, 1905, s. 14.

Concurrent writ.

15. The writ of attachment shall, if no writ or summons has issued, summon the defendant to appear before the Court out of which the writ of attachment has issued, and a copy of the writ of attachment shall be served upon the defendant and if the defendant in such attachment is not the owner of the logs or timber described in the writ, then a copy of the writ shall also be served upon the owner of said logs or timber or upon the person or agent in whose possession, custody or control they may be found, for him;

Defendant to appear to writ.

2. In case the defendant or owner cannot be found within the Territory; or the owner cannot be ascertained, and no agent or person is in possession for the owner, the writ may be served in such manner as the judge shall by order direct, but when the writ is served upon an agent or other person in possession as aforesaid, the order of the judge allowing the said service shall be necessary;

Judge to direct method of service if owner cannot be found.

3. Where the service has not been personal upon either the defendant or owner, and where a proper defence has not been made, the judge may, in his discretion, admit them or either of them to make full defence, and may make such order in the premises as may be reasonable and just to all parties. No. 8, 1905, s. 15.

Where no personal service Judge may permit defence.

16. No sheriff or his agent shall seize or detain any logs or timber under the provisions of this Ordinance when in transit from the place where cut to the place of destination when such place of destination is within the Yukon Territory, but in case such logs or timber are so in transit or are in the possession of any booming company or other corporation or person, for the purpose of being driven or sorted or delivered to the owners, or to satisfy any statutory lien, then attachment of said logs or timber may be made by serving a copy of said attachment upon the person or corporation driving or holding the same, who shall from the time of such service, be deemed to hold the same, both on their own behalf and for the said sheriff to the extent of the lien, until the logs or timber can be driven and sorted out; and when driven or sorted out, the sheriff may receive the said logs or timber from such person or corporation, and the statutory lien of such person or corporation shall not be released by the holding of such sheriff or his agents. No. 8, 1905, s. 16.

No seizure when in transit.

Service to be made on person holding logs.

If bond
furnished
logs to be
released.

17. In case of an attachment, if the owner of said logs or timber, or any person in his behalf, shall execute and file with the clerk of the Court out of which the attachment has issued, a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the said clerk, and conditioned for the payment of all claims, damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, by the same or other party, if any, the clerk shall issue an order to the sheriff having in charge the logs or timber, directing their release, and upon service of such order upon the sheriff, he shall release the same. No. 8, 1905, s. 17.

Dispute to be
filed.

18. Any person who shall have been served with a copy of the Writ of Attachment under the preceding sections, and who may desire to dispute the same, shall within fourteen days after such service, file in the Court in which proceedings are pending, a notice that he or they dispute the claim upon the lien in whole or part. No. 8, 1905, s. 18.

If no
dispute
judgment
by default.

19. If no notice of dispute be filed under the preceding section, judgment may be entered as in the case of default, and the practice or procedure shall be the same as in a suit begun by writ of summons. No. 8, 1905, s. 19.

If amount
of lien paid
into court
logs to be
released.

20. The defendant may at any time after service of the writ of summons or attachment, and before the sale of the logs or timber, pay into court the amount for which a lien is claimed in the suit, together with the amount for which a lien is claimed in any other suit if any, together with costs of the proceedings thereon to the date of such payment, taxed by the clerk of the Court if so required, and the person making such payment shall thereupon be entitled to a certificate vacating the said lien, and upon said certificate being filed with the clerk of the Court in which the original statement of claim was filed, the said lien shall be vacated and all further proceedings thereon shall cease, and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment and the cancellation of any bond given under section 17 of this Ordinance. No. 8, 1905, s. 20.

Judge to
summon all
persons
interested.

21. After the expiration of the time hereinbefore named within which notice of dispute may be filed, the judge may, upon application of the claimant, issue an appointment naming a day upon which all persons claiming a lien on the logs or timber shall appear before the judge in person, or by their solicitor, or agent, for the adjustment of their claims and the settlement of accounts, and the said appointment shall be served upon the defendant and upon the owner, if the judge so directs, and shall also, if the judge so directs, be published once a week for two weeks, before the day named in said appointment, in a newspaper published in the Yukon Territory.

2. Provided further, that a copy of such appointment shall be mailed by registered letter to every holder of a claim known to the plaintiff as such holder at least two weeks before the day named in the appointment, directed to the post office address of such claimant where the same is known, and if not known, then to his last known address. No. 8, 1905, s. 21.

Copy to be mailed to every holder of claim.

22. Upon the day named in said appointment and advertisement, the persons served with a copy thereof, and all other persons claiming a lien on said logs or timber, who have prior to the said date filed with the clerk of the proper Court a notice claiming such lien on said logs or timber and stating the nature and amount of such claim, shall attend before the judge named in the appointment and advertisement.

All claimants to attend.

2. Where claims are brought pursuant to notice they may be established *prima facie* by affidavit, but any party interested shall be at liberty to cross-examine the deponents, and the judge may require that the claim be established in open Court as in other cases. No. 8, 1905, s. 22.

Claims may be established by affidavit.

23. The judge shall hear all parties and take all accounts necessary to determine the amounts, if any, due to them or any of them, or to any other holders of liens who may be called by the judge to prove their lien, and shall tax to them their costs, and determine by whom the same shall be payable, and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties. No. 8, 1905, s. 23.

Judge to decide all claims, costs, priorities, &c.

24. At the conclusion of the inquiry the judge may allow time not exceeding ten days for the payment into the Court in which proceedings are pending of the amounts, if any so found due, and the costs, and shall direct that in default of such payment, the logs or timber shall be sold by the sheriff for the satisfaction of the amounts found due to the several parties upon the inquiry and costs. No. 8, 1905, s. 24.

Judge to make report and order payment into Court.

25. In default of payment into Court under the next preceding section within the time named in the order therefor, the said logs or timber shall, within twenty days thereafter, be sold by the sheriff holding the same, in the same manner and subject to the same provisions of law as goods seized or taken in execution, unless the judge shall direct that additional publicity shall be given to the sale, and the amount realized by such sale shall after deducting the expenses thereof payable to the sheriff be paid into the Court in which the proceedings are pending, and shall upon the application of the several parties found to be entitled thereto under the order of the judge, be paid forthwith out to them by the clerk of the said Court.

In default of payment logs to be sold and proceeds paid into Court and paid out *pro rata*.

2. Provided, where the amount realized upon the sale is not sufficient to pay the claims in full and costs, the judge shall apportion the amount realized *pro rata* among the different claimants. No. 8, 1905, s. 25.

If balance still due execution may issue.

26. If, after such sale and the distribution of the proceeds thereof under the next preceding section, any balance shall remain due to any person under the said order of the judge, the clerk of the Court shall, upon application of such person, give to him a certificate that such amount remains due, which certificate may be entered as a judgment in any court having jurisdiction against the person or persons by whom the claim was directed to be paid, and execution may be issued thereupon as in the case of other judgments in said Court. No. 8, 1905, s. 26.

Lien may be discharged when nothing found due.

27. Where nothing shall be found due upon the several claims filed in any proceedings under this Ordinance, or upon the lien or liens with respect to which proceedings have been taken, the judge may direct that, the lien or liens be discharged and the logs or timber released, or security given therefor delivered up and cancelled, and shall also by such order, direct payment forthwith of any costs which may be found due to the defendant or the owner of the said logs or timber. No. 8, 1905, s. 27.

Tariff of costs.

28. The costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the Territorial Court of the Yukon Territory. No. 8, 1905, s. 28.

Surplus of sale to be paid to party entitled.

29. Where more money shall be paid into Court as the proceeds of the sale of logs or timber than shall be required to satisfy the liens which shall be proved, and interest and costs, the judge may order the payment out of Court of any remaining moneys to the party entitled to the same. No. 8, 1905, s. 29.

Application to dismiss may be made to judge.

30. Any person affected by proceedings taken under this Ordinance may apply to the judge to dismiss the same for want of due prosecution, and the judge may make such order upon the application as to costs or otherwise as may be just.

Other parties may be added.

2. The judge may at any stage of any proceedings, on the application of any party, or as he may see fit, order that any person who may be deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Ordinance, and the judge may make such order as to the costs of adding such person or corporation or as to such service, as may be just. No. 8, 1905, s. 30.

Other remedies not barred.

31. Nothing in this Ordinance contained shall be deemed to disentitle any person to any other remedy than that afforded by this Ordinance for the recovery of any amount due in respect of labour or services performed upon or in connection with any logs or timber, and where a suit is brought to enforce a lien, but no lien shall be found due, judgment may be directed for the amount found due as in an ordinary case. No. 8, 1905, s. 31.

32. Any number of lien-holders may join in taking proceedings under this Ordinance, or may assign their claims to any one or more persons, but the statement of claim to be filed under this Ordinance shall include particular statements of the several claims of persons so joining, and shall be verified by the affidavits of such persons so joining, or separate statements of claim may be filed and verified as by this Ordinance provided, and on writ of attachment issued on behalf of all the persons so joining. No. 8 1905, s. 32.

Lien-holders may join in action.

33. If more than one suit be commenced under the provisions of this Ordinance in respect of the same logs, the defendants, or any of them, may apply to have the suits consolidated, and failing to do so, he or they shall pay the costs of such additional suit or suits as may be decided against them. No. 8, 1905, s. 33.

Defendant may have suits consolidated.

34. The procedure regulating the practice in actions brought in the Territorial Court of the Yukon Territory, shall so far as it is not inconsistent with this Ordinance, regulate proceedings under this Ordinance. No. 8, 1905, s. 34.

Procedure of Territorial Court to apply.

35. Affidavits and affirmations under this Ordinance may be sworn before any judge, police magistrate, stipendiary magistrate, notary public, or justice of the peace, or before any commissioner authorized to take affidavits to be read in the Territorial Court. No. 8, 1905, s. 35.

Affidavits, &c., may be sworn before Police Magistrate, Notary, Commissioner, &c.

AFFIDAVIT TO BE ATTACHED TO STATEMENT OF CLAIM.

I, _____, make oath and say that I have read (or have heard read) the foregoing statement of claim and I say that the facts therein set forth are, to the best of my knowledge and belief, true and the amount claimed to be due and owing to me in respect to my lien is the just and true amount due and owing to me in giving credit for all sums of money for goods or merchandise to which the said (naming the debtor) is entitled to as credit against me.

Sworn to at _____ day of _____ A.D. in the Yukon Territory, the _____ before me

A Commissioner for taking affidavits in and for the Yukon Territory.

SCHEDULE.

(Section 5.)

STATEMENT OF CLAIM OF LIEN.

A. B. (name of claimant) of (here state residence of claimant) (if so), as assignee of (here state name and address of assignor) under the *Woodman's Lien Ordinance*, claims a lien upon

certain logs or timber of (here state the name and residence of the owner of the logs or timber upon which the lien is claimed, if known), upon the logs and timber composed of (state the kinds of logs and timber such as fir, saw logs, cedar or other posts, or railway ties, shingle bolts or staves, or fire wood, etc., also where situate at time of filing of statement) in respect of the following work, that is to say (here give a short description of the work done for which lien is claimed), which work was done for (here state the name and residence of the person upon whose credit the work was done) between the day of
and the day of , at
(per month or day as the case may be). The amount claimed as due (or to become due) is the sum of (when credit has been given) the said work was done on credit, and the period of credit will expire on the day of
Dated at this day of
A.D.

Signature of Claimant.

CHAP. 54.

An Ordinance respecting Personal Judgments in
Lien Actions.

1. In all actions in the Territorial Court for the enforcement of liens in favour of woodmen under Chapter 8 of 1905, or in actions under the Miners Lien Ordinance passed on the 26th May, 1906, by His Excellency the Governor General in Council, or in any other action for the enforcement of liens of any kind created either by ordinance of the Governor General in Council or by an ordinance of this Territory, the Territorial Court may, in disposing of the said actions, whether by originating summons or otherwise, give judgment for the amount found to be due to the party claiming, where the same attaches by virtue of any of the said ordinances as a lien, or whether a valid lien attaches or not, and whenever any such action is brought under the provisions of either of the said ordinances or any other ordinance of like kind and any claimant or claimants shall fail for any reason to establish a valid lien he or they may nevertheless recover therein a personal judgment against any party or parties to the action for such sum or sums as may appear to be due to him or them and which he or they may recover in an action on contract against such party or parties. No. 6, 1909, s. 1.

Enforcement of woodmen's and miners' liens.

2. All judgments which may be given in favour of such lien-holders shall adjudge that the person or persons personally liable for the amount of the judgment shall pay any deficiency which may remain after sale of the property adjudged to be sold, and whenever on a sale of any property to satisfy a lien under any such ordinance sufficient to satisfy the judgment and costs is not realized therefrom the deficiency may be recovered by execution against the property of such person or persons. No. 6, 1909, s. 2.

Lien-holders to recover deficiency on judgment.

3. In an action by way of originating summons to enforce any such lien as aforesaid the defendants therein may appear and raise such defences, counter claims and set-off as might be raised in any action in the Territorial Court and may, upon such actions, pay into court any money alleged by them to be due, and the court or judge in determining any such actions for lien as aforesaid may, whether defences are raised by the defendants or not, dispose of all matters arising upon the evidence as if such defences had been raised in answer. No. 6, 1909, s. 2.

Defences and set-offs.

4. The owner or owners of any pay dump or dumps, pay gravel, ore, mine or mines or claim, or of any wood, machinery or chattel property affected by such judgment as aforesaid, or

Party interested may pay judgment.

any contractor affected by the same, may pay or satisfy such judgment and shall thereupon be entitled to have assigned to him or them or a trustee for him or them such judgment, and such owner or owners shall be entitled to stand in the place of such judgment creditor or creditors or lien-holders and to use in his or their own name or names all the remedies of the judgment creditor or creditors for the recovery of the said debt. No. 6, 1909, s. 4.

Party interested may obtain assignment.

5. Upon the sale of any such pay dump or dumps, pay gravel, ore, mine or mines or claim, or of any wood, machinery or chattel property, the owner or owners thereof, or any contractor affected thereby, shall be entitled to an assignment of such judgment as aforesaid on payment of the balance not realized on such sale with all costs of sale, and such owner or owners or contractor shall be entitled to stand in the place of such judgment creditor or creditors or lien-holder or lien-holders and to use in his or their own name all the remedies of the said judgment creditor or creditors for the recovery of the said debt. No. 6, 1909, s. 5.

Rules of Territorial Court to govern.

6. The rules of the Territorial Court shall govern when applicable in such actions. No. 6, 1909, s. 6.

repealed

CHAP. 55.

An Ordinance respecting Limitation of Actions in Certain Cases.

- 1.** All actions for recovery of merchants accounts, bills, notes, and all actions of debt grounded upon any lending or other contract without specialty shall be commenced within six years after the cause of such action arose. C.O.Y.T. c. 29, s. 1.

Actions on simple contracts.
- 2.** No action for assault, battery, wounding, imprisonment or for words shall be commenced but within two years after the cause of action. No. 6, 1914, s. 1.

Action for assault, defamation, etc.
- 3.** No acknowledgment or promise shall be evidence of a new or continuing contract or liability whereby to take any case out of the operation of the provisions of this Ordinance or to deprive any party of the benefit thereof unless such acknowledgment or promise be in writing, signed by the party chargeable thereby, but a payment made on account of any such debt shall have the effect of such acknowledgment or promise. No. 6, 1914, s. 1.

Acknowledgment of liability to be in writing.
Effect of payment on account.
- 4.** No person jointly contracting, or liable, or his representatives, shall be answerable for or by reason of any payment, acknowledgment, or promise of his co-contractor, or creditor or his representatives. No. 6, 1914, s. 1.

Acknowledgment by co-contractor.
- 5.** In actions against persons jointly contracting or liable, or their representatives, the plaintiff may recover against one of the parties though barred by the provisions of this Ordinance as to the other. No. 6, 1914, s. 1.

Recovery against one joint contractor though barred against other.
- 6.** This Chapter shall apply to any demand alleged by way of set-off or counter-claim on the part of any defendant. No. 6, 1914, s. 1.

Chapter applies to set-off or counter-claim.
- 7.** If the defendant is deprived of the benefit of his set-off or counter-claim by the non-suit or any act of the plaintiff he may bring a new action therefor within one year thereafter No. 6, 1914, s. 1.

In case of non-suit new action for set-off or counter-claim.
- 8.** Actions by or against minors, persons insane or out of the Territory may be commenced within the like period after the removal of the disability or the return of such persons to the Territory, as is allowed for bringing the action in ordinary cases. No. 6, 1914, s. 1.

Disability or absence of parties.

*The Real
Property
Limitation
Act (Imp.)*
in force.

9. The provisions of *The Real Property Limitation Act, 1874*, being chapter 57 of the Statutes of the Imperial Parliament, passed in the thirty-seventh and thirty-eighth years of Her Majesty Queen Victoria's reign, are hereby declared to be in force and to have been in force in the Territory since the passing thereof. C.O.Y.T. c. 29, s. 2.

repealed

CHAP 56.

An Ordinance respecting Intoxicating Liquors.

1. This Ordinance may be cited as *The Liquor License* Short title. Ordinance. C.O.Y.T., c. 76, s. 1.

INTERPRETATION.

2. In this Ordinance and in the schedules thereto the words and expressions following shall, unless such interpretation is repugnant to the subject or inconsistent with the context, be construed as follows:—

- 1. "District" means a license district. "District."
- 2. "Commissioner" means the Commissioner of the Yukon Territory. "Commissioner."
- 3. "Magistrate" means a justice of the peace or a stipendiary magistrate, or police magistrate. "Magistrate."
- 4. "Town" includes towns incorporated under the Town's Ordinance and the settlements known as Whitehorse and Klondike City. "Town."
- 5. "Hotel License" means and includes every license granted for the sale by retail of fermented, spirituous or other liquors, which may be consumed on the premises on which the same is sold, whether "hotel" premises or not. "Hotel License."
- 6. "Saloon License" means and includes every license granted for the sale by retail of fermented, spirituous or other liquors for consumption on the premises on which the same is sold, but upon which premises accommodation is not provided for the travelling public. "Saloon License."
- 7. "Licensee" means a person holding a license under this Ordinance. "Licensee."
- 8. "Person" includes every member of a firm, and the servant, office-holder, agent of a company or body of persons whether incorporated or not under special Ordinance or by Letters Patent under the seal of the Yukon Territory. "Person."
- 9. "Licensed Premises" means the premises in respect of which a license under this Ordinance has been granted and is in force and extends to every room, closet, cellar, yard, stable, outhouse, shed or any other place whatsoever, of, belonging, or in any way appertaining to such house or place. "Licensed Premises."
- 10. "Liquor" or "liquors" means and comprehends all spirituous and malt liquors and all combinations of liquors and drinkable liquors which are intoxicating. "Liquor."
- 11. "Public bar" or "bars" means and includes any room, passage or lobby in any licensed premises into which the public may enter and purchase liquors. "Public bar."
- 12. "Chief Inspector" means Chief Inspector of Licenses. "Chief Inspector."
- 13. "Inspector" means Inspector of a district or for the Territory, as the case may be.

"Sale by retail."

14. "Sale by Retail" means the sale of a quantity not to exceed half a gallon at any one time of ale, beer or porter, or one quart of wine or spirits.

"Judge."

15. "Judge" means a judge of the Territorial Court. C.O. Y.T. c. 76, s. 2.

Not to apply to native wines.

3. Nothing in this Ordinance shall apply:

1. To the manufacture of native wines from fruit grown and produced in Canada, or the sale of such wine in quantities of not less than one gallon or not less than two bottles of three half-pints each at one time at the place of manufacture.

Nor auctioneers.

2. To any person who holds a license as auctioneer, selling liquor at public auction. Provided that the liquor being sold forms part of an insolvent debtor's estate, and is named in the inventory thereof offered for sale under instructions from the creditor or creditors of such estate or his or their heirs, assignee, agent or trustee, and that the stock of such liquors is not broken for the purpose of such sale, and is not removed from the place in which such liquors were originally exposed under license.

Nor H.N.W.M.P.

3. To the sale of beer in any canteen of the Royal Northwest Mounted Police and the permanent military force established under proper authority; such sale to be restricted to members of the Royal Northwest Mounted Police and the permanent military force.

Nor liquor sold under execution.

4. To the sale of any liquor by virtue of an execution or any other judicial process. C.O.Y.T. c. 76, s. 3.

LICENSED DISTRICTS.

License districts.

4. The commissioner may establish districts for the purposes of this Ordinance, to be called licensed districts, and may from time to time alter and re-define the same; until the establishment of such districts the Yukon Territory shall form one license district. C.O.Y.T. c. 76, s. 4.

LICENSE COMMISSIONERS.

Board of license commissioners.

5. The Commissioner may appoint a Board of License Commissioners consisting of three persons for each license district, who shall hold office until the thirty-first day of December in each year, subject, however, to removal at any time before that date at the pleasure of the Commissioner, but may be reappointed, and such License Commissioners shall be paid such salaries and travelling and other expenses as are fixed by the Commissioner, and each of said Boards may elect one of their number to act as chairman and one to act as Secretary:

License commissioner to take oath.

2. Every License Commissioner shall forthwith after his appointment and before performing any duties of his office, take and subscribe the following oath or affirmation:

Oath.

I (name in full) do hereby solemnly swear (or affirm) that I will faithfully perform my duty as a License Commissioner for the license district number So help me God.

Sworn (or affirmed) before me at _____, in the Yukon Territory, this _____ day of _____, A.D. 19____. A Commissioner, etc.

(In case of an affirmation the words "So help me God" shall be omitted.)

3. The said oath or affirmation shall be forthwith returned by the License Commissioner to the Chief Inspector. Every license shall be issued upon the recommendation of the License Commissioner except as hereinafter provided. C.O.Y.T. c. 76, s. 5. Oath to be sent to Chief Inspector.

6. The License Commissioners shall sit during the month of June in each year at such place and upon such date as is arranged and notified to them by the Chief Inspector, to receive and dispose of applications for licenses. C.O.Y.T. c. 76, s. 6. License commissioners to sit in June.

7. At such meeting the License Commissioners may adjourn the hearing of any application to any other place and time, if they see fit. Meeting may adjourn.

2. The License Commissioners may be called together at any time by the Chief Inspector and they may meet at any time of their own motion. Other meetings may be called.

3. If from any cause a majority of the License Commissioners fail to be present on the day fixed for the meeting, or at any adjournment of a meeting, the said meeting or adjourned meeting shall stand adjourned from day to day until a majority shall be present to hold such meeting. C.O.Y.T. c. 76, s. 7. If quorum not present meeting may adjourn.

LICENSE INSPECTORS.

8. The Commissioner may appoint, prescribe the duties and fix the salary of a Chief Inspector for the Territory, who shall hold office during pleasure, and shall give such security for the due performance of his duties as is prescribed by the Commissioner. C.O.Y.T. c. 76, s. 8. Commissioner to fix salaries.

9. The Commissioner may appoint one or more inspectors for any license district or for the Territory, and fix their salaries or fees and prescribe their duties. C.O.Y.T. c. 76, s. 9. Commissioner may appoint inspectors.

10. The Chief Inspector shall:

1. Keep a register to be called "The Register of Licenses," containing the particulars of all licenses granted in the district, and the premises in respect of which they are granted. There shall also be entered on the register all forfeitures of licenses, disqualifications of licensees, records of convictions and other matters relating to the licenses then on the register. Duties of chief inspector. To keep register.

2. Keep a record of all applications made to him showing the names of the applicants, the nature of the applications, the premises in respect of which the applications are made, the date on which the applications were heard and the manner in which same were disposed of, including in cases of refusal the cause or causes thereof. To keep a record of applications.

To transmit extracts to clerk of court.

To report monthly to commissioner.

3. On request, forthwith transmit extracts from any such register, of licenses or record of applications to the clerk of the Territorial Court.

4. Report monthly on the last day of each month to the Commissioner of the Yukon Territory, and this report shall contain:

(a) A statement of the number and description of licenses and the names of applicants to whom licenses were granted during the year.

(b) The names of the applicants to whom licenses were not granted.

(c) any other statement required to be entered in the register of licenses.

(d) The prosecutions for infraction of this Ordinance and the result of the same.

(e) General remarks as to the working of the law within the Territory; and also,

(f) Any other remarks asked for by the Commissioner. C.O.Y.T. c. 76, s. 10.

Inspectors to prosecute infractions of law.

11. It shall be the duty of every inspector when directed by the Chief Inspector to visit and inspect every licensed place within the district and to report forthwith to him every case of infraction of the provisions of this Ordinance; and every inspector shall at once and in conformity with the provisions herein contained prosecute any person so offending and shall suffer no unnecessary delay to intervene between his obtaining the information and the prosecution. C.O.Y.T. c. 76, s. 11.

Inspector to lay information in his own name.

12. In case any person gives to the inspector information justifying the prosecution of any person for offences against this Ordinance, it shall be the duty of the inspector to lay the information in his own name and prosecute. C.O.Y.T. c. 76, s. 12.

LICENSES.

Kinds of license.

13. Licenses shall be either:

1. Wholesale,

2. Hotel,

3. Saloon, or

4. Steamboat (permitting the sale of liquor while under way).

C.O.Y.T. c. 76, s. 13.

Wholesale license.

14. Under a wholesale license the licensee may sell and dispose of liquors in the warehouse, store, shop or place defined in the license in quantities of not less than one half-gallon in each cask or vessel and in case of such selling by wholesale as in respect to bottled ale, beer, porter, wine or other fermented or spirituous liquors, each such sale shall be in quantities not less than one reputed quart bottle or two reputed pint bottles, and liquors thus sold shall not be consumed within or upon the warehouse and premises in respect of which the license is granted:

Not to sell less than certain quantities.

Provided, that in case of any conviction against a wholesale licensee for allowing liquors to be consumed in or upon such warehouse or premises, such licensee shall absolutely forfeit his license or licenses and no new license shall thereafter be granted to such licensee in the license district in which such licensed premises are situate. C.O.Y.T. c. 76, s. 14.

15. Under any other license the licensee may sell and dispose of liquor by retail on the licensed premises, and said liquors so sold may be consumed thereon. C.O.Y.T. c. 76, s. 15.

16. No saloon license shall be granted except in the City of Dawson. C.O.Y.T. c. 76, s. 16.

17. Every license shall be issued under the authority of the License Commissioners and shall be signed by the Chief Inspector and shall be in form C in the schedule to this Ordinance. C.O.Y.T. c. 76, s. 17.

18. Licenses may be issued in the name of a co-partnership when two or more persons are carrying on business in the same place, but a separate license shall be required in every separate place of business of such firm.

2. A license granted to any firm or partnership shall without any formality enure to the benefit of the remaining partner or partners in the event of the withdrawal or removal of any of them by dissolution or any other determination of the partnership. C.O.Y.T. c. 76, s. 18.

19. Any incorporated company may become a licensee or licensees in any district under the provisions of this Ordinance and in such cases all acts required under the provisions of this Ordinance to be done by any person as licensee whether prior to or after the granting of a license may be done in the name of the company by the officer or agent of the said company in charge of the particular premises for which the license is to be or shall have been granted. C.O.Y.T. c. 76, s. 19.

20. The Chief Inspector may by the direction of the Commissioner issue special licenses authorizing the sale of wine, beer and ale, but not spirits, at special places, under special circumstances, and for any period not exceeding six days, to any society, incorporated or unincorporated, turf club or racing association, and on a payment of a fee of not less than \$10 per day, and under such terms as the Commissioner orders; provided that in all other respects the persons so obtaining such special licenses shall be subject to the provisions of this Ordinance C.O.Y.T. c. 76, s. 20.

21. Every person to whom a license to sell intoxicating liquor is hereafter granted, shall, before receiving such license, be required to pay as a fee for such license the following amounts, that is to say:

A.—Per Annum.

For wholesale license.....	\$ 1,000.00
For hotel in Dawson.....	700.00
For hotel in Klondike City or Whitehorse.....	500.00
For hotel at any other point in the Yukon Territory.....	250.00
For saloon in Dawson.....	\$1,000.00

B.—For Season.

For steamboats.....	150.00
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Such fee shall in every case be in addition to the fee of \$50 payable with every application as hereinafter mentioned.

2. Provided always that the Commissioner may at any time at any point or locality in the Yukon Territory where the public interest may require further or better hotel accommodation increase or reduce the amount payable for licenses set forth in this section. C.O.Y.T. c. 76, s. 21. No. 6, 1903, s. 1 and No. 9, 1907, s. 1.

License to expire 14th July.

22. Every license shall expire on the 14th day of July at midnight succeeding the date of the issue of same. C.O.Y.T. c. 76, s. 22.

ACCOMMODATIONS.

Hotel accommodation.

23. Every hotel authorized to be licensed under the provisions of this Ordinance shall contain, and during the continuance of the license shall continue to contain, in addition to what may be needed for the use of the family and servant or servants of the hotel keeper, in cities and towns not less than ten separate bedrooms, with suitable partitions, and in other places not less than five separate bedrooms, together with, in every case a suitable complement of bedding and furniture, and (except in cities and towns) there shall also be attached to the said hotel, a proper log or frame stable for at least six horses, besides the hotel keeper's own.

To have separate sitting and dining rooms.

2. Every licensed hotel shall have a public sitting room and a dining room separate and distinct from the bar room.

To serve meals.

3. Every licensed hotel shall be shown to the satisfaction of the inspector to be well appointed with sufficient appliances for serving meals daily to travellers.

To have privy.

4. Every licensed hotel shall be provided with a suitable privy, which shall at all times be kept properly cleaned and ventilated. C.O.Y.T. c. 76, s. 23.

To supply stabling.

24. Every hotel keeper whose license is granted in respect of the premises to be provided with stabling, shall at all times keep upon his licensed premises a sufficient supply of hay, oats and other provender. C.O.Y.T. c. 76, s. 24.

25. A saloon must be a good substantial building, with well appointed bar and ample furniture for the comfort of the customers, with a suitable privy and urinal, which shall at all times be clean, and there shall be no opening between the premises described in the licenses and any other premises. C.O. Y.T. c. 76, s. 25.

Saloon accommodation.

APPLICATION FOR LICENSES.

26. Every application for a license shall be by petition in form A in the schedule hereto, accompanied by an affidavit in form B in the said schedule, and shall be sent to the Chief Inspector along with the sum of \$50, so that it may reach him on or before the first day of June, and he shall give to the applicant a receipt for said sum. Said \$50 to be credited to the applicant on the said license fee. C.O.Y.T. c. 76, s. 26. No. 10, 1906, s. 2.

Application to be made to Chief Inspector.

27. On every application for a license the Chief Inspector or an inspector shall report in writing to the License Commissioners, and such report shall contain:

Chief Inspector to make report.

1. A description of the furniture and premises;

2. If the application be by a person who holds a license for the same premises during the preceding year, a statement as to the manner in which the same has been conducted during the existence of the previous license;

How house has been previously conducted.

3. A statement of the number, position and distance from the premises in respect of which a license is applied for of the licensed premises in the neighbourhood;

Distance from other licensed premises.

4. A statement whether the applicant is a fit and proper person to have a license and is known to be of good character and repute;

Character of applicant.

5. A statement whether the premises sought to be licensed are or are not, in his opinion, required for public convenience;

Whether premises required for public purpose.

6. A statement whether the applicant is or is not the true owner of the business proposed to be licensed. C.O.Y.T. c. 76, s. 27.

Whether applicant owner of business.

28. The report of the Chief Inspector or an inspector shall be for the information of the License Commissioners, who shall nevertheless exercise their own discretion on each application. C.O.Y.T. c. 76, s. 28.

Commissioners to exercise their own discretion in granting licenses.

29. The Chief Inspector shall attach all the papers relating to each application together, and produce them at the next meeting of the License Commissioners, or transmit them together with a statement showing all convictions under this Ordinance against any applicant to the inspector of the district, who shall produce them at the meeting of the License Commissioners;

Application and papers to be produced to commissioners.

2. All papers connected with applications while in the hands either of the Chief Inspector or inspector shall be open to the inspection of the public. C.O.Y.T. c. 76, s. 29.

Papers to be open to public.

Commissioners
to send
certificate
to inspector.

30. After the meeting of the License Commissioners the inspector shall return the said papers to the Chief Inspector with a certificate signed by at least a majority of the License Commissioners, showing whether the license is recommended or not, and if not recommended, stating the reasons. C.O.Y.T. c. 76, s. 30.

Inspector to
notify
successful
applicant to
pay fee.

31. Upon receipt of the papers and certificate the Chief Inspector shall notify each successful applicant that he is required to send to the Territorial Treasurer on or before the 30th day of June the amount of the license fee;

2. Upon receipt of the said moneys and certificate the Treasurer shall sign a receipt in duplicate for the same, one of which he shall transmit to the applicant and the other to the Chief Inspector, who shall thereupon send to such applicant a license in form C in the schedule hereto. C.O.Y.T. c. 76, s. 31.

Procedure on
application for
license at any
other time.

32. Any person desiring to obtain a license at any other time than as above provided may send to the Chief Inspector his application and \$50 as above provided. The Chief Inspector shall calculate the amount of the license fee and the expense of calling the License Commissioners together, and shall notify the applicant that his application will not be considered until the amount so estimated has been received by him; upon receipt of such amount the Chief Inspector shall arrange for the inspection of the premises and the calling together of the License Commissioners at as early a date as possible to deal with the application.

Provided that in case more than one application is made at the same time to the same License Commissioners, the expense shall be divided *pro rata* among the applicants, but no license shall be granted to any person under the provisions of this section whose application for a license under section 26 of this Ordinance has been rejected. C.O.Y.T. c. 76, s. 32.

Fees to go
to general
revenue fund.

33. All application fees shall on receipt be paid into the general revenue fund.

2. The amount estimated by the Chief Inspector for calling the License Commissioners together shall be retained by him until the actual expenses incurred are ascertained, when the amount of such actual expenses shall be paid into the general revenue fund, and the balance, if any, shall be refunded to the applicant. C.O.Y.T. c. 76, s. 33.

DUTIES OF LICENSE COMMISSIONERS.

Applications
how to be
heard.
Hearing to
be open
to public.

34. Every application for a license shall be heard and determined by the License Commissioners in a summary manner.

2. Every such hearing of an application shall be open to the public, and every applicant for a license shall attend personally at such hearing unless excused from attendance by the License Commissioners, and the License Commissioners may summon and

examine on oath such witnesses as they think necessary, and as nearly as may be in the manner directed by any Act now or hereafter in force relating to the duties of Justices of the Peace in relation to summary convictions and orders, and any License Commissioner may administer such oath.

3. Every such hearing may, at the discretion of the License Commissioners, be adjourned from time to time. Adjournment.

4. At all hearings under this Ordinance the License Commissioners shall have the same powers as justices of the peace. Commissioners to have powers of J. P.

5. No objection from the Chief Inspector or inspector shall be entertained unless the nature of the objection shall have been stated in the report furnished to the License Commissioners. Inspectors' objections to be stated in report.

6. Notwithstanding anything in this Ordinance contained, the License Commissioners may of their own motion, take notice of any matter or thing which, in their opinion, would be an objection to the granting of a license. In any such case the License Commissioners shall notify the applicant and shall adjourn the hearing of the application, if requested by him, for a period not exceeding fourteen days and not less than seven days, or any time with the consent of the applicant, in order that any person affected by the objection may have an opportunity of answering the same. Commissioners may take notice of any objections.

7. Where the applicant for a hotel license resides in a remote part of the district, or when, for any other reasons, the License Commissioners see fit, they may dispense with the report of the inspector and act upon such information as satisfies them in the premises. C.O.Y.T. c. 76, s. 34. Certain applications may be granted without report.

35. The decision of the License Commissioners when once announced by the chairman shall be final. C.O.Y.T. c. 76, s. 35. Decision to be final.

36. If any applicant for a license has at any time been refused a license on the ground that he is not a fit person to hold a license, no application by such applicant shall be entertained by the License Commissioners within a period of one year from such refusal. C.O.Y.T. c. 76, s. 36. If application refused not to apply within one year.

TRANSFER OF LICENSE.

37. A license under the provisions of this Ordinance shall not become void by: License not to be void by death, etc.

1. The death of the licensee;

2. Or a transfer of the licensee's business to some other person by operation of law. Unless in case of the licensee's death his legal representatives, or their assigns, or in the case of the licensee's transfer as above stated, his assignees fail within two months from such death or transfer to obtain the written consent of the Chief Inspector for the continuance of the business or the transfer of the license in the house or place in which the same issued, and subject to the duties and obligations of the licensee named in the said license for the residue of the term named therein, otherwise the same shall become void. C.O. Y.T. c. 76, s. 37.

Report to be made in case of transfer.

38. In every case of a transfer of an hotel or saloon license, the person in whose favour any such transfer is to be made shall send to the License Commissioners a report of an inspector similar to that mentioned in section 27 of this Ordinance. C.O. Y.T. c. 76, s. 38.

If licensee ejected transfer may be made without production of license.

39. When a licensee has been legally ejected from any licensed premises, the License Commissioners may, notwithstanding the non-production of the license, on the application in writing of the owner of the premises and the proposed new tenant, if they cannot produce the license, grant a special license to such new tenant in such form as they think applicable. Provided always, that the License Commissioners shall be satisfied that actual value has been received from the said owner by the said licensee. C.O.Y.T. c. 76, s. 39.

Commissioners may authorize any person to carry on business.

40. The License Commissioners may by order, authorize any person they think fit, entitled to the benefit of any license, to carry on the business in the licensed premises for the remainder of the term for which the license was granted, in the same manner as if such license had been formally transferred to such person; provided proof of value received be given as provided in the next preceding section, in the following cases:

1. Whenever any person to whom a license has been granted deserts the licensed premises or refuses or neglects to transfer the license when justly required to do so; or,

2. If, during the currency of any such license, the holder thereof ceases to occupy the premises in respect whereof the license is held, or his tenancy of such premises is determined by effluxion of time, or by notice to quit or by any other process whatsoever. C.O.Y.T. c. 76, s. 40.

If licensee convicted of offence commissioners may transfer license.

41. Where any licensed person is convicted of any offence and in consequence either becomes personally disqualified or has his license forfeited, the License Commissioners, upon application by or on behalf of the owner of the premises or his lessee, other than the licensee, in respect of which the license was granted (where the owner is not the occupier), and upon being satisfied that such owner or his lessee, as above stated, was not privy to nor a consenting party to the act of the tenant and that he has legal power to eject the tenant of such premises, may by order authorize an agent to carry on the business specified in the license relating to such premises until the end of the period for which such license was granted, in the same manner as if such license had been formally transferred to such agent.

Provided always, such owner or his lessee, as aforesaid, shall pay as fee for the balance of the term of the license unexpired a proportionate amount of the amount required for one year. C.O.Y.T. c. 76, s. 41.

In case of marriage of licensee husband to have same privileges.

42. In case of the marriage of any woman being a licensee, the license held by her shall confer on her husband the same privileges, and shall impose on him the same duties, obligations and liabilities as if such license had been granted to him originally.

Provided, that the Chief Inspector on application of the husband of any such licensee, if satisfied that no objection can be made to the character of the husband, and that he has not forfeited a license within the next preceeding three years, may confirm to him his wife's license for the remainder of the term of the duration thereof, of which confirmation a certificate signed by the Chief Inspector shall be conclusive evidence. C.O.Y.T. c. 76, s. 42.

REMOVAL OF LICENSES.

43. The Chief Inspector after order allowing the same by the License Commissioners, may indorse on any hotel or saloon license permission to the holder thereof to remove from the house in which his said license applies to another house, to be described in the indorsement to be made by the said Chief Inspector on the said license. Permission may be given to remove license.

Provided always, that the house to which the licensee proposes to remove has all the accommodations required by law, and subject to the requirements in the case of an original application for the same kind of license. C.O.Y.T. c. 76, s. 43.

44. Such permission, when the approval of the said Chief Inspector is indorsed on said license, shall authorize the holder of the said license to sell liquors in the house mentioned in the indorsement during the unexpired portion of the term for which the said license was granted, in the same manner and upon the same terms and conditions as he might do in the premises to which the license originally applied; but such permission shall not entitle him to sell at any other than such one place. C.O. Y.T. c. 76, s. 44. Permission to be indorsed on license.

45. In all cases providing for a transfer, removal or change, in a license, application shall be made in the same manner as an original application for a license. The amount of money to be sent with the application shall be the sum of \$10. The Chief Inspector upon receiving the application shall proceed as in cases when persons apply at other than the regular times for licenses, and the same additional fee must be paid. Applications for transfer, etc. of licenses to be made in same way as original application.

Provided, nevertheless, that it shall not be necessary to call a meeting of the Licensed Commissioners to transfer a license upon a sale thereof if the Chief Inspector is satisfied that the transferee is a fit and proper person to have a license, and is known to be of good character and repute, and notice thereof has been posted in the licensed premises for ten days prior to such transfer being made, in which case the application may be granted upon the authority of the Chief Inspector alone. C.O. Y.T. c. 76, s. 45. No. 10, 1906, s. 3.

NUMBER OF LICENSES.

46. The number of saloon licenses to be granted in the City of Dawson in each year shall not exceed ten. Number of saloon licenses.

Provided however, that this provision shall not affect existing saloon licenses in said city, but no new saloon licenses shall be granted therein until the number of saloon licenses is less than ten. C.O.Y.T. c. 76, s. 46.

No saloon license to extend beyond 14th July, 1916. If premises meet hotel requirements license may be granted.

1. No saloon license shall be issued to extend beyond the fourteenth day of July, 1916, and thereafter no saloon license shall exist or be issued. No. 20, 1914, s. 1.

2. A person holding a saloon license expiring on the fourteenth day of July, 1916, whose licensed premises shall on that date comply in all respects as to accommodation and otherwise with the provisions of the Liquor License Ordinance then in force in regard to licensed hotels in the City of Dawson may, in the discretion of the person or body having power under said Ordinance to grant any such license, be granted an hotel license upon complying with the requirements of such Liquor License Ordinance. No. 20, 1914, s. 1.

Wholesale licenses may be limited.

47. The Commissioner of the Yukon Territory may limit the number of wholesale licenses to be granted. C.O.Y.T. c. 76, s. 47.

LICENSES INPROPERLY OBTAINED.

Court may investigate manner of granting license.

48. If within sixty days from the granting of a license, or a transfer of a license, any person deposits with the clerk of the Territorial Court \$100 as security for costs, together with a complaint (verified by affidavit) that the said license or transfer has been obtained by fraud, or in violation of any of the provisions respecting licenses, on application the judge may, by means of an originating summons, investigate and summarily hear and dispose of the complaint, and direct the cancellation of the license or dismiss the complaint, and award costs in the same way as costs are awarded in proceedings in the Territorial Court. C.O.Y.T. c. 76, s. 48.

REGULATIONS AND PROHIBITIONS.

Licenses to be constantly exposed.

49. All licenses shall be constantly and conspicuously exposed in bar rooms of hotels and saloons and in shops or warehouses or other places to which the licenses respectively relate, under a penalty of \$50 and costs for every day's wilful or negligent omission so to expose them, and in default of payment, one week's imprisonment for every day of such omission. C.O.Y.T. c. 76, s. 49.

Licenses to have sign over door.

50. Every person keeping a licensed wholesale liquor store, hotel or saloon shall, during the continuance in force of such license, exhibit and keep exhibited on the outside and over a front door of the licensed premises, in large letters the words "Licensed to Sell Spirituous or Fermented Liquors," under penalty as in the next preceding section mentioned. C.O.Y.T. c. 76, s. 50.

51. A synopsis of this Ordinance and the penalties thereunder shall be posted in a conspicuous place where liquor is sold under this Ordinance, and every licensee failing to post the same on being requested to do so by the chief inspector, shall be guilty of an offence, and on summary conviction thereof, be liable to a penalty of \$25 and costs. Such synopsis shall be drawn up and printed in such form as the chief inspector directs. C.O. Y.T. c. 76, s. 51.

Synopsis of Ordinance to be posted.

52. No more than one bar shall be kept in any house or premises under this Ordinance. C.O.Y.T. c. 76, s. 52.

Only one bar to be kept.

53. In all places where intoxicating liquors are sold by retail, no sale or other disposal of liquors shall take place therein or on the premises thereof, or out of or from the same, to any person or persons whomsoever (save as hereinafter provided) from the hour of twelve of the clock on Saturday night till six of the clock on Monday morning thereafter. No sale or other disposal of liquors shall take place on any wholesale premises, or from or out of the same, to any person or persons whomsoever, nor shall the premises in respect of which the license is issued be kept open from after the hour of seven o'clock on Saturday night until six o'clock on Monday morning thereafter, save and except as to both wholesale and retail places in cases where a requisition for medical purposes, signed by a licensed medical practitioner or by a licensed druggist, or by a justice of the peace is furnished the licensee or his agent; nor shall any liquor whether sold or not, be permitted or allowed to be drunk in any such places during the time prohibited by this Ordinance for the sale of same. Provided always that in hotels compelled by law to give meals, liquors may be sold during meals on Sundays to the guests *bona fide* residing or boarding in such houses between the hours of one and three and five and seven in the afternoon, respectively, to be drunk at their meals at the table; but this provision shall not permit the furnishing of liquor at the bar or place where liquor is usually sold in such houses. C.O.Y.T. c. 76, s. 53.

Hours during which liquors to be sold.

54. No sale or other disposal of liquor shall take place in any licensed premises within the limits of a polling district on any polling day for or at any parliamentary election, or election of a member for the Yukon Council or any municipal election from the hour of six o'clock in the morning of such day until after the close of the poll. C.O.Y.T. c. 76, s. 54.

No sale on election days.

55. No person shall sell or shall keep or have in any house, or in any other place whatsoever, any liquor for the purpose of selling, bartering or trading therein, without having first obtained a license authorizing him to do so. Any sale or other disposal of liquor by any association, body of persons or club not incorporated by special Ordinance of the Territory, or by the servant or agent thereof to the members thereof or to any other person without such license shall be a violation of this section. C.O.Y.T. c. 76, s. 55.

No sale without a license.

No sale to be made to person selling liquor without license.

No sale of liquor to be consumed outside licensed premises.

Construction of windows facing streets.

Windows to be clear of blinds, etc.

Penalties.

No music hall in connection with licensed premises. chief inspector may cancel licenses in certain cases.

56. No person shall sell liquor to any person who he knows or has reason to believe is selling liquor without a license.

2. No licensee licensed to sell liquors not to be consumed on the premises shall take or carry or employ or suffer any other person to take or carry any liquor out of or from the premises of such licensee for the purpose of being sold on his account or for his benefit or profit, and of being consumed in any other house, or in any tent, shed, or other building of any kind whatever, belonging to such licensee or hired, used or occupied by him. In any proceeding under this paragraph it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be drunk, belonged to, were hired, used or occupied by the seller, if proof is given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon with intent to evade the conditions of the license.

3. Every licensed premises shall have at least one window facing a public street, which window shall be of clear transparent glass with panes of a size not less than twelve inches by fifteen inches, and such window shall not be less than four feet long by three feet wide and shall be so placed that the bottom thereof shall not be lower than the sidewalk or more than four feet above it.

4. During prohibited hours no blind, screen, counter, box or other obstruction of any kind shall be allowed in any saloon or in connection with such window so as to conceal any part of the interior of the bar-room from the view of persons on the street without. No. 9, 1907, s. 2.

57. Violation of any of the provisions of the four next preceding sections shall be an offence for which the person violating shall be liable on summary conviction:

For the first offence to a penalty of not less than \$50 and costs nor more than \$100 and costs, and in default of payment not less than two months nor more than four months' imprisonment.

For the second offence a fine of \$100 and costs, and in default of payment forthwith after conviction to not less than three months nor more than six months' imprisonment.

For the third offence a fine of \$200 and costs with absolute forfeiture of license, and in default of payment, forthwith after conviction to not exceeding six months' imprisonment. C.O.Y.T. c. 76, s. 57.

58. No licensee or any other person shall keep a music or dance hall in connection with premises licensed to sell liquors under this Ordinance. No. 9, 1907, s. 3.

59. If the chief inspector is satisfied from his own knowledge or the report of any inspector that any licensee allows any infringement of either of the two next preceding sections, he shall forthwith cancel his license. No license shall be granted to any one who does not comply with the provisions of said sections. C.O.Y.T. c. 76, s. 60.

60. No woman of loose, idle or suspicious character or having no honourable occupation or calling (in which class and amongst whom are included dancing girls, so-called artists and drink rustlers) will be allowed to occupy any room or other part of any premises licensed to sell liquor, or any place whatsoever directly or indirectly connected with the licensed premises, controlled directly or indirectly by the licensee or in which the said licensee may have directly or indirectly any interest, to use the same for alluring men or for any improper or immoral purposes.

No loose women to occupy rooms.

2. No licensee shall receive or admit either in his licensed premises or in any other premises adjoining and directly or indirectly connected with the said licensed premises or being under the control directly or indirectly of the licensee or in which the licensee might be directly or indirectly interested, any such woman for the purpose of drinking, keeping company with men or soliciting drinks, and no such woman will be allowed to drink in any such premises. No. 9, 1907, s. 4.

Or drink, etc., on licensed premises.

61. No licensee shall pay or permit to be paid or give or permit to be given to any female any percentage for any liquors sold or delivered to any person on his premises, and no female shall be allowed in any licensed premises for the purpose of soliciting or inducing others to drink or buy liquor, under a penalty of \$100 and costs and absolute forfeiture of his license, and in default of payment forthwith after conviction, to imprisonment for a term not exceeding three months, and absolute forfeiture of license. C.O.Y.T. c. 76, s. 62.

No percentage allowed to females.

Penalty.

62. Any licensee who after the passing of this Ordinance is twice convicted of keeping a common gaming house shall forthwith forfeit his license, and the Chief Inspector upon receiving notice of such conviction, shall cancel said license. C.O.Y.T. c. 76, s. 63. No. 9, 1907, s. 5.

Licensee convicted of keeping gambling house to forfeit license.

63. The chief inspector may at any time cancel any license upon proof that the conditions necessary to the granting of such license do not exist, and also in case it is shown that the licensee is not keeping his premises in accordance with the provisions of this Ordinance. C.O.Y.T. c. 76, s. 64.

License may be cancelled if conditions not complied with.

64. The chief inspector may at any time, upon application by a licensee, cancel a license and allow a rebate to such licensee of a portion of the moneys paid for the license. The license may be cancelled under this section on account of the destruction of the premises, or for any reason satisfactory to the chief inspector. In case such rebate is allowed it shall be the duty of the Territorial Treasurer to refund to such licensee such amount so allowed. C.O.Y.T. c. 76, s. 65.

License may be cancelled on application of licensee.

65. Subject to the provisions of this Ordinance as to removals and transfer of licenses every license for the sale of liquor shall be held to be a license only to the person named therein, and for

License to be to person named only.

the premises therein mentioned, and shall remain valid only so long as such person continues to be the owner of the said business carried on. C.O.Y.T. c. 76, s. 66.

License inspector to have power to inspect liquor.

66. The license inspector shall have the right to inspect and test any liquor sold in any licensed premises or to have the same inspected and tested by any other person; should the liquor so tested be found to be adulterated the licensee or licensees will be subject to a fine of not less than \$25 and not more than \$200, and upon a second conviction his or their license may be forthwith cancelled. No. 9, 1907, s. 6.

Prima facie evidence of sale.

67. The fact of a person or persons not connected with the establishment being found and seen drinking in the bar, bar-room or any other place where liquor is generally served in any licensed premises within prohibited hours shall be *prima facie* evidence that liquor has been sold therein contrary to section 53 of this Ordinance. No. 9, 1907, s. 6.

PENALTIES.

Disorderly conduct not to be allowed.

68. Any licensee who permits drunkenness or any quarrelsome, riotous or disorderly conduct to take place on his premises, or sells or delivers any intoxicating liquor to any drunken person to be consumed on his premises, or permits or suffers persons of notoriously bad character to assemble or meet on his premises for improper or unlawful purposes, shall, in addition to any other punishment provided by law, be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than \$50 and costs, and not more than \$100 and costs, and in default of payment forthwith after conviction, to not less than one nor more than two months' imprisonment. C.O. Y.T. c. 76, s. 67.

Licensee not to refuse lodging.

69. Every licensed hotel keeper or saloon keeper who habitually dispenses meals, who either personally or through any one acting on his behalf, except for some valid reason, refuses to supply lodging, meals or accommodation to travellers at a reasonable rate, shall be guilty of an offence, and on summary conviction thereof liable to a penalty of \$50 and costs, and in default of payment, to one months' imprisonment. C.O.Y.T. c. 76, s. 68.

Licensee to refuse to admit intoxicated person.

70. Any licensee may refuse to admit to the premises in respect of which his license is granted any person who is intoxicated, and may refuse to admit, and may turn out of the premises, any person who is violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject the licensee to a penalty under this Ordinance; and any such person who, upon being requested in pursuance of this section by such licensee, his agent, servant, or any constable, to quit such premises, refuses or fails to do so, shall be guilty of an offence and upon summary conviction thereof be liable to a penalty of

not more than \$50 and costs, and in default of payment forthwith after conviction, to one week's imprisonment; and all constables are required, on demand of such licensee, his agent or servant, to expel, or assist in expelling, every such person from such premises, and may use such force as is necessary for that purpose. C.O.Y.T. c. 76, s. 69.

71. Any licensee who knowingly allows to be supplied in his licensed premises, by purchase or otherwise, any description whatever of liquor to any minor, of either sex, or who permits any such minor to be in rooms or places on his premises where intoxicating liquor is served, or to frequent the same, shall, as well as the person who actually gives or supplies the liquor or permits children to be present when such liquor is served, whether he or she is a guest of the house or not, be guilty of an offence, and on summary conviction thereof be liable to a penalty of \$25 and costs for a first offence, and in default of payment forthwith after conviction to one month's imprisonment, and for a second like offence, a penalty of \$50 and costs, with absolute forfeiture of the license, and in default of payment forthwith after conviction, to two months' imprisonment. No. 9, 1807, s. 7.

No sale of
liquor to
minors.

72. Any hotel licensee who knowingly allows any male under the age of eighteen years, or any female to dispose of any form of intoxicating liquor on the premises for which such license is granted shall be liable to all the penalties provided in the next preceding section. Provided that this shall not apply to female licensees or the wife of a licensee. C.O.Y.T. c. 76, s. 71.

Males under
18 and
females not
to sell liquor.

73. Neither the license commissioners, chief inspector, inspector or other officer of any licensed district shall, either directly or indirectly, receive, take or have any money whatsoever for any license, report, matter or thing connected with or relating to any grant of any license, nor receive, take or have any note, security or promise for the payment of any such money or any part thereof from any person or persons whatsoever, and any person or persons guilty of, or concerned in, or party to any act, matter or thing contrary to the provisions of this section shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of not exceeding \$100 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding three months. C.O.Y.T. c. 76, s. 72.

Officials not
to take
money.

74. Any license commissioner, chief inspector, inspector or other officer or person who, contrary to the provisions of this Ordinance, knowingly issues, or causes or procures to be issued any liquor license, or a certificate therefor shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of not exceeding \$100 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding six months. C.O.Y.T. c. 76, s. 73.

Not to issue
licenses
contrary to
Ordinance.

Not to compound offences.

75. Any person who having or being charged with having violated any of the provisions of this Ordinance, compromises, compounds or settles, or offers or attempts to compromise, compound or settle the offence with any person or persons with the view of preventing any complaint being made in respect thereof, or if a complaint has been made with a view of getting rid of such complaint or of stopping or having the same dismissed for want of prosecution or otherwise, shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of not exceeding \$100 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding two months. C.O.Y.T. c. 76, s. 74.

Penalty for compromising offences.

76. Every person who is concerned or is party to the compromise, composition or settlement mentioned in the next preceding section shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of \$50 and costs, and in default of payment forthwith after conviction to one month's imprisonment. C.O.Y.T. c. 76, s. 75.

Assisting person to escape.

77. Any one knowing or having reason to believe that an order to commit to jail has been issued against any person, under this Ordinance, who prevents the arrest of such person, or procures or facilitates by any act or council or in any manner whatsoever, his avoidance of arrest, or who provides such person with the means of avoiding arrest, shall be guilty of an offence, and on summary conviction thereof be liable to a penalty of \$50 and costs, and in default of payment forthwith after conviction, to imprisonment for a period not exceeding two months, in addition to any other penalty provided by law. C.O.Y.T. c. 76, s. 76.

Penalty.

Penalty for offences where no other penalty provided.

78. Any person who violates any of the provisions of this Ordinance, for which violation no penalty is herein specially provided, shall be guilty of an offence, and on summary conviction shall be liable to a penalty of not less than \$50 and costs and not more than \$100 and costs, and in default of payment forthwith after conviction, to imprisonment for not less than one month nor more than four months. C.O.Y.T. c. 76, s. 77.

Contravention by employee.

79. Any contravention of the provisions of this Ordinance by any servant, agent or employee of a licensee shall be presumed to be the act of such licensee, but except in the case of prosecution under section 55 such presumption may be rebutted by proof of explicit instructions to the contrary by such licensee. Any such servant, agent or employee contravening any of the provisions of this Ordinance, and disobeying any such explicit instructions, shall be liable, on summary conviction to imprisonment for not less than ten days nor more than three months without the option of a fine. C.O.Y.T. c. 76, s. 78.

Third conviction to forfeit license.

80. Every third conviction for an offence against the provisions of this Ordinance or any of them, shall operate as a forfeiture of the license of the offender when not otherwise pro-

vided, and disqualify the person convicted from obtaining a license for two years thereafter. C.O.Y.T. c. 76, s. 79.

81. When by any section of this Ordinance it is provided that a licensee upon a third conviction for an offence against such section, shall forfeit his license, he shall also upon any conviction for an offence against such section forfeit his license if he has been previously convicted of two offences against any other sections in respect to which the like provision is made. C.O.Y.T. c. 76, s. 80.

Same penalty to follow if conviction for different offences.

82. No magistrate, inspector or license commissioner shall have any power or authority to remit or compromise any penalty or punishment inflicted under this Ordinance. C.O.Y.T. c. 76, s. 81.

Magistrate not to remit penalty.

83. Any money, penalty or portion thereof recovered under this Ordinance shall be paid to the convicting magistrate and be by him paid to the Territorial Treasurer.

Fines to be paid to Treasurer.

2. All costs of any proceedings or prosecution made by the Chief License Inspector or by his authority with the approval of the Commissioner shall be paid out of the general revenue of the Yukon Territory.

Costs of prosecution paid out of general revenue.

3. Witness fees shall be taxed in all cases under this Ordinance at the rate of \$3 per day while in attendance in connection with the case, and shall be costs in the cause. C.O.Y.T. c. 76, s. 82. No. 8, 1904, s. 5.

Witness fees.

84. Every person, firm or corporation, in this section hereinafter called "agent," who as agent of, or for or on behalf of any other person, firm, or corporation, in this section hereinafter called "principal," sells, or attempts to sell, or solicits orders for, or disposes of or attempts to dispose of, or delivers, any liquor without such agent or principal being the holder of a wholesale liquor license, shall be liable to a penalty not exceeding \$500 and costs, and in default of payment to imprisonment for a period not exceeding six months. Any liquor so sold, or attempted to be sold, or for which orders are solicited, or which is disposed of or attempted to be disposed of, may be seized by the Chief License Inspector, or by any person appointed by him and shall be destroyed immediately after conviction of the agent or principal. This section shall equally apply, whether the principal resides within or without the Yukon Territory. No. 8, 1904, s. 6.

"Agent" or "principal" not holder of wholesale license not to sell or solicit orders etc.

Penalty.

Liquor to be seized and destroyed.

POWERS OF INSPECTORS AND THEIR OFFICERS.

85. The chief inspector, any inspector of licenses, and any police officer, policeman, or constable shall, for the purpose of preventing or detecting the violation of any of the provisions of this Ordinance which it is his duty to enforce, at any time have the right to enter into any and every part of the hotel or other place wherein refreshments or liquors are sold, or reputed to be sold, whether under license or not, and to make searches

Powers of officers.

in every part thereof and of the premises connected therewith, as he thinks necessary for the purpose aforesaid. C.O.Y.T. c. 76, s. 83.

Penalty for refusing to admit officers.

86. Every person being therein or having charge thereof who refuses or fails to admit such chief inspector, inspector, police officer, policeman or constable, demanding to enter in pursuance of this Ordinance in the execution of his duty, or who obstructs or attempts to obstruct the entry of such chief inspector, inspector, police officer, policeman or constable, or any such searches as aforesaid shall be guilty of an offence, and on summary conviction thereof be liable to a fine of \$50 and costs, and in default of payment forthwith after conviction to one month's imprisonment, in addition to any other punishment in such cases provided. C.O.Y.T. c. 76, s. 84.

Magistrate may issue search warrant.

87. Any magistrate, if satisfied by the information on the oath of any police officer, policeman, chief inspector or inspector that there is reasonable ground for the belief that any spirituous or fermented liquor is being kept for sale or disposal contrary to the provisions of this Ordinance, in any unlicensed house or place within his jurisdiction, may, in his discretion, grant a warrant under his hand by virtue whereof it shall be lawful for the person named in such warrant, at any time or times within two months from the date thereof to enter, if need be by force, the place named in the warrant and every part thereof and of the premises connected therewith, and to examine the same and search for liquor therein, and for such purpose such person may, if necessary, with such assistance as he deems expedient, break open any door, lock or fastening of such premises, or any part thereof, or of any closet, cupboard, box or other article likely to contain any such liquor; and in the event of any liquor being so found and unlawfully kept on the said premises the occupant thereof shall, until the contrary is proved, be deemed to have kept such liquor for the purpose of sale, contrary to the provisions of this Ordinance, and may be arrested by such officer or person having the warrant for search as aforesaid, and any person so arrested shall upon conviction be liable to a fine of not exceeding one hundred dollars and costs, or in default of payment thereof forthwith to imprisonment for a period not exceeding three months. C.O.Y.T. c. 76, s. 85.

Officer making search may seize liquor on unlicensed premises.

88. When any chief inspector or inspector, policeman, or constable or other officer in making or attempting to make any search under or in pursuance of the authority conferred by the next preceding section of this Ordinance or under the warrant mentioned, or under any other section of this Ordinance finds in an unlicensed house or place any liquor which, in his opinion, is unlawfully kept for sale or disposal contrary to this Ordinance, he may forthwith seize and remove the same and the vessels in which the same is kept, and upon the conviction of the occupant of such house or place, or any other person

for keeping liquor for sale in such house or place without a license, the Magistrate making such conviction may in and by the said conviction, or by a separate and subsequent order, declare the said liquor and vessels or any part thereof, to be forfeited to His Majesty to be sold or otherwise disposed of as the Commissioner of the Yukon Territory directs, and the proceeds of any such sale shall be forthwith transmitted to the Territorial Treasurer to form part of the general revenue fund. C.O.Y.T. c. 76, s. 86.

PROSECUTIONS.

89. Any person may be a prosecutor or complainant under this Ordinance. C.O.Y.T. c. 76, s. 87. Any person may prosecute.

90. Prosecutions for offences created by this Ordinance shall be had and taken under part XV of the Criminal Code which is incorporated herewith, and shall be instituted within six months after the commission of the alleged offence. C.O.Y.T. c. 76, s. 88. Prosecutions to be instituted within six months.

91. The description of any offence under this Ordinance in the words of the Ordinance, or in words of like effect, shall be sufficient in law and any exception, exemption, provision, excuse or qualification whether it does or does not accompany the description of the offence in this Ordinance, may be proved by the defendant, but need not be specified or negatived in the information; but if it be so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. C.O.Y.T. c. 76, s. 89. Description of offences.

92. Several charges of contravention of this Ordinance committed by the same person may be included in one and the same information or complaint. Provided that such information and complaint and the summons issued thereon contains specifically the time and place of each contravention. C.O.Y.T. c. 76, s. 90. Several charges may be made in one complaint.

93. In describing the offences respecting the sale or other disposal of liquor or the keeping or the consumption of liquor in any information, summons or conviction, warrant or proceedings under this Ordinance, it shall be sufficient to state the sale, disposal, keeping or consumption of liquor simply, without stating the name or kind of such liquor or the price thereof, or the name of any person to whom it was sold or disposed, or by whom it was consumed, and it shall not be necessary to state the quantity of liquor so sold or disposed of or consumed except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity, as the case requires. C.O.Y.T. c. 76, s. 91. What information to contain.

Defendant
to prove
license.

94. In any prosecution under this Ordinance whenever it appears that the defendant has done any act, or been guilty of any omission in respect to which, if he was not duly licensed he would be liable to some penalty under this Ordinance, it shall be incumbent upon the defendant to prove that he is duly licensed and that he did the said act lawfully. C.O.Y.T. c. 76, s. 92.

Licensee
to produce
license
on trial.

95. When any licensee is charged with any offence against this Ordinance the magistrate before whom the charge is laid shall require such licensee to produce and deliver to him the license under which he carries on business, and the summons shall state that such production will be required. C.O.Y.T. c. 76, s. 93.

Procedure on
conviction of
licensee.

96. If such licensee is convicted, the following provisions shall have effect:

1. The magistrate shall cause short particulars of such conviction and the penalty imposed to be indorsed on the license before it is returned to the licensee;

2. Where the conviction has the effect of causing the forfeiture of the license, or of disqualifying the licensee, for the purposes of this Ordinance, the license shall be retained by the magistrate and notice of such forfeiture or disqualification shall be sent to the chief inspector;

3. The magistrate shall send forthwith to the chief inspector a certificate of such conviction;

4. The chief inspector shall enter the particulars respecting such conviction, or such of them as the case requires, in the register of licenses kept by him under this Ordinance. C.O.Y.T. c. 76, s. 94.

No appeal
except
where
provided.

97. In all cases of prosecution for any offence against any of the provisions of this Ordinance for which any penalty or punishment is prescribed, the conviction or order of the magistrate shall, except as is in this Ordinance otherwise provided, be final and conclusive, and except as is in this Ordinance otherwise provided, there shall be no appeal against such conviction or order to any court. C.O.Y.T. c. 76, s. 95.

Fees to
magistrate.

98. For the additional duties imposed by section 93 of this Ordinance the magistrate shall be entitled to charge as costs in the proceedings the following sums:

1. For making up and forwarding certificate of conviction to the chief inspector, the sum of \$2.50.

2. For recording the forfeiture of license, the sum of \$2.50. C.O.Y.T. c. 76, s. 96.

No costs to
be allowed
against
license
inspectors.

99. In any prosecution or proceeding under this Ordinance no costs shall be allowed against any license inspector unless the Court or judge before whom the proceedings are taken by appeal or otherwise, is of the opinion and certifies that there was no reasonable or probable cause for instituting the original proceedings. C.O.Y.T. c. 76, s. 97.

100. The forms set forth in the schedule of forms to this Ordinance, or any form to the like effect, shall be sufficient in the cases thereby respectively provided for, and when no forms are provided by the said schedule they may be framed in accordance with part XV of the Criminal Code. C.O.Y.T. c. 76, s. 98. Forms.

PROCEDURE IN CASES WHERE PREVIOUS CONVICTION
IS CHARGED.

101. The proceedings upon information for an offence against any of the provisions of this Ordinance, in the case where a previous conviction is charged, shall be as follows: Procedure where previous conviction.

1. The magistrate shall in the first instance inquire concerning such subsequent offence, and if the accused is found guilty thereof, he shall then, and not before, be asked whether he was so previously convicted as alleged in the information, and if he answers that he was so previously convicted, he shall be sentenced accordingly; but if he denies that he was so previously convicted, or does not answer such question, the magistrate shall then inquire concerning such previous conviction or convictions;

2. Such previous conviction may be proved *prima facie* by the production of the license with such conviction indorsed thereon, or of a certificate purporting to be under the hand of the convicting magistrate or the clerk of the Court to whose office the conviction has been returned, without proof of signature or official character;

3. In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof, by reason of any previous conviction being set aside, quashed or otherwise rendered void, the magistrate by whom such second or subsequent conviction was made shall summons the person convicted to appear at a time and place to be named, and shall thereupon, upon proof of due service of summons, if such person fails to appear, or on his appearance, amend such second or subsequent conviction and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be held valid to all intents and purposes as if it had been made in the first instance. C.O.Y.T. c. 76, s. 99.

102. Convictions for several offences may be made under this Ordinance, although such offences may have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be incurred or awarded in the case of offences committed on different days and after the information laid for a first offence. C.O.Y.T. c. 76, s. 100. Convictions for several offences on same day.

EVIDENCE.

103. In any prosecution or proceeding under this Ordinance, in which proof is required respecting any license, a certificate purporting to be under the hand of the chief inspector shall be *prima facie* proof of the existence of such license and of the identity of the person to whom the license was granted or transferred, Inspector's certificate to be proof of license.

or against whom the order was made; and the production of such certificate shall be *prima facie* evidence of the facts therein stated and of the authority of the chief inspector without any proof of his appointment or signature. C.O.Y.T. c. 76, s. 101.

Regulations
to be signed
by license
commis-
sioners.

104. Any regulation made by the Board of License Commissioners or chief inspector shall be sufficiently authenticated by being signed by them or him, and a copy of such regulation written or printed, and certified to be a true copy, shall be deemed authentic, and be received as *prima facie* evidence in any court of justice without proof of the signature or signatures, unless it is specially pleaded or alleged that the signature or signatures to any such original resolution have been forged, and evidence of such forgery has been adduced by the person accused, sufficient, in the opinion of the Court, to make the proving of the signature or signatures advisable. C.O.Y.T. c. 76, s. 102.

Bar, etc., to
be evidence
of sale of
liquor.

105. Any house, shop, room or other place in which it is proved that there exists a bar, counter, beer pumps, kegs, jars, decanters, tumblers, glasses or other appliances or preparations similar to those usually found in hotels and saloons where liquors are accustomed to be sold or trafficked in, shall be deemed to be a place in which liquors are kept or had for the purpose of being sold, bartered or traded in, in contravention of section 55 of this Ordinance, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken to be the person who has or keeps therein such liquors for sale, traffic or barter. C.O.Y.T. c. 76, s. 103.

To prove sale
not necessary
to show that
money paid.

106. In proving the sale of liquor for the purpose of any proceeding relative to any offence under this Ordinance, it shall not be necessary to show that any money actually passed, or any liquor was actually consumed, if the magistrate hearing the case is satisfied that a transaction in the nature of a sale actually took place, or that consumption of liquor was about to take place and proof of consumption or intended consumption of liquor on the premises, in respect to which a license is required under this Ordinance, by some person other than the occupier of the premises, shall be evidence that such liquor was sold to the person consuming or being about to consume, or carrying away the same, as against the occupant of the said premises. C.O.Y.T. c. 76, s. 104.

Occupant of
house where
sale takes
place liable.

107. The occupant of any house, shop, room or other place in which any sale, barter or traffic of liquors or any matter, act or thing, in contravention of any of the provisions of this Ordinance, has taken place, shall be personally liable to the penalty prescribed in section 57 of this Ordinance, notwithstanding such sale, barter or traffic be made by some other person, who cannot be proved to have so acted under or by the directions of such occupant; and proof of the fact of such sale, barter or traffic, or any act, matter or thing, by such person in

the employ of such occupant, or who is suffered to remain in or upon the premises of such occupant, or to act in any way for such occupant, shall be conclusive evidence that such sale, barter or traffic or other act, matter or thing took place with the authority and by the directions of the occupant. C.O.Y.T. c. 76, s. 105.

108. In any prosecution under this Ordinance for the sale or other disposal of liquor without the license required by law, it shall not be necessary that any witnesses shall depose directly to the precise description of the liquor sold or bartered, or the precise consideration therefor. C.O.Y.T. c. 76, s. 106.

Kind of liquor need not be proved.

109. The fact of the person not being a licensee keeping up a sign, writing, painting or other mark, in or near to his house or premises, or having such house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that such house or premises is or are licensed for the sale of any liquor, or that liquor is sold or served therein, or that there is on such premises more liquor than is reasonably required for the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person. C.O.Y.T. c. 76, s. 107.

Sign to be evidence of sale of liquor.

WITNESSES.

110. In any prosecution under this Ordinance the magistrate trying the case may summon any person he deems to be a material witness in relation thereto;

Magistrate may compel attendance of witnesses.

2. If any person so summoned refuses or neglects to attend pursuant to such summons the magistrate, at any time within six months after such refusal or neglect, and notwithstanding the said case has been determined, may issue a warrant for the arrest of such person for such refusal or neglect, or may instead of a warrant issue a summons to such person to attend at a time and place named in such summons to answer for such refusal or neglect, and when such person is brought before such magistrate, or appears on said summons, the magistrate may then and there inquire into the reasons for such refusal or neglect to so attend, and if the same do not, in his opinion, afford a good and sufficient excuse therefor, may impose on such person a penalty not exceeding fifty dollars and costs; and in default of payment forthwith to imprisonment for a period not exceeding one month.

3. If any person upon being required by the magistrate refuses to be sworn, or to affirm, or to answer to any question touching the case, he may be committed to the common jail, or to a lockup, there to remain until he consents to be sworn, or to affirm, or to answer, and this, notwithstanding a penalty has been imposed upon him, as in this section previously provided, for refusal or neglect to attend as a witness in the same case. C.O.Y.T. c. 76, s. 108.

111. Any person summoned as a party to, or as a witness in, any proceeding under this Ordinance, may by the summons be required to produce at the time and place appointed for his attendance, all books and papers, accounts, deeds and other

Witness may be required to produce documents, etc.

documents in his possession, custody or control, relating to any other matter connected with the said proceeding, saving all just exceptions to such production; and shall be liable to the same penalties for non-production of such books, papers, or documents, as he would incur by refusal or neglect to attend pursuant to such summons, or to be sworn or to answer any question touching the case. C.O.Y.T. c. 76, s. 109.

Witnesses
bound to
answer all
questions.

112. Every person, other than the defendant, summoned or examined as a witness in any prosecution brought under this Ordinance shall be bound to answer all questions put to him which are pertinent to the issues, notwithstanding that his answers may disclose facts tending to subject him to any penalty imposed by this Ordinance; but such evidence shall not be used against him in any prosecution. C.O.Y.T. c. 76, s. 110.

License
inspectors
expenses.

113. In any prosecution under this Ordinance, if any chief inspector, inspector or other officer attends Court as prosecutor, it shall be lawful for the magistrate trying the case to order the defendant, in case of a conviction, to pay the chief inspector, inspector or other officer his actual travelling expenses.

The foregoing expenses shall be verified by the oath of the chief inspector, inspector or other officer.

In case the person convicted does not pay such expenses but is committed to jail in default of payment, the chief inspector, inspector or other officer shall be entitled to be paid the amount out of the general revenue fund.

In case of the prosecution by the chief inspector, inspector or other officer when no conviction is procured, upon the written certificate of the magistrate trying a case that there was reasonable grounds for the prosecution, the chief inspector, inspector, or other officer shall be entitled to be paid the said expenses out of the general revenue fund. C.O.Y.T. c. 76, s. 111.

INTERDICTION OF INTEMPERATE PEOPLE.

Magistrate
may
interdict.
habitual
drinker.

114. When complaint has been made to a magistrate that any person by excessive drinking of liquor misspends, wastes or lessens his estate, or greatly injures his health or endangers or interrupts the peace and happiness of his family, the said magistrate shall institute proceedings under part XV of the Criminal Code against such person, and on finding the complaint well founded shall by order in form D appended hereto forbid every licensed person in the Territory to sell him liquor for the space of one year. C.O.Y.T. c. 76, s. 112.

Order to be
sent to
licensees.

115. Immediately after granting the order provided for in the next preceding section, the magistrate making the same shall transmit it, together with the complaint and any evidence taken thereon before him, to the chief inspector, who thereupon shall transmit by registered post or deliver a notice in the form

E appended hereto, to all licensees whose premises are in the locality where such interdicted person lives:

2. Whenever the sale of liquor to any such drunkard shall have been so prohibited, any person with a knowledge of such prohibition who gives, sells, purchases or procures any liquor to, for or on behalf of such prohibited person or for his or her use, shall be guilty of an offence and upon summary conviction thereof shall be liable for every such offence to a penalty of not more than \$100 and costs, and in default of payment forthwith after conviction to imprisonment for a period not exceeding three months, and if a licensee his license shall be forfeited. C.O.Y.T. c. 76, s. 113.

116. The following persons, viz:—

1. Any husband or wife, whose wife or husband has contracted the habit of drinking intoxicating liquors to excess;
2. The person himself or the father, mother, brother, sister, curator, guardian or employer of any person who has contracted the habit of drinking intoxicating liquors to excess;
3. The manager or person in charge of an asylum or hospital or other charitable institution in which any person who has contracted the habit of drinking intoxicating liquors to excess resides or is kept;
4. The guardian of any lunatic; or,
5. The father, mother, brother or sister of the husband or wife of any person who has contracted the habit of drinking intoxicating liquors to excess; may require the inspector for the district to give notice in writing in form F appended hereto, signed by him, to every licensee in the license district and in any other license district adjacent thereto that he is not to sell or deliver any liquor to the person named. C.O.Y.T. c. 76. s. 114.

Who may apply for interdiction.

117. In any prosecution or proceedings under this and the next preceding sections no interdicted person required to be examined as a witness shall be excused from being so examined or from answering any question put to him touching the sale or delivery to him of any liquor, on the ground that his evidence will tend to incriminate himself; and any such person so required to be examined as a witness who refuses to make oath accordingly, or to answer any such question shall be subject to be dealt with in all respects as any person appearing as a witness before any magistrate or court and refusing without lawful cause or excuse to give evidence may by law be dealt with; and every person so required to be examined as a witness who upon such examination makes true disclosures to the best of his knowledge of all things as to which he is examined shall receive from the magistrate before whom such proceeding is had a certificate in writing to that effect, and shall be freed from all prosecutions and from all penalties and punishments to which he has become liable for any thing done before that time under the provisions of section 118 of this Ordinance in respect of the matters regarding which he has been examined; and any prosecution or proceeding

Interdicted person not compelled to answer questions.

pending or brought against such witnesses under the provisions of section 118 hereof in respect of any matter regarding which he has been so examined shall be stayed upon the production and proof of such certificate if the said certificate states that such witness made a true disclosure in respect to all things as to which he was examined. C.O.Y.T. c. 76, s. 115.

Penalty for
selling liquor
to interdicted
person.

118. Any person to whom the sale of liquor has been prohibited under this Ordinance, who either directly or indirectly in any way procures or permits the sale, disposal, gift or delivery to him by any person of any intoxicating liquor shall be liable upon summary conviction thereof to a fine of not more than \$50 and in default of payment forthwith after conviction to imprisonment for not more than one month; in any prosecution under this section if intoxication on the part of the defendant is proved, he shall be held to have been guilty of an offence, and in any such case it shall not be necessary in any proceedings to state the name of the person from whom the liquor has been procured or by whom the sale, disposal, gift or delivery of liquor has been made. C.O.Y.T. c. 76, s. 116.

PRICE OF LIQUOR NOT RECOVERABLE IN CERTAIN ACTIONS.

Price of
liquor not to
be recovered.

119. No licensee who sells liquor to any person not being a licensee, shall, if such liquor or any part thereof was to the knowledge of the licensee purchased for the purpose of re-selling, be entitled to recover the price thereof in any court of justice. C.O. Y.T. c. 76, s. 117.

Not to be
recovered on
sales less than
one gallon.

120. No person shall recover or be allowed to set-off or counter-claim for any charge for liquor in any quantity less than one gallon delivered at one and the same time, and all specialties, bills, notes, agreements or accounts stated, given or made, shall be void. It shall not be necessary for any person wishing to take advantage of this section to raise the defence by his pleadings, but advantage may be taken thereof at any stage of the proceedings by way of defence to the action, counter-claim or set-off. C.O.Y.T. c. 76, s. 118.

Liability for
death of
person
drinking
to excess.

121. Whenever in any hotel or saloon or house where intoxicating liquors are sold, whether legally or illegally, any person has drunk to excess of intoxicating liquor of any kind therein furnished to him and while in a state of intoxication from such drinking has come to his death by suicide or drowning, or mischance from cold or other accident occasioned by such intoxication, the person, whether the keeper or employee of such hotel, house or other place who delivered to such person the liquor whereby such intoxication was caused, shall be liable to an action as for personal wrong at the suit of the legal representatives of the deceased person, if such action is brought within three months after such decease, but not otherwise, and in such action may recover such sums, not less than \$100 nor more than \$1,000 as may therein be assessed by the court or jury as damages.

The keeper of such hotel or other house or place and also any other person or persons who for him, or in his employ, delivered to such person the liquor whereby such intoxication was caused shall be jointly and severally liable to an action as for personal wrong at the suit of the legal representatives of the deceased person, if such action be brought within three months after such decease, but not otherwise, and such legal representatives may bring either a joint and several action against them, or a several action against any or either of them, and by such action or actions may recover such sum, not less than \$100 nor more than \$1,000 in the aggregate of any such actions, as may therein be assessed as damages; and in the event of final judgment being recovered against any licensee in any action under this section, the license of such licensee shall thereupon be forfeited and thereafter be null and void. C.O.Y.T. c. 76, s.119.

GENERAL.

122. Until the Commissioner appoints a Board of License Commissioners as provided by section 5 of this Ordinance, the chief inspector shall have all the powers and perform all the duties of said License Commissioners. C.O.Y.T. c. 76, s. 120. Until commissioners appointed. License inspector to act.

 SCHEDULE 1.

FORM A.—Sec. 26.

To the Chief License Inspector:

The petition of the undersigned humbly showeth: That your petitioner makes application for (2) license to sell intoxicating liquors in the building occupied by your petitioner at in the Yukon Territory and described (3) Your petitioner hath deposited with the proper officer the sum of fifty dollars (\$50), the fee payable for such application, and produces herewith receipt for same.

And your petitioner prays that a license may be granted accordingly.

(2) (Insert description of license, as hotel, wholesale or saloon.)

(3) (Here give full description of premises.)

 FORM B.—Sec. 26.

I, applicant for a license to sell intoxicating liquors, make oath and say:

That I am of the full age of twenty-one years.

That I have never been convicted of any criminal offence subject to imprisonment for five years or upwards.

Sworn before me at _____, in the Yukon Territory,
 this _____ day _____ of _____, 19 ____
 A Justice of the Peace or a Commissioner, etc.

FORM C.—Sec. 31.

Whereas, _____ of _____, in the Yukon Territory,
 has made application for a license to sell intoxicating liquors
 _____, and it having been made appear to
 that the said _____ has complied with the pro-
 visions of the Liquor License Ordinance in that behalf, this is
 to certify that the said _____ hereby licensed as
 provided by law, to sell intoxicating liquors in manner aforesaid,
 at _____ said place of business, from the
 day of _____ 19 _____, to midnight on the 14th day
 of July, 19 ____.
 Dated at _____ this _____ day of _____,
 19 ____.

Chief License Inspector.

FORM D.—Sec. 114.

Canada, Yukon Territory:
 Be it remembered that on the _____ day of _____,
 A.D. 19 _____, complaint was made before the undersigned, a
 Justice of the Peace in and for the said Yukon Territory,
 That _____ (here set out the facts stated in
 the complaint) and now having duly heard the matter of the
 said complaint, I do order that during the period of one year
 from the date hereof no licensee shall sell any liquor to the said
 A. B.
 Given under my hand and seal this _____ day of _____
 at the _____ of _____ in said Territory.

J.P.

FORM E.—Sec. 115.

Dawson, Yukon Territory.
 A. B., of _____ in the Yukon Territory.
 Sir: In pursuance of the provisions of the Liquor License Ordi-
 nance, respecting the interdiction of intemperate persons you
 are hereby notified that C. D., of _____, in the Yukon
 Territory, labourer (or as the case may be) is interdicted from
 the use of intoxicating liquors, on order made by G. H., a
 Justice of the Peace in and for the Yukon Territory, bearing
 date the _____ day of _____, and you are required
 to govern yourself accordingly.

You are liable if you give, sell, purchase or procure to, for or on behalf of such prohibited person, or for his (or her) use, any liquor, upon conviction, to a penalty of not more than \$100 and in default of payment to not more than three months' imprisonment, and if you are a licensee, forfeiture of license.

Your obedient servant,

E. F.,
Chief Inspector.

FORM F.—Sec. 116.

NOTICE OF INTERDICTION.

Take notice that under the provisions of the Liquor License Ordinance respecting the interdiction of intemperate persons, I have been required by (here state the name and authority of person who has requested notice to be given) to notify you that you are not to directly or indirectly sell, give or deliver, or suffer to be sold, given or delivered to (here insert name and description of person) any intoxicating liquor, under a penalty of \$100 and absolute forfeiture of your license.

Dated at this day of , A.D. 19 .

Chief Inspector.

FORM G.

1. *Neglecting to keep license exposed.*

That X. Y., having a license for sale by wholesale (or an hotel license) on unlawfully, or wilfully (or negligently) omitted to expose the said license in his warehouse (or in the bar-room of his hotel, as the case may be).

2. *Sale without a license.*

That X. Y., on the day of in the year of our Lord one thousand nine hundred and at in the Yukon Territory, unlawfully did sell liquor without the license therefor by law required.

3. *Keeping liquor without license.*

That X. Y., on at unlawfully did keep liquor for the purpose of sale, barter and traffic therein, without the license therefor by law required.

4. *Sale of liquor on licensed premises during prohibited hours.*

That X. Y., on at in his premises (or on, or out of, or from his premises) being a place where liquor may be sold, unlawfully did sell (or dispose of) liquor during the time prohibited by the Liquor License Ordinance for the sale of the same, without any requisition for medical purposes as required by the said Ordinance being produced by the vendee or his agent.

5. *Allowing liquor to be drunk on licensed premises during prohibited hours.*

That X. Y., on _____ at _____ in his premises, being a place where liquor may be sold, by retail, unlawfully did allow liquor to be drunk in such place during the time prohibited by the Liquor License Ordinance for the sale of the same.

6. *Sale of less than one quart under wholesale license.*

That X. Y., having a wholesale license, on _____ at _____ unlawfully did sell liquor in less quantity than one-half gallon (or one reputed quart bottle, or two reputed pint bottles, as the case may be).

7. *Allowing liquor to be consumed on wholesale premises.*

That X. Y., having a wholesale license, on _____ at _____ unlawfully did allow liquor sold by him (or in his possession) and for the sale of which a license is required, to be consumed within his premises (or within the building of which his premises form part, or within a building which communicates by an entrance with his premises) by a purchaser of such liquor.

8. *Keeping a disorderly house.*

That X. Y., being the keeper of an hotel situate in the town of _____ in the Yukon Territory, on _____, in his said hotel unlawfully did sanction (or allow) riotous or disorderly conduct in his said hotel.

9. *Compromising or compounding a prosecution.*

That X. Y., having violated a provision of the Liquor License Ordinance, on _____ at _____ unlawfully did compromise (or compound or settle, or offer, or attempt to compromise, compound or settle) the offence with A. B., with a view of preventing any complaint being made in respect thereof (or with the view of getting rid of, or of stopping, or of having the complaint made in respect thereof dismissed, as the case may be).

10. *Being concerned in compromising a prosecution.*

That X. Y., on _____ at _____ was unlawfully concerned in (or a party to) a compromise (or a composition, or a settlement) of an offence committed by O. P., against a provision of the Liquor License Ordinance.

11. *Refusing to admit a policeman.*

That X. Y., on _____ at _____ being in (or having charge of) the premises of O. P., being a place where liquor is sold (or reputed to be sold) unlawfully did refuse (or fail) to admit (or did obstruct or attempt to obstruct) E. F., an officer demanding to enter in the execution of his duty, or did obstruct or attempt to obstruct E. F., an officer making searches in the said premises, and in the premises connected with such place.

12. *Refusing or failing to supply lodging, meals or accommodation to travellers.*

That X. Y., being the keeper of an hotel, in respect of which an hotel license was duly issued and is in force, on _____ at _____ unlawfully failed or refused personally

(or through some one acting on his behalf) to supply lodgings, meals and accommodation to a traveller, as required by the Liquor License Ordinance.

13. *Selling liquor to any one under eighteen years of age.*

That X. Y., at _____ on _____ unlawfully did sanction (or allow) to be supplied in his licensed premises, by purchase (or otherwise) liquor to a person under the age of eighteen years, not being a resident on the premises, or a *bona fide* guest, lodger or traveller.

FORM H.

FORM OF INFORMATION LAID (OR COMPLAINT MADE AS THE CASE MAY BE).

Canada, Yukon Territory. To wit:
The information of A.B., of the _____ of _____ in the _____ of _____ laid (or complaint made, as the case may be) upon oath or affirmation before me, C.D., one of His Majesty's Justices of the Peace in and for the Yukon Territory, the _____ day of _____ A.D. one thousand nine hundred and _____

The informant says he is informed and believes that X. Y., on the _____ day of _____ A.D. one thousand nine hundred and _____ at the _____ in the _____ of _____ unlawfully did sell liquor without a license therefor by law required (or as the case may be). A. B.

Laid, sworn (or affirmed) and signed before me the day and year and at the place first above mentioned.
C. D., J.P.

FORM I.

FORM OF INFORMATION FOR SECOND, OR THIRD OFFENCE.

Canada, Yukon Territory. To wit:
The information of A. B., of _____ etc., laid upon oath (or affirmation before me, C. D., one of His Majesty's Justices of the Peace in and for the Yukon Territory the _____ day of _____ A. D., one thousand nine hundred and _____

The informant says he is informed and believes that X. Y., on _____ at _____ (describe last offence.)

And further that the said X. Y., was previously, to wit, on the _____ day of _____ A. D., 19____, at the _____ of _____ before E. F., one of His Majesty's Justices of the Peace in and for the Yukon Territory duly convicted of having on the _____ day of _____ 19____, at the _____ of _____ in the _____ of _____ unlawfully sold liquor without a license therefor required by law (or as the case may be).

And further that the said X. Y., was previously, to wit: on the _____ day of _____ A. D., 19____, at the _____ of _____ in the _____ before, etc., (as in the preceding paragraph) again duly convicted of having on the _____ day of _____ A. D., 19____, at the _____ of _____ in the _____ of _____ in the _____ of _____ having a wholesale license, unlawfully allowed liquor to be consumed within a building which communicates with an entrance within his premises, by a person not usually a resident within the building of which such premises form a part (or as the case may be).

FORM J.

FORM OF CONVICTION OF FIRST OFFENCE.

Canada, Yukon Territory. To wit:

Be it remembered that on the _____ day of _____ A.D. one thousand nine hundred and _____ at _____ in the Yukon Territory, X. Y. is convicted before me, E. F., one of His Majesty's Justices of the Peace in and for the Yukon Territory, that he, the said X. Y., on the day of _____ A. D., one thousand nine hundred and _____, at _____ in the Yukon Territory, in his premises, being a place where liquor may be sold, unlawfully did sell liquor during the time prohibited by the Liquor License Ordinance for the sale of the same, without any requisition, for medical purposes, as required by the said Ordinance, being produced by the vendee or his agent (or as the case may be), A. B., being informant, and I adjudge said X. Y., for his said offence, to forfeit and pay the sum of _____ dollars, to be paid and applied according to law, and also to pay to the said A. B. the sum of _____ dollars for his costs in his behalf, and if the said several sums be not paid forthwith, then * I order the said sums to be levied by distress and sale of the goods and chattels of the said X.Y., and in default of sufficient distress in that behalf * (or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks* say, inasmuch as it has now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y., and his family, or that the said X. Y. has no goods or chattels whereon to levy the said several sums by distress) I adjudge the said X. Y., to be imprisoned in the common jail, at _____ in the said Yukon Territory, and there to be kept for the space of _____ unless the said sums and the costs and charges of conveying the said X.Y. to the common jail shall be sooner paid.

Given under my hand and seal the day and year first above mentioned, at _____ in the aforesaid Territory.

[L.S.]. C. D., J.P.

FORM K.

FORM OF CONVICTION FOR A THIRD OFFENCE.

Canada, Yukon Territory. To wit:

Be it remembered that on the _____ day of _____, in the year of our Lord one thousand nine hundred and _____, in _____ in the Yukon Territory, X. Y. is convicted before the undersigned C. D., one of His Majesty's Justices of the Peace in and for the said Territory, for that he, the said X. Y., on the _____ day of _____ A.D. one thousand nine hundred and _____ at _____ in the said Territory (as the case may be) of having violated a provision of the Liquor License Ordinance, unlawfully did attempt to settle the offence with A. B., with the view of having the complaint made in respect thereof dismissed (or as the case may be).

And it appearing to me that the said X. Y. was previously, to wit: on the _____ day of _____ A.D. 19____, at _____ before, etc., duly convicted of having on the _____ day of _____ A.D. 19____, at _____ unlawfully sold liquor without the license therefor by law required (or as the case may be),

And it also previously appearing to us that the said X. Y. was previously, to wit: on the _____ day of _____ A.D. 19____, at _____ before, etc., (see above) again duly convicted of having on the _____ day of _____ A.D. 19____, at _____ being the keeper of licensed premises situate in the said _____ unlawfully allowed _____ in his said licensed premises (or as the case may be).

I adjudge the offence of the said X. Y., herein before firstly mentioned, to be his third offence against the Liquor License Ordinance (A. B. being the informant) and I adjudge the said X. Y. for the third offence to be imprisoned in the common jail at _____ in the said _____ of _____ there to be kept for the space of three calendar months (or as the case may be), and that his license be cancelled.

Given under my hand and seal the day and year first above mentioned, at _____ in the Yukon Territory.

[L.S.]

C. D., J.P.

FORM L.

WARRANT OF COMMITMENT FOR FIRST OFFENCE WHERE A PENALTY IS IMPOSED.

Canada, Yukon Territory. To wit:

To all and any of the constables and other peace officers in the _____ and the keeper of the common jail at _____ in the Yukon Territory.

Whereas, X. Y., late of _____ in the said Yukon Territory was on this day convicted before the undersigned C. D., one of His Majesty's Justices of the Peace in and for the Yukon Territory or _____ of _____ (as the case may be) for that he the said X. Y., on _____ at _____ unlawfully did sell liquor without the license therefor by law required (state offence as in the conviction) A. B. being the informant—and it was thereby adjudged that the said X. Y., for his _____ said offence should forfeit and pay the sum of _____ (as in conviction) and should pay to the said A. B. the sum of _____ for his costs in that behalf;

And it was thereby further adjudged that if the said several sums should not be paid forthwith, the said X. Y. should be imprisoned in the common jail at _____ in the said Territory, there to be kept at hard labour for the space of _____ unless the said several sums and the costs and charges of conveying the said X. Y. to the said common jail should be sooner paid.

And whereas the said X. Y. has not paid the several sums, or any part thereof, although the time for payment thereof has elapsed.

(If a distress warrant issued and was returned no goods,) say:

And whereas afterwards, on the _____ day of _____ A.D. 19____, I, the said Justice, issued a warrant to the said constable or peace officer or any of them, to levy the said several sums of _____ of _____ and _____ by distress _____ and the sale of goods and chattels of the said X. Y.

And whereas it appears to me, as well by the return of the said warrant of distress by the constable who had the execution of the same or otherwise, that the said constable has made diligent search for the goods and chattels of the said X. Y. but that no sufficient distress whereon to levy the said sums could be found.

(Or where the issuing of a distress warrant would be ruinous to the defendant and his family, or if it appears that he has no goods whereupon to levy a distress, then instead of the foregoing recitals or the issue and return of the distress warrant,) say:

And whereas it has been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family, or that the said X. Y. has no goods or chattels whereon to levy the said sum by distress, (as the case may be.)

These are therefore to command you the said constables or peace officers, or any of you, to take the said X. Y., and him safely convey to the common jail aforesaid at _____ in the _____ and there deliver him to the said keeper thereof together with this precept.

And I do hereby command you, the said keeper of the said common jail, to receive the said X. Y. into your custody in the said common jail there to imprison him and keep him for the space of _____ unless the said several sums and all the costs and charges of the said distress amounting to the sum of _____

and of the commitment and conveying of the said X. Y. to the said common jail, amounting to the further sum of shall be sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal this day of

A.D. 19 , at

[L.S.]

C. D.

FORM M.

FORM OF DECLARATION OF FORFEITURE AND OF ORDER TO
DESTROY LIQUOR SEIZED.

If in conviction, after adjudging penalty or imprisonment, proceed thus:

And I declare the said liquor and vessels in which the same is kept, to wit: Two barrels containing beer, three jars containing whisky, two bottles containing gin, four kegs containing lager beer, and five bottles containing wine (or as the case may be) to be forfeited to His Majesty.

Given under my hand and seal the day and year first above mentioned at, etc.

If by second or subsequent order—Canada, Yukon Territory.
To Wit:

I, S. F., one of His Majesty's Justices of the Peace in and for the Yukon Territory, having on the day of one thousand nine hundred and at the of in the said Yukon Territory, duly convicted X. Y. of having unlawfully kept liquor without a license, do hereby declare the said liquor and vessels in which the same is kept, to wit: (describe the same as above) to be forfeited to His Majesty.

Given under my hand and seal this day of at the of in the said .

[L.S.]

S. F.

FORM N.

SUMMONS TO WITNESS.

Canada, Yukon Territory. To wit:

To J. K., of in the Yukon Territory.

Whereas information has been laid before me, C. D., one of His Majesty's Justices of the Peace in and for the Yukon Territory, that X. Y., on the day of A.D. 19 , at the of in the of unlawfully did (describe the offence) and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecution in this matter:

These are to require you to be and appear on the day of A.D. 19 , at o'clock in the noon, at , in the Yukon Territory, before me or

such justice or justices of the peace as may then be there, to testify what you know concerning the said charges so made against the said as aforesaid, (and also to bring with you and there and then to produce all and every invoices, day books, cash books or ledgers, and receipts, promissory notes or other security relating to the purchase or sale, or sale of liquor by the said X. Y., and all other books and papers, accounts, deeds and other documents in your possession, custody or control, relating to any matter connected with the said prosecution.) Herein fail not.

Given under my hand and seal this
A. D. 19 , at
[L.S.]

day of
C.D., J.P.

CHAP. 57.

An Ordinance respecting the Importation of and Traffic in Intoxicating Liquors.

SHORT TITLE.

1. This Ordinance may be cited as *The Liquor Importation Ordinance*. Short title.

2. No person excepting the holder of a license issued under the provisions of *The Liquor License Ordinance* and except as otherwise provided herein shall import or bring into the Yukon Territory any intoxicating liquor or intoxicant. C.O.Y.T. c. 75, s. 1. No one to import liquor except as provided.

3. Before any person imports or brings into said Territory any intoxicating liquor or intoxicant he shall make application in writing to the Commissioner of the Yukon Territory for permission to do so. Such application shall specify the number of gallons and the description of the liquor to be imported. C.O.Y.T. c. 75, s. 2. Importers of liquors must first obtain permit.

4. The following fees shall be paid by the person importing any intoxicating liquor or intoxicant into the Territory under such special permission: Fees.

- Still wines, ale, porter, table beer and lager beer, per gallon..... \$ 50
- All other intoxicating liquors, per gallon..... 2 00

Provided, that said fees may be reduced by the Commissioner if he considers it necessary to do so in order to regulate the traffic in intoxicating liquors. C.O.Y.T. c. 75, s. 3. Fees may be reduced.

5. The Commissioner may thereupon issue to such applicant a special permission in writing to import or bring into the Territory such intoxicating liquor or intoxicant. C.O.Y.T. c. 75, s. 4. Permit to be issued by Commissioner.

6. The Commissioner may appoint, prescribe the duties and fix the salary of a chief preventive officer, and such other officers and assistants as he considers necessary for the purpose of enforcing the provisions of this Ordinance. C.O.Y.T. c. 75, s. 5. Commissioner may appoint officers.

7. Any person importing or bringing into the Yukon Territory any intoxicating liquor or intoxicant without the special permission in writing of the Commissioner shall be guilty of an offence and on summary conviction thereof be liable to a penalty not exceeding \$500 with costs, and in default Penalty for importing without permit.

of payment thereof to imprisonment for a term not exceeding six months, with or without hard labour, and such intoxicating liquor or intoxicant so imported or brought into the Territory shall be forfeited to His Majesty, to be dealt with as may be determined by the Commissioner. C.O.Y.T. c. 75, s. 6.

Licensee not to sell except under provisions of license.

8. No licensee under the Liquor License Ordinance who imports or brings into the Territory any intoxicating liquor or intoxicant by the special permission in writing of the Commissioner shall sell the same in any other manner than that provided for by the license issued to him under said Ordinance. C.O.Y.T. c. 75, s. 7.

Penalty for licensee selling otherwise.

9. Any infringement of the next preceding section shall subject the offender on summary conviction to a penalty not exceeding \$500 with costs, and in default of payment thereof to imprisonment for a term not exceeding three months, and he may be refused any further permission to import or bring liquor into the Territory. C.O.Y.T. c. 75, s. 8.

Permit may be granted any one.

10. The Commissioner may grant to any person permission to import or bring into the Territory any intoxicating liquor or intoxicant for his own use upon payment of the fees required by section 3 of this Ordinance. C.O.Y.T. c. 75, s. 9

Powers of officers.

11. The chief preventive officer and his assistants shall for the purposes of preventing or detecting the violation of any of the provisions of this Ordinance, at any time have the right to enter into or upon any train, boat, vessel, scow, warehouse, shop or other building, and to make searches in every part thereof and of the premises connected therewith. C.O.Y.T. c. 75, s. 10.

Penalty for refusing to admit officers.

12. Every person being therein or having charge thereof who refuses or fails to admit such chief preventive officer or assistant, or who obstructs or attempts to obstruct the entry of such chief preventive officer or assistant, or any such searches as aforesaid, shall be guilty of an offence, and on summary conviction thereof be liable to a fine not exceeding \$500 and costs, and in default of payment forthwith after conviction, to imprisonment for a term not exceeding three months. C.O. Y.T. c. 75, s. 11.

repealed

CHAP. 58.

An Ordinance respecting Keepers of Livery, Boarding and Sales Stables.

SHORT TITLE.

1. This Ordinance may be cited as *The Livery Stable Keepers Ordinance*. C.O.Y.T. c. 52, s. 1.

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires:
- 1. The expression "livery stable keeper" means and includes any person who for a money consideration or the equivalent thereof carries on the business of letting or hiring out carriages, sleighs or other vehicles, or horses or other animals, whether with or without a carriage, sleigh or other vehicle, and whether accompanied by an employee of the livery stable keeper or not; Interpretation.
"Livery stable keeper."
 - 2. The expression "boarding stable keeper" means and includes any person who, for a money consideration or its equivalent, stables, boards or cares for any animal; "Boarding stable keeper."
 - 3. The expression "sales stable keeper" means and includes any person who stables, boards or cares for any animal other than his own, with the intention of selling or disposing of the same, and who receives or is to receive payment for such services whether in the nature of a commission or otherwise. C.O.Y.T. c. 52, s. 2. "Sales stable keeper."

LIEN OF STABLE KEEPER—ENFORCEMENT.

3. Every livery stable, boarding stable or sales stable keeper shall have a lien on the animals and effects hereinafter mentioned for the value or price of any food, care, attendance or accommodation furnished for any such animal or effects and in addition to all other remedies provided by law may detain in his custody and possession any animal, vehicle, harness, furnishings or other gear appertaining thereto and the personal effects of any person who is indebted to him for stabling, boarding or caring for such animal. C.O.Y.T. c. 52, s. 3. Lien on animals and effects.
Detention for indebtedness.
4. Every livery stable, boarding stable or sales stable keeper, who has exercised the right of detention by this Ordinance provided shall be obliged to keep in his possession and be responsible for the proper care of any animal or effects detained by him for the full period of such detention unless they shall sooner be released; and if the owner does not reclaim the animals and effects so detained by paying the indebtedness in respect of the same within one month from the commencement of such detention, the keeper detaining may sell or cause the Care of animals and effects detained.
Sale by public auction.

Notice of
sale.

same to be sold by public auction on giving two weeks notice of sale by advertisement in the newspaper published nearest to such stable, or if more than one newspaper is published in the same locality, then in either one and by posting up notices in the nearest post office and in the said livery or boarding stable of the intended sale, stating (if known):

- (a) The names of the owner and the person or persons who brought such animals or effects to the stable;
- (b) The amount of indebtedness and charges for detention;
- (c) A description of the animals and effects; and
- (d) The name of the seller. C.O.Y.T. c. 52, s. 4.

Application of
proceeds of
sale.

5. The proceeds derived from such sale shall be applied;

- (a) In paying the expenses incurred by such detention, advertising and sale;
- (b) In paying the debt for which such detention was made and the surplus if any shall be paid to the person entitled thereto on application being made by him therefor. C.O.Y.T. c. 52, s. 5.

Balance of
proceeds if
not claimed
to be handed
to Territorial
treasurer.

6. In case such owner does not apply for the same within one month from the day of such sale then such surplus shall be handed over to the Territorial Treasurer to be kept by him in a special trust account for one year, after which time if such owner does not appear or claim the amount so kept the same shall be paid over and belong to the general revenue fund of the Territory. C.O.Y.T. c. 52, s. 6.

ORDINANCE TO BE POSTED.

Copy of
Ordinance
to be posted
in stable.

7. It shall be the duty of every livery stable, boarding stable and sales stable keeper to have a copy of this Ordinance hung or posted in a conspicuous place in every such stable and in default of compliance with this section he shall not be entitled to the benefit of this Ordinance. C.O.Y.T. c. 52, s. 7.

PERIODICAL CLEANSING OF STABLE.

Stable to be
thoroughly
cleansed and
disinfected
twice every
year.

8. Every livery stable, boarding stable and sales stable keeper in the Territory shall in each and every year in the months of April and October thoroughly cleanse all the stalls, mangers and feed boxes in such stable by thoroughly washing the same with soap and hot water and immediately afterwards thoroughly applying to every part of the same a solution of bichloride of mercury in the following proportions, namely, one half drachm to one gallon of water; and the keeper of any such stable who shall fail during each of the months aforesaid in any year to cause such cleansing to be done shall for such default or omission on summary conviction before any justice of the peace be liable for the first offence to a fine of not more than \$10 and to a fine of not more than \$25 for every subsequent offence. C.O.Y.T. c. 52, s. 8.

repealed

CHAP. 59.

An Ordinance respecting the Driving of Saw Logs and other Timber on Lakes, Rivers, Creeks and Streams.

1. This Ordinance may be cited and known as *The Saw* Short title. *Logs Driving Ordinance No. 10, 1908, s. 1.*

2. Where the words following occur in this Ordinance they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears: Interpretation.

1. "Logs" shall include saw logs, timber, posts, ties, cord-wood and other things being parts of trees.

2. "Water" shall mean and include lakes, ponds, rivers, creeks and streams in this Territory. No. 10, 1908, s. 2.

3. Any person putting or causing to be put, into any water, logs, for the purpose of floating the same in, upon or down such water, shall make adequate provisions and put on a sufficient force of men to break, and shall make all reasonable endeavours to break jams of such logs and clear the same from the banks and shores of such water with reasonable despatch, and run and drive the same so as not to unnecessarily delay or hinder the removal, floating, running or driving of other logs, or unnecessarily obstructing the floating or navigation of such water. No. 10, 1908, s. 3. Persons floating logs in river, etc., not to obstruct floating or navigation.

4. In case of the neglect of any person to comply with the provisions of the preceding section, it shall be lawful for any other person desiring to float, run or drive logs in, upon or down such water, and whose logs would be thereby obstructed, to cause such jams to be broken and such logs to be cleared from the banks and shores of such water, and to be floated, run and driven in, upon and down such water. No. 10, 1908, s. 4. In case of neglect person obstructed may clear river, etc.

5. The person causing such jams to be broken, or such logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs in the jam or so cleared, floated, run, or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of such logs, and may take and keep possession of such logs or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending the decision by arbitration as hereinafter provided for. Person clearing obstruction to use due care.

2. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the

place of their original destination, if known, but may securely boom and keep possession of the same at or above such place.

3. The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such charges and expenses, possession of the logs shall be given up. No. 10, 1908, s. 5.

Provision when logs of several owners cannot conveniently be separated.

6. When logs of any person upon or in any water or the banks or shores of such water, are so intermixed with logs of another person or persons that the same cannot be conveniently separated for the purpose of being floated in, upon or down such water, then the several persons owning or controlling the intermixed logs, shall respectively make adequate provisions, and put on a fair proportion of the men required to break jams of such intermixed logs, and to clear the same from the banks and shores of such water with reasonable despatch, and to float, run and drive the same in, upon and down such water, and the costs and expenses thereof shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration as hereinafter provided for. No. 10, 1908, s. 6.

Provision when owner of any portion of logs is in default.

7. In case of neglect of any person to comply with the provisions of the last preceding section, it shall be lawful for any other person whose logs are intermixed, to put on a sufficient number of men to supply the deficiency and break jams of such intermixed logs, and to clear the same from the banks and shores of such water, and to float, run and drive all such intermixed logs in, upon and down such water. No. 10, 1908, s. 7.

Lien on logs.

8. The person supplying such deficiency and causing such jams to be broken, or such intermixed logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs owned or controlled by the person guilty of such neglect, for a fair proportion of the charges and expenses of breaking the jams, and the clearing, floating, running, driving, booming and keeping possession of such intermixed logs; and may take and keep possession of such logs, or so much thereof, as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for.

2. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place.

3. The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. No. 10, 1908, s. 8.

9. When logs of any person, upon or in any water, or the banks or shores of such water, are intermixed with logs of another person, then any of the persons whose logs are intermixed may, at any time during the drive, require his logs to be separated from the other logs at some suitable and convenient place, and after such separation he shall secure the same at his own cost and expense, in such manner as to allow free passage for such other logs: Separation of logs. Provided, that when any logs so intermixed reach their place of original destination, if known, the same shall be separated from the other logs, and after such separation the owner shall secure the same at his own cost and expense. No. 10, 1908, s. 9. Proviso.

10. The several persons owning or controlling the intermixed logs shall respectively make adequate provisions and put on a fair proportion of the men required to make the separation; the cost and expense of such separation shall be borne by the parties in such proportions as they may agree upon, and in default of agreement, as may be determined by arbitration, as hereinafter provided. No. 10, 1908, s. 10. Expenses of separation to be shared.

11. In case of neglect of any person to comply with the provisions of the last preceding section, it shall be lawful for any other person, whose logs are intermixed, to put on a sufficient number of men to supply the deficiency, and the logs owned by or controlled by the person guilty of such neglect shall be subject to a lien in favour of the person supplying the deficiency, for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of such logs or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for. Provision when owner does not provide for his share of work.

2. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place.

3. The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. No. 10, 1908, s. 11.

12. The security referred to in sections 5, 8 and 11 may be by bond in form A in the schedule hereto, or by deposit of money, or in such other way as the parties may agree upon. No. 10, 1908, s. 12. Form of security.

13. If it be determined by arbitration, as hereinafter provided for, that any person acting under the assumed authority of this Ordinance, has without just cause taken possession of or detained or caused to be taken possession of or detained logs of another person, or has after offer of security which the arbitrators Damages when person has wrongfully detained logs or refused security.

may think should have been accepted, detained such logs, or has through want of reasonable care left logs of another person on the banks or shores or has taken logs of another person beyond the place of their original destination contrary to the provisions of sections 5, 8 or 11, then such first mentioned person shall pay to such last mentioned person such damages as the arbitrators may determine. No. 10, 1908, s. 13.

Lien under ss. 5, 8 and 11 subject to lien for tolls.

14. The lien given by sections 5, 8 and 11 of this Ordinance shall be subject to the lien (if any) of any person for tolls or dues, for the use of any works or improvements made use of in running or driving logs. No. 10, 1908, s. 14.

Rights of Crown not affected.

15. Nothing in this Ordinance shall affect the liens or rights of the Crown upon or in respect of any logs. No. 10, 1908, s. 15.

Disputes to be settled by arbitration.

16. All claims, disputes and differences arising under this Ordinance shall be determined by arbitration as hereinafter provided and not by action. No. 10, 1908, s. 16.

Appointment of arbitrators.

17. The person claiming that another person has not complied with the provisions of this Ordinance, or claiming payment of any charges or expenses under this Ordinance, or claiming a lien upon any logs, or claiming damages under section 13, shall give to such other person notice in writing, stating the substance of the claims made, and appointing an arbitrator, and calling upon such other person to appoint an arbitrator within ten days after the service of the notice.

2. If such other person does not within the ten days appoint an arbitrator, a Judge of the Territorial Court shall, on the application of the person giving the notice, appoint a second arbitrator.

3. The two arbitrators so appointed shall within ten days after the appointment of the second arbitrator appoint a third; if the two arbitrators do not within the ten days appoint a third, a Judge of the Territorial Court shall, on the application of either party, appoint the third arbitrator. No. 10, 1908, s. 17.

Appointment of new arbitrators.

18. If an arbitrator refuses to act or becomes incapable of acting, or dies, and the parties do not concur in appointing a new arbitrator, a Judge of the Territorial Court shall, on the application of either party, appoint a new arbitrator. No. 10, 1908, s. 18.

Parties may agree to have only one arbitrator.

19. The parties may agree that the arbitration shall be by one arbitrator instead of by three, and they may either agree upon the arbitrator or may apply to the Judge of the Territorial Court to appoint one. No. 10, 1908, s. 19.

Counter-claim.

20. The person on whom a claim is made and notice of arbitration served may at any time before the arbitration is

entered upon or with leave of the arbitrators during the arbitration, give the claimant notice in writing by way of counterclaim, stating the substance of any claim arising under this Ordinance which such person may have against the claimant, and such counterclaim, unless barred under section 27, shall be determined in the arbitration and an award made with respect thereto. No. 10, 1908, s. 20.

21. The three arbitrators or the sole arbitrator, as the case may be, shall proceed with the arbitration with due despatch, and shall make their or his award in writing, under their or his hand, within thirty days from the date of the appointment of such arbitrator, or the last of such three arbitrators, as the case may be. The parties may, by consent in writing, from time to time enlarge the time for making the award, or a Judge of the Territorial Court may, from time to time, either before or after the expiration of the said time, enlarge the time for making the award. No. 10, 1908, s. 21.

Time within which award to be made.

22. The arbitrators or arbitrator may require the personal attendance and examination upon oath of the parties and their witnesses and the production of all books and documents relating to the matters in question, and may determine by whom the expense of the arbitration, and the costs of the parties shall be paid, and the amount thereof; any costs or expenses payable to a person having a lien upon logs by virtue of this Ordinance shall be added to the amount of such lien. No. 10, 1908, s. 22.

Witnesses and evidence.

23. Arbitrators' fees for services under this Ordinance shall be fixed by a Judge of the Territorial Court. No. 10, 1908, s. 23.

Authority as to costs.

24. The person having a lien upon logs by virtue of this Ordinance, may sell such logs in order to realize the amount of such lien, and of the costs, charges and expenses connected with the sale. The arbitrators or arbitrator shall determine either by their award or by separate document the time, place and manner of such sale, and may from time to time give directions, in writing, respecting such sale, and the realization of such lien, and of the costs, charges and expenses connected therewith. No. 10, 1908, s. 24.

Arbitrators' fees. Sale by person having lien.

25. The award and directions, in writing, of any two of the three arbitrators, or of the sole arbitrator, as the case may be, shall be final and binding upon and shall be obeyed by the parties, and shall be valid notwithstanding any want or defect of form or other technical objection. No. 10, 1908, s. 25.

Award and directions to be final.

26. A Judge of the Territorial Court may, on the application of either party, grant an order to compel any person to attend and give evidence upon the arbitration and to produce all books and documents relating to the matters in dispute, and obedience

Compelling attendance of witnesses and production of documents.

Liability
for non-
attendance.

to such order of such judge made in a cause or matter pending before him in Court may be enforced, and the person neglecting or refusing, without lawful excuse, to obey such order, shall be liable to an action by any person aggrieved by such neglect or refusal for the damages sustained by him thereby. No. 10, 1908, s. 26.

Limitation
of claims.

27. All claims arising under this Ordinance shall be made by notice in writing under section 17, within one year after the same have arisen, otherwise they shall be barred. No. 10, 1908, s. 27.

Commis-
sioner may
exempt
part of
Territory
from
Ordinance.

28. The Commissioner may, from time to time, by proclamation published in the *Yukon Gazette* declare that any part of this Territory or any water therein shall, until further proclamation, be exempt from the operation of this Ordinance, and thereupon the same shall be exempt accordingly. No. 10, 1908, s. 28.

Territory
exempted
may be
again
brought
under
Ordinance.

29. Any part of this Territory, or any water therein exempted by proclamation from the operation of this Ordinance, may, by proclamation published in the *Yukon Gazette*, be again brought within its operations until further proclamation, and so on from time to time. No. 10, 1908, s. 29.

SCHEDULE.

FORM A.

(Section 12.)

Know all men by these presents that we (here insert names of obligors, being the owner of the logs and at least one sufficient surety; or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties) _____, are held and firmly bound unto A. B., (here insert the name of the person claiming the lien) in the penal sum of (double the amount of the claim) \$ _____ to be paid to the said A. B., his executors, administrators and assigns, for which payment well and truly to be made, we, and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this _____ day _____ of _____, A. D., 19 _____.

Whereas, The said A. B., claiming to act under the authority of the Saw Logs Driving Ordinance, has taken possession of certain (saw logs, timber, etc., as the case may be) owned or controlled by _____ and claims a lien thereon for the sum of \$ _____, under the provisions of section (5, 8 or 11, as the case may be) of the said Ordinance.

And, Whereas, this bond is given as security for payment to the said A. B., of such sum as he may be held entitled to by arbitration pursuant to the said Ordinance, and of any costs and expenses of the arbitration which may become payable to him.

Now the condition of the above obligation is such that if the said _____, his executors, or administrators do pay to the said A. B., his executors, administrators or assigns, such sum as may be determined by arbitration pursuant to the said Ordinance, to be payable to the said A. B., his executors, administrators or assigns, for charges and expenses under section (5, 8 or 11, as the case may be) of said Ordinance, and also such sum as may become payable to the said A. B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered
in the presence of
X. Y.

C. D. (Seal.)
F. G. (Seal.)

1931 c1
1938 c2

repealed

CHAP. 60.

An Ordinance respecting Marriages.

SHORT TITLE.

Short title.

1. This Ordinance may be cited as *The Marriage Ordinance*. C.O.Y.T. c. 42, s. 1.

SOLEMNIZATION OF MARRIAGE.

Who may perform marriage ceremony.

2. The ministers and clergymen of every church or religious denomination duly ordained or appointed according to the rites and ceremonies of the churches, denominations or religious bodies to which they respectively belong and commissioners and staff officers of the Salvation Army may by virtue of such ordination or appointment and according to the rites and usages of such churches, denominations or religious bodies respectively and commissioners appointed for that purpose by the Commissioner may solemnize or perform the ceremony of marriage between any two persons not under a legal disqualification or disability to contract such marriage. C.O.Y.T. c. 42. s. 2.

Marriage ceremony not to be performed without license or banns.

3. No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him the license provided for by this Ordinance; and no minister or clergyman or other person authorized to perform the ceremony or marriage shall solemnize marriage unless the parties to the intended marriage produce to him such license or unless the intention of the two persons to intermarry has been proclaimed by publication of banns at least thrice openly on two successive Sundays in some public religious assembly. C.O.Y.T. c. 42, s. 3.

Witnesses.

4. All marriages shall be solemnized in the presence of two or more credible witnesses besides the minister, clergyman, marriage commissioner or other person performing the ceremony;

Registration.

and every person solemnizing a marriage shall register the same according to the provisions of *The Vital Statistics Ordinance*. C.O.Y.T. c. 42, s. 4.

No action against person solemnizing marriage.

5. No person duly authorized who solemnizes a marriage in conformity with the provisions of section 2 of this Ordinance shall be subject to any action or liability for damages or otherwise by reason of their having been any legal impediment to the marriage unless at the time when he performed the ceremony he was aware of the impediment. C.O.Y.T. c. 42, s. 5.

ISSUE OF MARRIAGE LICENSES.

Issue of licenses.

6. The marriage license shall be in form "A" in the schedule to this Ordinance and shall be supplied from the office of the

Commissioner and shall be issued to persons requiring the same by such persons as the Commissioner may name for that purpose or by any minister or clergyman of any church or religious denomination, who are hereby declared *ex officio* issuers of licenses. C.O.Y.T. c. 42, s. 6.

7. Such licenses shall be signed by the Commissioner and shall be and remain valid notwithstanding that the Commissioner has ceased to hold office before the time of the issue of the license. C.O.Y.T. c. 42, s. 7. Signature of licenses.

8. Every issuer of marriage licenses shall sign each license as the same is issued by him. C.O.Y.T. c. 42, s. 8. Signature by issuer.

9. Before a license is granted by any issuer one of the parties to the intended marriage shall personally make an affidavit before him to the effect of form B in the schedule hereto. Affidavit prior to grant of license.

2. The affidavit may be made before any justice of the peace in any case where it is inconvenient for either of the parties to be married to attend personally before an issuer of marriage licenses:

make it understood to parties of intended marriage with 2 of them
of issue
1938 65

Provided always that the reason that neither party can so attend shall be set forth in such affidavit as a justification for the issuer granting license without a personal application by one of said parties. C.O.Y.T. c. 42, s. 9.

10. In case the issuer has knowledge or reason to suspect that any of the statements in the affidavit of any applicant for a marriage license are not correct the said issuer shall require further evidence to his satisfaction before issuing the license; and a copy of all such affidavits and evidence shall be placed on file in his office. C.O.Y.T. c. 42, s. 10. Further evidence may be required.

11. The father, if living, of any person under twenty-one years of age (not being a widower or widow) or if the father is dead then the mother of the minor or if both parents are dead then the lawfully appointed guardian or the acknowledged guardian who may have brought up or for three years immediately preceding the intended marriage supported or protected the minor shall have authority to give consent to such marriage. C.O.Y.T. c. 42, s. 11. Consent to marriage of minors.

12. Every issuer of marriage licenses shall on the fifteenth day of January, April, July and October in each year make a sworn return to the Territorial Treasurer of all licenses issued by him during the preceding three months with the names of the parties to whom issued and shall accompany such return with the original affidavit taken in each instance. The said return shall further state the number of unissued licenses in the custody of the issuer and shall be made in the form prescribed by the Commissioner. Quarterly returns of licenses issued.

2. The Commissioner may in special cases dispense with the provisions of this section and may make regulations for special returns to be made in such cases. C.O.Y.T. c. 42, s. 12.

Return of
unissued
licenses.

13. Every issuer of marriage licenses shall whenever called upon by the Commissioner make a sworn return of all licenses at any time supplied to him and shall return all unissued licenses if so required. C.O.Y.T. c. 42, s. 13.

Fees for
licenses.

14. There shall be payable to every issuer of marriage licenses on the issue of each license by him the sum of \$5 of which such issuer shall be entitled to retain \$2 as his fee; the remainder he shall pay over to the Territorial Treasurer at the time of each return made by such issuer to form part of the general revenue fund of the Territory. C.O.Y.T. c. 42, s. 14.

Unau-
thorized
issue of
licenses or
solemniza-
tion of
marriage.
Penalty.

15. Any person unlawfully issuing a marriage license, any issuer of marriage licenses granting a license without first having obtained the affidavit required by this Ordinance, and any person solemnizing a marriage contrary to the provisions of this Ordinance shall, on summary conviction thereof before two justices of the peace, for every such contravention forfeit and pay a fine not exceeding \$100 and costs. C.O.Y.T. c. 42, s. 15.

SCHEDULE.

FORM A.—SECTION 6.

CANADA.

Yukon Territory,

These are to certify that *A. B.* of _____ and *C. D.* of _____ being minded as it is said to enter into the contract of marriage and being desirous of having the same duly solemnized the said *A. B.* (or *C. D.*) has made oath that he (or she) believes that there is no affinity, consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

And these are therefore to certify that the requirements in this respect of the Ordinance respecting marriages have been complied with.

Given under my hand at Dawson in the Yukon Territory this
day of _____

A.D. 19 _____

Commissioner of the Yukon Territory.

Issued at
this _____

in the Yukon Territory
day of _____ A.D. 19 _____

Issuer.

FORM B.—SECTION 9.

I, A.B. Bachelor (or Widower)

or

C.D. Spinster (or Widow)

make oath and say as follows:

1. I and C.D., of Spinster or Widow, (or A. B. of Bachelor or Widower) are desirous of entering into the contract of marriage and of having our marriage duly solemnized at

2. According to the best of my knowledge and belief there is no affinity, consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

3. I am of the age of years and the said C.D. (or A.B.) is of the age of years.

4. (In case one of the parties is under the age of twenty-one years add)

E.F. of is the person whose consent to the said marriage is required by law and the said E.F. has formally consented to the said marriage.

(Or if both parties are under age)

E.F. of and G.H. of are the persons whose consent to the said marriage is required by law and the said E. F. and G. H. have formally consented to the said marriage.

(Or if in the case of one of the minors there is no person whose consent is required by law add according to the facts)

The father of the said C.D. (or A.B.) is dead and the mother of the said C.D. (or A.B.) is dead and the said C.D. (or A.B.) having no lawfully appointed or acknowledged guardian there is no person who has authority to give consent to the said marriage.

(In case both the parties are minors and there is no person whose consent is required by law add a similar statement concerning the other party according to the facts.)

(Signed)

A.B. (or C.D.)

Sworn before me at

in the Yukon Territory
this day of A.D.
19

(Signed)

I.J.

CHAP. 61. *repealed*An Ordinance respecting the Personal Property of
Married Women:

Personal
property of
married
women.

1. A married woman shall in respect of personal property be under no disabilities whatsoever heretofore existing by reason of her coverture or otherwise but shall in respect of the same have all the rights and be subject to all the liabilities of a *feme sole*. C.O.Y.T. c. 43, s. 1.

CHAP. 62.

An Ordinance respecting Masters and Servants.

1. Every contract or hire of personal service shall be subject to the provisions of this Ordinance and if such contract is for any period more than one year it shall be in writing and signed by the contracting parties. C.O.Y.T. c. 46, s. 1. Contracts of hiring.

2. Any person engaged, bound or hired whether as clerk, journeyman, apprentice, servant, labourer or otherwise howsoever, guilty of drunkenness or of absenting himself by day or night without leave from his proper service or employment or of refusing or neglecting to perform his just duties or to obey the lawful commands of his master or of dissipating his employer's property or effects shall be deemed guilty of a violation of his contract and upon summary conviction of one or more of the said violations, forfeit and pay such sum of money not exceeding \$30 as to the justice seems meet together with costs of prosecution and in default of payment thereof forthwith shall be imprisoned for any period not exceeding one month. C.O.Y.T. c. 46, s. 2. Servant guilty of misconduct.
Penalty.

3. Any justice, upon oath of any employee, servant or labourer complaining against his or her master or employer concerning any non-payment of wages (not exceeding six months wages, the same having been first demanded) ill-usage or improper dismissal by such master or employer, may summon the master or employer to appear before him at a reasonable time to be stated in the summons and the justice shall upon proof on oath of the personal service of the summons examine into the matter of the complaint, whether the master or employer appears or not, and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service or employment of the master and direct the payment to him or her of any wages found to be due (not exceeding six months wages as aforesaid) and the justice shall make such order for payment of the said wages as to him seems just and reasonable with costs C.O.Y.T. c. 46, s. 3. Non-payment of wages.

4. Proceedings may be taken under this Ordinance within three months after the engagement or employment has ceased or within three months after the last instalment of wages under the agreement of hiring has become due whichever shall last happen. C.O.Y.T. c. 46, s. 4. Limit of time for proceedings.

5. The provisions of this Ordinance shall be held to apply in the Territory to contracts and agreements made at any place outside the same. C.O.Y.T. c. 46, s. 5. Ordinance to apply to contracts made outside the Territory.

Civil
remedies
preserved.

6. Nothing in this Ordinance shall in any wise curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages which employers or masters may have against servants or employees or which servants or employees may have against their masters or employers. C.O.Y.T. c. 46, s. 6.

Master not to
be imprisoned
unless guilty
of fraud.

7. Notwithstanding any provision to the contrary of any law or Ordinance in force in this Territory, whenever any proceedings are taken before one or more justices of the peace under section 4, of this Ordinance, no warrant for the imprisonment of any master or employer for non-payment of wages shall be issued, unless it is established before the justice or justices, trying the case, that said master or employer has committed some act of fraud tending to deprive his creditors generally, or the complainant in particular of his recourse against him, or that he is about to leave the Yukon Territory, with the same intent. C.O.Y.T. c. 46, s. 7.

CHAP. 63.

An Ordinance respecting Mechanics and Literary Institutes.

SHORT TITLE.

1. This Ordinance may be cited as *The Mechanics and Literary Institutes Ordinance*. C.O.Y.T. c. 62, s. 1. Short title.

ORGANIZATION AND OBJECTS OF INSTITUTES.

2. A mechanics and literary institute shall be held to have been organized under the provisions of this Ordinance whenever thirty persons resident in any city or town incorporated or otherwise have signed a declaration setting out the amounts subscribed by each and naming the place where the institute purposes to carry on its objects and forwarded the same to the Territorial Secretary with an accompanying certificate signed by one of the subscribers and verified before any person authorized to administer oaths or affidavits to be used in the Territorial Court such declaration and certificate to be in form A in the schedule hereto. C.O.Y.T. c. 62, s. 2. Mode of organization.

3. Upon the Commissioner approving the organization of the proposed institute, the party making the certificate accompanying the same or in his absence any one appointed by the Territorial Secretary shall call a meeting for the election of the various officers by public notice specifying the time and place of meeting published for two weeks in the nearest newspaper or posted in five conspicuous public places in the city or town, or as the case may be at least fifteen days before the time fixed for holding such meeting. Such meeting shall be held in the city or town, where the institute intends prosecuting the objects for which the same has been organized. Election of officers.

2. The officers to be elected at such meeting shall be a president, vice-president, secretary-treasury, auditor and not less than five directors and the persons entitled to vote at such meeting shall be members. C.O.Y.T. c. 62, s. 3.

4. Any person may become a member of a mechanics and literary institute organized under this Ordinance by paying to the treasurer thereof yearly the sum of \$1 which shall be held to be due on the first day of each calendar year. C.O.Y.T. c. 62, s. 4. Annual subscription.

5. The objects of institutes organized under this Ordinance shall be to encourage mechanics, manufacturers and arts generally: Purpose.

- (a) By having evening classes organized for the imparting of practical instruction to its pupils;
- (b) By establishing a library of books on one or more of the following subjects, viz: mechanics, manufactures, agriculture, horticulture, philosophy, science, the fine and decorative arts, history, travels, poetry, biography and fiction;
- (c) Establishing a reading room. C.O.Y.T. c. 62, s. 5.

Annual meeting.

6. The annual meeting of every institute shall be held in the month of October in each year on the call of the president who shall give eight days notice thereof by circular addressed and posted prepaid to each member of the institute or by public notice published in the nearest newspaper or by posting it in five conspicuous places as provided in section 3 hereof when there shall be elected a president, vice-president, a secretary-treasurer and not less than five directors and an auditor.

2. If the president refuses or omits to call such meeting as herein provided the same may be called by the vice-president or any three members for any time during the month of November. C.O.Y.T. c. 62, s. 6.

Voting, etc.

7. No person shall vote or take part in any annual or other meeting of any institute who has not at the time of such meeting paid up all subscriptions due by him to the said institute. C.O.Y.T. c. 62, s. 7.

Meeting of officers.
How called.

8. A meeting of the officers shall be called by written notice delivered or mailed to each officer given by authority of the president or in his absence the vice-president, or at the request of any three officers at least five days before the day appointed and at any such meeting four shall be a quorum. C.O.Y.T. c. 62, s. 8.

Annual report.

9. The officers of an institute shall present at the annual meeting a report of their proceedings during the year in which shall be stated:

- (a) The names of the members of the institute;
- (b) The amount paid by each set opposite his name;
- (c) The classes organized;
- (d) A list of books purchased;
- (e) A list of newspapers and periodicals on file; together with,
- (f) Such remarks on the progress of the organization and use to which it has been put as the directors are enabled to offer. C.O.Y.T. c. 62, s. 9.

Financial statement to be audited.

10. There shall also be presented at the annual meeting a detailed statement of the receipts and disbursements of the institute during the year which said statement shall be audited by the auditor in that behalf before being submitted to the said meeting. C.O.Y.T. c. 62, s. 10.

11. The said report and statement if approved by the meeting shall be entered in the journals of the institute kept for such purpose and signed by the president or vice-president as being a correct entry and a true copy thereof certified by the president and secretary for the time being shall be forwarded to the Territorial Secretary within one month from the date of such meeting. C.O.Y.T. c. 62, s. 11.

Certified copy of annual report to be sent to Territorial Secretary.

12. The officers shall give such information as in their power lies that the Territorial Secretary may from time to time require touching the interest and condition of the objects of the organization in their locality. C.O.Y.T. c. 62, s. 12.

Officers to give information.

13. The funds of the institute however derived may be expended for any object not inconsistent with those authorized by this Ordinance; provided that not more than one quarter of the amount received shall be expended for the purpose of a reading room. C.O.Y.T. c. 62, s. 13.

Application of funds.

14. Each institute formed under this Ordinance shall be a corporation with a corporate seal under the name of "The Mechanics and Literary Institute of (inserting the distinguishing name of the institute) and shall have power to acquire, hold, sell, mortgage, lease or otherwise dispose of or encumber real estate and other properties real and personal. C.O.Y.T. c. 62, s. 14.

Institute to be a corporation.

Powers.

SCHEDULE.

FORM A.—Sec. 2.

We, the undersigned, respectively residing in the (city or town,) of _____ in the Yukon Territory agree to form ourselves into an institute under the provisions of *The Mechanics and Literary Institutes Ordinance*, under the name of "The Mechanics and Literary Institute of _____" and we respectively promise to pay to the treasurer of the said institute annually as long as we continue members thereof, the sums set opposite our respective names and to conform ourselves to the by-laws and regulations of the said institute and we hereby state that we purpose carrying on the objects of our organization at the city (or town) of _____

	Name.	Subscription.
1	A. B.	\$
2	C. D.	
3	E. F.	

I, _____ of _____ one of the subscribers to the above declaration hereby certify that the sum of at least one dollar has been paid by each of the above subscribers as his first annual subscription to the proposed mechanics and literary institute of _____; and that I hold on behalf of the said proposed institute the several amounts so paid.

(*Subscriber's Signature.*)

I, the above named _____ do solemnly declare that the facts set forth by me in the foregoing certificate signed by me are true; and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act.*

Declared before me at _____ }
this _____ of _____ } (*Subscriber's signature.*)
19 _____ }

(*Signature of officer receiving declaration.*)

repealed
CHAP. 64.

An Ordinance respecting the Profession of Medicine and Surgery.

1. This Ordinance may be cited as *The Yukon Medical Ordinance*. No. 1, 1912, s. 1. Short title.

2. The Territorial Secretary shall cause to be prepared and kept a book or register to be called "The Yukon Territory Medical Register," in which shall be entered the name of every person registered according to the provisions of this Ordinance and from time to time the names of all persons who have complied with the enactments hereinafter contained respecting the qualifications to be required from practitioners of medicine, surgery or midwifery in the Territory, and those persons only whose names are inscribed in the book or register above mentioned shall be deemed to be qualified and licensed to practise medicine, surgery or midwifery in the said Yukon Territory, and such book or register shall at all proper times be open and subject to inspection. No. 1, 1912, s. 2. Medical Register.

3. Every person who is now duly and legally licensed to practise under any Ordinance heretofore in force in the Yukon Territory shall be entitled to be registered under this Ordinance without payment of any fee whatever. No. 1, 1912, s. 3. Who to be entitled to register.

4. It shall be the duty of the Territorial Secretary to keep the register correct in accordance with the provisions of this Ordinance, and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Ordinance. No. 1, 1912, s. 4. Duty of Territorial Secretary.

5. The following persons shall be entitled to be admitted upon the register: Who to be admitted upon Register.

(a) Any person who at the time of his application shall furnish proof that he has been duly licensed by the proper authority in that behalf to practise medicine and surgery in Great Britain and Ireland or in any Province or Territory of Canada or in any British Colony, provided such person shall furnish to the satisfaction of the Commissioner satisfactory evidence of identification and good standing.

(b) Any person who shall produce from any recognized college or school of medicine or surgery in Great Britain or Ireland, or in any Province or Territory of Canada, or any British Colony a certificate or certificates that he has taken a four years' course of study and has received a diploma of qualification from such recognized college or school; provided also that such

person shall furnish to the satisfaction of the Commissioner satisfactory evidence of identification and good standing.

(c) Any person who shall produce from any recognized college or school of medicine and surgery other than such as are hereinbefore described, a certificate or certificates that he has taken a four years' course of study and has received a diploma of qualifications from such recognized college or school: provided also that such person shall furnish to the Commissioner satisfactory evidence of identification and good standing and pass before such examiners as may be appointed by the Commissioner for that purpose, satisfactory examination touching his fitness and capacity to practise as a physician and surgeon, and provided that every applicant for such examination shall first pay to the Territorial Treasurer the sum of two hundred dollars towards defraying the expenses of such examination. No. 1, 1912, s. 5.

Annual fee.

6. Each practising physician and surgeon shall pay to the Territorial Secretary on or before the thirtieth day of June in each year the sum of twenty dollars, and upon such payment the Territorial Secretary shall give to such practising physician and surgeon a certificate showing such payment.

2. Should any practising physician or surgeon fail to pay the annual fee in this section prescribed such fee shall be recoverable with the costs of suit in an action for the recovery thereof by the Commissioner No. 1, 1912, s. 6.

Names to be
erased for
cause.

7. If any registered medical practitioner shall be convicted of any felony or misdemeanour or shall after inquiry be judged by the Commissioner to have been guilty of any infamous conduct in any professional respect, the said Commissioner may, if he sees fit, suspend such practitioner from practice for such time as to him seems just or may direct the Territorial Secretary to erase the name of such practitioner from the register and the Territorial Secretary shall forthwith erase the name of such practitioner from the register. And the Commissioner shall have full power and authority to inquire into any charge or charges of infamous or disgraceful conduct in respect of any medical practitioner as such. No. 1, 1912, s. 7.

Persons regis-
tered entitled
to practise
etc.

8. Every person registered and duly licensed under the provisions of this Ordinance, shall be entitled to practise medicine and surgery, including midwifery, or any one of them, as the case may be, in the Territory, and to demand and recover in any court in said Territory, with full costs of suit, reasonable charges for professional aid, advice and visits, and the cost of any medicine or surgical appliance rendered or supplied by him to his patients. No. 1, 1912, s. 8.

Limitation
of time for
action.

9. No duly registered physician and surgeon of the Yukon Territory shall be liable to any action for negligence and malpractice, by reason of professional services requested or rendered, unless such action be commenced within one year from the date when in the matter complained of such professional services terminated. No. 1, 1912, s. 9.

10. The Territorial Secretary shall from time to time under direction of the Commissioner cause to be printed and published a correct register of the names, in alphabetical order, according to the surnames, with their respective residences, in the form set forth in the schedule to this Ordinance or to the like effect, together with the medical diplomas, titles and qualifications, conferred by any college or body, of all persons appearing on the register for the time being, a copy of which register properly attested by the Territorial Secretary shall be *prima facie* evidence in all Courts and before all justices of the peace and all others, that the persons therein specified are registered according to provisions of this Ordinance and entitled to practise medicine, surgery or midwifery in the Yukon Territory. Each duly registered physician and surgeon shall be entitled to a copy of such medical register.

Names to be published.

2. In case of any person whose name does not appear in such copy, a certificate under the hand of the Territorial Secretary, of the entry of the name of such person on the register shall be evidence that such person is registered under this Ordinance. No. 1, 1912, s. 10.

11. Any person entitled to be registered under this Ordinance who neglects or omits to be so registered, shall not be entitled to any of the rights or privileges conferred by the registration under the provisions of this Ordinance, so long as such neglect or omission continues, and he shall be liable to all the penalties imposed by this Ordinance in force against unqualified or unregistered practitioners. No. 1, 1912, s. 11.

Omission to register.

12. It shall not be lawful for any person not registered to practise medicine or surgery or midwifery for hire or hope of reward; and if any person, not registered pursuant to this Ordinance, for hire, gain or hope of reward, practises or professes to practise medicine, surgery or midwifery, he shall, upon summary conviction thereof before any justice of the peace, for any and every such offence, be liable to a penalty not exceeding one hundred dollars. No. 1, 1912, s. 12.

No person to practise medicine unless registered.

13. Any person who, wilfully or falsely, pretends to be a physician, doctor of medicine, surgeon or general practitioner, or assumes any title, addition or description other than he possesses actually and is legally entitled to under this Ordinance, shall be liable, on conviction thereof, before a justice of the peace, to a penalty not exceeding one hundred dollars. No. 1, 1912, s. 13.

Penalty for pretending to be physician or doctor.

14. Any person not registered pursuant to this Ordinance who takes or uses any name, title, addition or description implying or calculating to lead people to infer that he is registered under this Ordinance or that he is recognized by law as a physician, surgeon or licentiate in medicine, surgery or midwifery, shall be liable upon summary conviction thereof

Penalty for improperly using title of physician etc.

before any justice of the peace to a penalty not exceeding one hundred dollars nor less than twenty-five dollars. No. 1, 1912, s. 14.

Cannot
recover in
civil action
unless
registered.

15. No person shall be entitled to recover any charge in any court of law for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he may have prescribed, unless he is registered under this Ordinance, except in cases falling within the proviso to section 18 of this Ordinance. No. 1, 1912, s. 15.

Medical
Health
Officer must
be registered.

16. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the Yukon Territory, or in any hospital or other charitable institution, unless he is registered under the provisions of this Ordinance. No. 1, 1912, s. 16.

Certificates
invalid unless
signed by
registered
physician.

17. No certificate required by any Ordinance in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, shall be valid unless the person signing the same is registered under this Ordinance. No. 1, 1912, s. 17.

Prosecutions
may be before
one justice
of the peace.

18. Any prosecutions under this Ordinance may be brought or heard before any one or more of His Majesty's justices of the peace, and such justice or justices may award payment of costs in addition to the penalty; and in case the penalty and costs awarded by him, or them, are not upon conviction forthwith paid, may commit the offender to the common jail, there to be imprisoned for any term not exceeding one month, with or without hard labour, unless the penalty and costs are sooner paid. Provided that if it shall appear on any prosecution under this Ordinance that by reason of unforeseen and sudden sickness or accident any person has needed medical or surgical treatment and that no medical practitioner qualified under this Ordinance then resided within ten miles of the place where such person needed treatment the judge or other presiding magistrate may dismiss any complaint against any person who under such circumstance rendered medical or surgical assistance and may order the costs to be paid by the complainant. No. 1, 1912, s. 18.

Penalty.

Exception
where no
medical
practitioner.

Burden of
proof.

19. In any prosecution under this Ordinance the burden of proof as to registration shall be upon the person charged. No. 1, 1912, s. 19.

Proof of
registration,
production
of certificate
signed by
proper
officer.

20. In all cases where proof of registration under this Ordinance referred to is made, the production of a printed or other copy of the register certified under the hand of the Territorial Secretary for the time being shall be sufficient evidence of all persons, in lieu of the production of the original register, and any certificate on such printed or other copy of the register signed by any person in his capacity of Territorial Secretary under this Ordinance shall be *prima facie* evidence that such

person is such registrar, without any proof of his signature or of his being, in fact, such registrar. No. 1, 1912, s. 20.

21. Every prosecution under this Ordinance shall be commenced within six months from the date of the alleged offence. No. 1, 1912, s. 21. Prosecution within six months.

22. Any person may be prosecutor or complainant under this Ordinance. No. 1, 1912, s. 22. Any person may prosecute.

23. All fines and penalties imposed under any of the provisions of this Ordinance, and all moneys to be received and levied thereunder, shall, after the receipt thereof by the person authorized to receive the same, be forthwith paid by such person to the Territorial Treasurer and shall form part of the consolidated fund of the Yukon Territory. No. 1, 1912, s. 23. Fines and penalties form part of Consolidated Revenue.

24. The words "legally qualified medical practitioner" or other words implying legal recognition of any person as a medical practitioner when used in any Ordinance or law applied to this Territory shall be construed to mean a person registered under this Ordinance. No. 1, 1912, s. 24. Meaning of qualified medical practitioner.

25. The fee for registration under any clause of this Ordinance is fifty dollars. No. 1, 1912, s. 25. Fee for registration, \$50.

26. Homeopathic physicians may be registered under this Ordinance. No. 1, 1912, s. 26. Homeopathic may register.

27. A majority of the practising physicians and surgeons at a meeting called for that purpose may make a tariff of fees for professional services to be rendered by them and such tariff when so made shall be submitted to the Commissioner for approval, and such tariff so approved shall be forthwith filed with the Territorial Secretary. Tariff of fees. How prepared.

2. Such tariff of fees when so approved and filed shall contain the maximum fee which any physician or surgeon may recover for professional services rendered by him.

3. Every physician and surgeon shall be entitled to a copy of such tariff certified under the hand of the Territorial Secretary on payment of a fee of one dollar, and every copy of such tariff so certified shall be *prima facie* evidence in any court or before any justice of the peace of the fees to be recovered by physicians and surgeons for professional services under the provisions of this Ordinance in the Yukon Territory. No. 1, 1912, s. 27.

28. Provided that nothing in this Ordinance shall be construed to prevent any person from rendering surgical and medical aid in case of accident, or where such medical and surgical aid is immediately required, if at such time no physician or surgeon registered under this Ordinance is present or can at once be obtained. No. 1, 1912, s. 28. Exception in case of emergency.

repealed

CHAP. 65.

An Ordinance for the Protection of Miners.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Miners Protection Ordinance*. C.O.Y.T. c. 13, s. 1.

APPLICATION.

Application. **2.** This Ordinance shall apply to every mine of whatever description within the Yukon Territory. C.O.Y.T. c. 13, s. 2.

INTERPRETATION.

Interpretation. **3.** In this Ordinance and in any special rules made under the provisions of this Ordinance unless the context otherwise requires:—

"Mine." 1. "Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any such mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways, railways and sidings both below and above ground, in and adjacent to a mine, and any such shaft, level, and inclined plane of and belonging to the mine;

"Shaft." 2. "Shaft" includes pit and slope;
 "Inclined plane." 3. "Inclined plane" includes slope;
 "Plan." 4. "Plan" includes a map and section or sections, and a correct copy or tracing of any original plan as so defined;

"Owner." 5. "Owner," in relation to any mine means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty or rent from a mine, or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine, but any contractor for the working of any mine or any part thereof shall be subject to this Ordinance in like manner as if he was an owner, but so as not to exempt the owner from any liability;

"Agent." 6. "Agent" in relation to any mine means any person having on behalf of the owner, care or direction of any mine or any part thereof. C.O.Y.T. c. 13, s. 3.

OFFICERS.

Commission may appoint inspector. **4.** The Commissioner may from time to time appoint suitable, competent, practical persons to act as inspectors under this Ordinance and may define the limits of the district within which each such inspector may perform his duties and exercise his powers. C.O.Y.T. c. 13, s. 4.

DUTIES OF INSPECTOR.

5. It shall be the duty of every inspector:—

1. To visit and inspect from time to time every mine within the district for which he is inspector. Duties of inspector.

2. To ascertain that the provisions of this Ordinance and of any special rules made thereunder are complied with and that the mines are worked with due regard to the safety and protection of the persons employed therein.

3. To investigate every case where

(a.) Loss of life or any personal injury to any person employed in or about any mine in such district occurs by reason of any explosion of gas, powder or other explosive or of any steam boiler, or,

(b.) Loss of life or any serious personal injury to any person employed in or about any such mine occurs by reason of any accident whatever.

4. To report to the Commissioner all information in regard to any such case and to notify the Public Administrator of every case of loss of life with all particulars in regard thereto. C. O.Y.T. c. 13, s. 5.

INSPECTION.

6. The inspector shall have power to do all or any of the following things, namely— Power of inspector.

1. To make such examination and inquiry as is necessary to ascertain whether the provisions of this Ordinance relating to matters above ground or below ground are complied with in the case of any mine;

2. To enter, inspect and examine any mine and every part thereof at all reasonable times by day and night but so as not to impede or obstruct the working of the mine;

3. To examine into and make inquiry respecting the state and condition of any mine or any part thereof, and the ventilation of the mine, and the sufficiency of any special rules for the time being in force in the mine and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto;

4. To exercise such powers as are necessary for carrying this Ordinance into effect.

2. Every person who wilfully obstructs the inspector in the execution of his duty under this Ordinance, and every owner, agent and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making an entry, inspection, examination or inquiry under this Ordinance in relation to such mine, shall be guilty of an offence against this Ordinance. C.O.Y.T. c. 13, s. 6.

7. If in any respect (which is not provided against by any express provision of this Ordinance, or by any special rule) the inspector finds any mine, or any part thereof, or any matter, thing or practice in or connected with any mine, to be dangerous Proceeding if inspector finds mine to be dangerous.

or defective, so as in his opinion to threaten or tend to the bodily injury of any person, the inspector may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in such notice the particulars in which he considers such mine or any part thereof, or any matter, thing or practice, to be dangerous or defective, and require the same to be remedied; and unless the same is forthwith remedied the inspector shall report the same to the Commissioner.

2. If the owner, agent or manager fails to comply with the requisition of the notice within ten days from the date of such notice he shall be guilty of an offence against this Ordinance.

3. The Commissioner, if satisfied that the owner, agent or manager has taken active measures for complying with the notice but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before him for punishing the offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

4. No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture for doing such acts. C.O.Y.T. c. 13, s. 7.

Commis-
sioner may
authorize
inspector to
hold
investigation
of accidents.

5. Where it appears to the Commissioner that a formal investigation of any accident in any mine or of any matter connected with the working of any mine is expedient, the Commissioner may direct the inspector to hold such investigation, and with respect to any such investigation the following provisions shall have effect:

1. The inspector shall make such investigation in such manner and under such conditions as he thinks most effectual for the making of a full investigation.

2. The inspector for the purposes of the investigation shall have all the powers of a commissioner appointed under Chapter 45 of the Consolidated Ordinances of the Yukon Territory, and all the powers conferred upon the inspector by this Ordinance and as part thereof or in addition thereto the following powers, viz.:—

(a.) Power to enter and inspect any mine, building or place, the entry or inspection of which appears to the inspector expedient;

(b.) Power by summons signed by the inspector to require the attendance of any person and to require of such person such answers or returns to inquiries as the inspector thinks fit;

(c.) Power to require the production of any book, paper or document which the inspector thinks important upon such investigation;

(d.) Power to administer an oath.

3. Any person attending before the inspector in obedience to any such summons shall be allowed the fee paid to a witness attending a trial in the Territorial Court.

4. Any person who without reasonable excuse either fails to comply with any summons requiring him to attend before the inspector upon any such investigation or refuses to produce any

document which he is required by the inspector to produce, or prevents or impedes the inspector when engaged in such investigation, shall for each offence be liable to a penalty not exceeding four hundred dollars or to imprisonment for a term not exceeding thirty days, and in addition thereto, may be proceeded against in the Territorial Court as for contempt of such court.

5. The inspector shall make a report of such investigation which the Commissioner shall cause to be made public at such time and in such manner as he thinks fit.

6. Any expense incurred in and about any such investigation shall be paid out of the general revenue fund. C.O.Y.T. c. 13, s. 8.

CORONERS INQUESTS.

9. With respect to coroners inquests on the bodies of persons whose death may have been caused by explosions or accidents in mines, the following provisions shall have effect: Provisions
as to
coroners
inquests.

1. When a coroner holds an inquest on the body of any person whose death may have been caused by an explosion or accident, of which notice is required by this Ordinance to be given to the Commissioner or inspector, the coroner, whenever practicable, shall immediately notify the inspector for the district of his intention to hold such inquest and in the absence, non-arrival or non-attendance of the inspector, the coroner shall adjourn such inquest whenever practicable to enable the inspector or some other properly qualified person appointed by the Commissioner to be present to watch the proceedings.

2. The coroner at least four days before holding the adjourned inquest shall send to the Commissioner or to the inspector for the district notice in writing of the time and place of holding such adjourned inquest.

3. The coroner before the adjournment may take evidence to identify the body and may order the interment thereof.

4. The inspector or such other person so appointed, and a person appointed by the workmen of the mine at which the explosion or accident occurred shall be at liberty at any such inquest to examine any witnesses, subject nevertheless, to order of the coroner.

5. Where evidence is given at an inquest at which the inspector or such other person so appointed is not present, of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury, to require a remedy, the coroner shall send to the inspector notice in writing of such neglect or defect.

6. Any person having a personal interest in, or employed in, or in the management of the mine in which the explosion or accident occurred, or any relative of the deceased person upon whose body the inquest is to be held shall not be qualified to serve on the jury empanelled on the inquest, or to act as coroner therein, and it shall be the duty of the constable or other officer not to summon any person disqualified under this provi-

sion, and it shall be the duty of the Coroner not to allow any such person to be sworn or to sit on the jury.

7. If, in the opinion of the inspector, it will lead to a more thorough investigation, and will be more conducive to the ends of justice, he may require the constable or other officer to summon as jurymen not more than three working men employed at any other mine than that at which the explosion or accident occurred, who shall form part of the jury sworn in such inquest.

8. Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Ordinance. C.O.Y.T. c. 13, s. 9.

EMPLOYMENT OF BOYS.

Boys not to be employed in mine.

10. No boy of or above the age of twelve years, and under the age of sixteen years shall be employed either about or allowed to be for the purpose of employment in or about any mine below or above ground for more than forty-eight hours in any one week, or for more than eight hours in any one day except in case of accident or emergency.

2. For the purposes of this section a week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

3. No boy of or above the age of twelve years and under the age of sixteen years shall be permitted to work in or about any mine below or above ground unless he is able to read and write and is familiar with the rules of arithmetic as far as, and including division, and furnishes a certificate to that effect from a duly licensed teacher or from the inspector of the district in which he is employed.

4. Every such teacher and every such inspector shall without requiring payment of any fee, upon the application of any boy desiring employment, make the necessary examination of the boy and grant him such certificate, if he is found to be entitled to the same, and any such teacher or inspector refusing to make such examination and grant such certificate shall be liable to a penalty not exceeding twenty dollars. C.O.Y.T. c. 13, s. 10.

PAYMENT OF WAGES.

Wages not to be paid in public houses.

11. No wages shall be paid to any person employed in or about any mine at or within any public house, road house or place for the sale of any spirits, beer, wine or other spirituous or fermented liquors. C.O.Y.T. c. 13, s. 11.

Contra-vention of Ordinance to be an offence.

12. Every person who contravenes or permits any person to contravene the provision of the next preceding section shall be guilty of an offence against this Ordinance, and in the event of any such contravention by any person whomsoever the owner, agent and manager shall each be guilty of an offence against this Ordinance unless he proves that he had taken all reasonable means to prevent such contravention. C.O.Y.T. c. 13, s. 12.

SHAFTS.

13. The owner, agent or manager of a mine shall not employ any person in the mine or permit any person to be in the mine for the purpose of employment therein unless the following conditions respecting shafts or outlets are complied with; that is to say;

Shafts to have proper apparatus for raising and lowering men.

1. Proper apparatus for raising and lowering persons at every shaft or outlet shall be kept on the works belonging to the mine, and such apparatus if not in actual use at the shafts or outlets shall be constantly available for use. All buckets, tubs and other vessels in which goods and materials and other things are lowered into or raised from the mine shall be safely attached to the rope, cable or other means by which the same are lowered or raised so as to obviate all danger to persons beneath the same.

2. Every owner, agent or manager who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Ordinance.

Owner neglecting to provide proper apparatus

3. The Territorial Court or any judge thereof whether any other proceedings have been taken or not, may upon the application of the Crown Prosecutor prohibit by injunction the working of any mine in which any person is employed or is permitted to be for the purpose of employment in contravention of this section or of any other section of this Ordinance, and may award such costs in the matter of the injunction as the Court or judge thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Ordinance.

guilty of offence. Court may by injunction prohibit working of mine not having proper apparatus.

4. Written notice of the intention to apply for such injunction in respect to any mine shall be given to the owner, agent or manager of the mine not less than two days before the application is made.

Written notice of intention to apply for injunction to be served on owner.

5. No person shall be precluded by any agreement from doing such acts as are necessary to comply with the provisions of this Ordinance or be liable under any contract to any penalty or forfeiture for doing such acts as are necessary in order to comply with the provisions of this Ordinance. C.O.Y.T. c. 13, s. 13.

Acts necessary to comply with Ordinance allowed.

14. When in or about any mine whether above or below ground either,

Loss of life or personal injury in mine to be reported to Commissioner.

(a.) Loss of life or any personal injury to any person employed in or about the mine occurs by reason of the explosion of gas, powder or other explosive, or of any steam boiler, or,

(b.) Loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever, the owner, agent or manager of the mine shall within twenty-four hours next after the explosion or accident send notice in writing of the explosion or accident, and of the loss of life or personal injury occasioned thereby to the Commissioner and to the inspector for the district, and shall specify in such notice the character of the explosion or accident, and the number of persons killed or injured, and as soon after as possible, and before the end of each year a return of facts relating to such

accident or explosion in the form given in the schedule to this Ordinance.

Notice of death to be sent to Commissioner and inspector within 24 hours.

2. Where any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing of the death shall be sent to the Commissioner and to the inspector for the district within twenty-four hours after such death comes to the knowledge of the owner, agent or manager.

Failure to send notice an offence.

3. Every owner, agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Ordinance. C.O.Y.T. c. 14, s. 14.

15. In any case,—

Notice of change of ownership or opening or closing of mine to be sent to Commissioner.

1. Wherever, any change occurs in the name of the owner, agent or manager of any mine or in the offices of any incorporated company which is the owner of any such mine, or,

2. Where any working is commenced for the purpose of opening any such mine, or,

3. Where any mine is abandoned or the working thereof discontinued, or,

4. Where the working of a mine is re-commenced after an abandonment or discontinuance for a period exceeding two months, the owner, agent or manager of such mine shall give notice thereof to the Commissioner within two months after such commencement, abandonment, discontinuance, re-commencement or change; and if such notice is not given, the owner, agent or manager shall be guilty of an offence against this Ordinance provided that this section shall not apply to placer mines. C.O.Y.T. c. 13, s. 15.

ABANDONED MINES.

Abandoned shafts to be fenced.

16. Where any mine is abandoned or the working thereof discontinued at whatever time such abandonment or discontinuance occurs the owner thereof and every other person interested in the mineral of such mine shall cause the top of the shaft and any side entrance from the surface to be, and to be kept securely fenced for the prevention of accidents.

Provided that,

1. Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine be liable to carry into effect this section and to pay the costs incurred by any other person interested in the minerals of the mine in carrying this section into effect; and,

2. Nothing in this section shall exempt any person from any liability under any other Ordinance, act, law or otherwise,

3. If any person fails to act in conformity with this section he shall be guilty of an offence against this Ordinance. C.O. Y.T., c. 13, s. 16.

GENERAL RULES.

17. The following general rules shall be observed as far as is reasonably practicable in every mine:—

Rule 1.

An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shaft levels and workings of the mine shall be in a fit state for working and passing therein.

Rule 2.

All entrances to any place in a mine not in actual course of working and extension, shall be properly fenced across the whole width of such entrance so as to prevent persons inadvertently entering the same.

Rule 3.

If at any time it is found by the person for the time being in charge of the mine or any part thereof, that by reason of noxious gases prevailing in such mine or such part thereof or of any cause whatever, the mine or the said part is dangerous, every workman shall be withdrawn from the mine or such part thereof as is so found dangerous, and no workman shall, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof or for exploration be re-admitted into the mine or such part thereof as is so found dangerous until the same is made safe.

Rule 4.

The following provisions shall relate to the use of any explosive in a mine:

- (a) It shall not be stored in a mine;
- (b) It shall not be taken into a mine except in a secure case or canister containing not more than six pounds;
- (c) A workman shall not have or use at any one time in any one place more than one of such cases or canisters.

Rule 5.

Every underground plane on which persons travel where the produce of the mine is carried by cars which are self-acting or worked by an engine, windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane and shall be provided in every case at intervals of not more than twenty yards with sufficient man-holes for places of refuge, and every back or counter balance used for raising or lowering minerals, if exceeding thirty

yards in length unless exempted in writing by the inspector, shall be provided with some proper means of communicating distinct signals between the lower end and between the entrance of every working place thereon for the time being in work and the upper end thereof.

Rule 6.

Manholes.

Every road on which persons travel underground, where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof and where the load is drawn by a horse or other animal, shall be provided, where there is not standing room of at least two feet, at intervals of not more than twenty-five yards, with sufficient manholes or with places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the wagons running on the tram road and the side of such road;

a. Where the load is drawn by machinery or other mechanical appliances and there is not standing room of at least two feet, there shall be provided at intervals of not more than fifteen yards, sufficient manholes or places of refuge, and every such place of refuge shall be of sufficient length and of at least three feet in width between the wagons running on the tram road and the side of such road;

b. Whenever in the opinion of the inspector the precautions required by this rule with respect to roads over which the produce of the mine is drawn by machinery or other mechanical appliances are not sufficient for the safety of the men travelling thereon, he may require the owner, agent or manager of such mine to provide a separate travelling road.

Rule 7.

Manholes to be kept clear.

Every manhole and every place of refuge shall be kept clear, and no person shall place anything in a manhole or place of refuge so as to prevent access thereto.

Rule 8.

Air shafts to be fenced.

The top of every shaft which for the time being is out of use or used only as an air shaft shall be kept securely fenced.

Rule 9.

Where natural strata not safe shafts to be cased.

Where the natural strata are not safe every working or pumping shaft shall be securely cased, lined or otherwise made secure.

Rule 10.

Roof and sides of travelling road and working places to be made safe.

The roof and sides of every travelling road and working place shall be made secure and a person shall not unless appointed for the purpose of exploring or repairing travel or work in any such travelling road or working place unless the same is so made secure.

Rule 11.

Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall if exceeding fifty yards in depth and not exempted in writing by the inspector, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use, between the surface and the bottom of the shaft to the surface and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

Working shafts more than 50 yards deep to be provided with guards and signals.

Rule 12.

A sufficient cover over head shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass or where persons are employed at work in the shaft or where a written exemption is given by the inspector.

Cages to have cover.

Rule 13.

Single linked chain shall not be used for lowering or raising persons in any working shaft or place except for the short coupling chain attached to the cage or load.

Single linked chains not to be used for cages.

Rule 14.

There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also if the drum is conical such other appliances as are sufficient to prevent the rope from slipping.

Drums to have flanges.

Rule 15.

There shall be attached to every machine worked by steam, water or mechanical power and used for lowering or raising persons an adequate brake and also a proper indicator, in addition to any mark on the rope, showing to the person who works the machine the position of the cage or load in the shaft.

Machines to have brakes.

Rule 16.

Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.

Fly-wheels to be fenced.

Rule 17.

Every steam boiler shall be provided with a proper steam gauge and water gauge to show, respectively, the pressure of steam and the height of water in the boiler and with a proper safety valve.

Steam boiler to have proper gauge.

Rule 18.

Ladders not to be vertical.

A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or over-hanging position, but shall be inclined at the most convenient angle which the space in which the ladder is fixed allows; and every such ladder shall have substantial platforms at intervals of not more than twenty yards.

Rule 19.

Accommodation to be provided above ground for changing clothing.

If more than twelve persons are ordinarily employed in the mine below ground sufficient accommodation shall be provided above ground near the principal entrance of the mine and not in the engine room or boiler room for enabling the persons employed in the mine to conveniently and with comfort dry and change their clothing.

Rule 20.

No person to damage or remove appliances for safety of mine.

No person shall wilfully damage or without proper authority remove or render useless any fence, fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve or other appliance or thing provided for any mine in compliance with this Ordinance.

Rule 21.

Directions for working to be observed.

Every person shall observe such directions as are given with respect to working as are given to him with a view to comply with this Ordinance or any special rules in force under this Ordinance in the mine.

Rule 22.

Machinery and appliances to be examined every 24 hours.

A competent person or persons who shall be appointed for the purpose shall once at least in every twenty-four hours examine the state of the external parts of the machinery, and the state of the head gear, working places, levels, planes, ropes, chains and other works of the mine which are in actual use and once at least in every week shall examine the state of the shafts by which persons ascend or descend and the guides or conductors therein.

Rule 23.

Miners may appoint two persons to inspect.

Persons employed in a mine may from time to time appoint two of their number to inspect the mine at their own cost and the persons so appointed shall be allowed once at least in every month accompanied, if the owner, agent or manager thinks fit, by himself or one or more of the officers of the mine to inspect the shafts, levels, planes, working places, return air-ways, ventila-

ting apparatus, old workings and machinery, and shall be afforded by the owner, agent and manager and all persons in the mine every facility for the purposes of inspection, and shall make a true report of the result of such inspection and such report shall be recorded in the book to be kept at the mine for the purpose and shall be signed by the persons who make the same.

Rule 24.

The majority of the workmen at any mine may appoint a person to examine the seat of any accident resulting in the death or injury of any person.

Miners may appoint person to examine seat of accident.

a. Every person who does not comply with or contravenes any of the general rules of this section shall be guilty of an offence against this Ordinance, and in the event of any non-compliance with or contravention of any of such general rules in the case of any mine by any person whomsoever being proved, the owner, agent and manager shall each be guilty of an offence against this Ordinance unless he proves that he had taken all reasonable means to prevent such non-compliance or contravention by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine.

b. The Commissioner may from time to time make such additional rules as in his opinion appears necessary to better secure the safety of persons engaged in or about any mine, and non-compliance with or contravention of any rule so made shall be deemed non-compliance with or contravention of a general rule under this section.

Provided that Rules 6, 13, 15, 16, 18, 22 and 23 shall not apply to placer mines. C.O.Y.T. c. 13, s. 17:

Certain rules not to apply to placer mines.

NOTICES.

18. All notices required by this Ordinance shall be in writing or print or partly in writing and partly in print; and all notices and documents required by this Ordinance to be served or sent by or to the Commissioner or inspector may be either delivered personally or served and sent by post by prepaid registered letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient proof that the letter containing the notice was properly addressed and put in the post. C.O.Y.T. c. 13, s. 18.

Notices.

PENALTIES.

19. Every person employed in or about a mine other than an owner, agent or manager who is guilty of any act of omission which in the case of an owner, agent or manager would be an offence against this Ordinance shall be guilty of an offence against this Ordinance.

Penalties.

2. Every owner, agent or manager who is guilty of an offence against this Ordinance shall be liable to a penalty not exceeding two hundred dollars.

3. If such an offence is committed or continued after notice thereof, given by the inspector, a further penalty of twenty-five dollars for each violation or for each day that such violation continues after such notice shall be imposed.

4. Every person other than an agent, owner or manager who is guilty of an offence against this Ordinance shall be liable to a penalty not exceeding fifty dollars.

5. No prosecution shall be instituted against any owner, agent or manager for an offence against this Ordinance except—

(a) by the inspector, or

(b) with the consent in writing of the Commissioner, or,

(c) by some person appointed by the Commissioner, or,

(d) by some person employed in or about the mine in respect to which the offence was committed appointed in writing to institute such prosecution by not less than ten persons so employed.

6. If it appears that a boy was employed on the representation of the parent or guardian that he was of the age at which his employment would not be a contravention of this Ordinance, and under the belief in good faith that he was of such age, the owner, agent or manager of the mine shall notwithstanding that the boy was not of such age, be exempt from any penalty in respect to such employment, and the parent or guardian shall for the misrepresentation be deemed guilty of an offence against this Ordinance.

7. In any prosecution or other procedure against any owner, agent or manager for an offence against this Ordinance such owner, agent or manager shall be discharged if he proves to the satisfaction of the tribunal before which the same is tried that he took all reasonable means to prevent the commission of such offence.

8. Any complaint or suit made or brought in pursuance of this Ordinance shall be made or brought within six months from the time when the matter of such complaint or suit came to the knowledge of the prosecutor.

9. Where a penalty is imposed under this Ordinance for neglecting to send a notice of any explosion or accident or for any offence against this Ordinance which has occasioned loss of life or personal injury, the Commissioner may, if he thinks fit, direct such penalty to be paid to or distributed among the persons injured and the relatives of any person whose death has been occasioned by such explosion, accident or offence, or among some of them.

Provided that such persons did not in his opinion occasion or contribute to occasion the explosion or accident and did not commit and were not parties to the commission of the offence.

10 Except as in this Ordinance otherwise provided, all penalties imposed in pursuance of this Ordinance shall be paid on receipt of the same into the general revenue fund. C.O.Y.T. c. 13, s. 19.

SCHEDULE.

(Section 14.)

Form of Notice of Explosion or Accident.

Name of mine

Date

To the Commissioner of the Yukon Territory and to the Inspector of the District

SIRS:—

In pursuance of the Miners Protection Ordinance I beg to give you notice that an explosion (or accident) has occurred at this mine, of which the following are the particulars

Place where accident occurred

Date of the accident

Character of the accident

If from explosion, whether of gas, explosive or steam boiler

Number, ages and names of persons killed

Number and names of persons injured seriously

Number and names of persons injured slightly

Number and relation of persons dependent on persons killed

I am, sirs,

Your obedient servant,

(Signature.)

repealed
CHAP. 66.

An Ordinance to Regulate the Speed and Operation
of Motor Vehicles on Highways.

- 1.** This Ordinance may be cited as *The Motor Vehicle Ordinance*. No. 14, 1914, s. 1.
- 2.** In this Ordinance, unless the context otherwise requires, the terms or expressions—
- “Motor Vehicle.” “Motor vehicle” means and includes automobiles, and all other vehicles propelled by any power other than muscular power, excepting traction engines and such motor vehicles as run only upon rails or tracks;
- “Highway” or “Public Highway.” “Highway” or “public highway” means and includes any public highway or road, street, lane, alley, park, parkway, driving or public place within or outside of any city, town or village. No. 14, 1914, s. 2.
- 3.** Every person owning a motor vehicle shall, for every such vehicle owned by him, file in the office of the Territorial Secretary a statement containing his name and address, with a brief description of the vehicle so owned by him, including the name of the maker, factory number, style of vehicle and motor power, on a blank to be provided by said Territorial Secretary for the purpose. No. 14, 1914, s. 3.
- 4.** The fee to be paid upon the filing of such statement shall be as follows: \$3 in the case of motorcycles, and \$10 in the case of all other motor vehicles, and, upon the filing of such statement as aforesaid and payment of the proper fee, the said Territorial Secretary shall register such motor vehicle in a book or index to be kept for that purpose and assign to it a distinctive number.
- 2.** The provisions of this Ordinance, as to registration and display of permanent numbers, shall not apply to *bona-fide* dealers in, or agents for, automobiles, in respect to new cars in stock, or used as demonstrators by such dealers or agents: Provided, however, that every such dealer or agent shall pay to the Territorial Secretary the registration fee as provided for in Section 4 of this Ordinance, and secure a number plate, which number plate shall be temporarily attached to the dash board or wind shield of such new car or demonstrator when the same is in operation on any street or highway in such manner that said number plate can be easily seen. No. 14, 1914, s. 4.
- 5.** The Territorial Secretary shall forthwith issue and deliver to the owner of such motor vehicle a certificate of registration.

2. The Territorial Secretary shall issue and deliver to the owner of such motor vehicle at the time of the issue of the registration certificate as aforesaid two number plates having thereon the registration number of such motor vehicle, the abbreviated name of the Territory and the year of issue.

Number plates.

3. The Territorial Secretary may charge a fee of \$1 for each set of number plates issued pursuant to the provisions of this Ordinance. No. 14, 1914, s. 5.

Fee for number plates.

6. The certificate of registration referred to in the next preceding section shall contain the name of the owner of the vehicle registered, his address, the name of the maker of the said vehicle, the factory number, style and motive power. No. 14, 1914, s. 6.

What certificate shall contain.

7. Every certificate of registration, and all renewals thereof, shall have force and effect up to the fifteenth day of July next after the same shall have been issued, unless sooner revoked. No. 14, 1914, s. 7.

Time of expiring of certificate.

8. Every certificate of registration may be renewed from year to year, from the fifteenth day of July in any year upon application to the Territorial Secretary and the payment of the fee required by this Ordinance. No. 14, 1914, s. 8.

Renewal of certificate.

9. Upon the sale or transfer of ownership of any motor vehicle, registered pursuant to the provisions of this Ordinance, it shall be the duty of the person in whose name such motor vehicle is registered to immediately notify the Territorial Secretary of the name and address of the new owner, and to return the registration certificate and number plates for the motor vehicle so sold or transferred, and such certificate shall be cancelled by the Territorial Secretary, and the number plates may be re-issued by him to the new owner, together with the new certificate of registration, which shall remain in force until the fifteenth day of July following, and a fee of \$2 shall be chargeable in respect of the issue of such new certificate. No. 14, 1914, s. 9.

Owner to give notice of transfer and new number plate to issue.

10. Every motor vehicle shall have firmly attached to and exposed on the front and the back thereof one of the number plates assigned and issued by the Territorial Secretary. The number on the front shall be in such position as to render it distinctly visible. The number on the back shall be placed on the motor vehicle, and in such a position as to be distinctly visible, so that the lower edge thereof shall not be lower than the axle, provided that motor cycles, in lieu of displaying the number plates hereinbefore required, shall have attached to the rear mud guard of such motor cycles the registration number thereof in figures of not less than three inches in height and not less than three-eighths of an inch in width; there shall be at all times a marked contrast between the colour of the number plates and that of the numerals or letters thereon.

Number plates to be attached to motor.

No other number plate to be exposed.

2. No number plate other than that issued by the Territorial Secretary shall be exposed on any part of a motor vehicle. No. 14, 1914, s. 10.

Lights to be carried.

11. Every motor vehicle shall at all times after dusk and before dawn carry at least two lighted lamps, one on each side, showing white lights visible at least two hundred feet in the direction towards which such motor vehicle is proceeding, or is headed if not in motion, and upon each of such lights shall be displayed in such manner as to be plainly visible when such lamps are lighted the license number of said motor vehicle, such figures to be of Arabic numerals, not less than one inch in height, and there shall also be attached to the rear end of said motor vehicle a lighted lamp which shall have in addition to a red lens at least one white lens so arranged as to cast a white light upon the license number of the motor vehicle and make the same plainly visible. Provided, that motor cycles shall be required to display only one white light in the direction in which they are proceeding. No. 14, 1914, s. 11.

Motor to be equipped with brake, bell, horn, etc.

12. Every motor vehicle shall be equipped with adequate brakes sufficient to control such motor vehicle at all times, and also with suitable bell, gong, horn or other device and which shall be capable of being heard at a distance of not less than two hundred yards and which shall be sounded whenever it shall be reasonably necessary to notify pedestrians or others of the approach of any such vehicle and especially when approaching all curves or crossings. No. 14, 1914, s. 12.

Operator of motor must comply with law.

13. No person shall operate a motor vehicle upon a public highway unless such person shall have complied in all respects with the requirements of this Ordinance. No. 14, 1914, s. 13.

Fees to be paid to Treasurer.

14. All fees paid to the Territorial Secretary as provided in this Ordinance shall be paid by him to the Territorial Treasurer and form part of the general revenue fund of the Territory. No. 14, 1914, s. 14.

Speed limit on highway.

15. No person shall operate a motor vehicle upon a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway; or so as to endanger or be likely to endanger the life or limb of any person or the safety of any property. No. 14, 1914, s. 15.

Speed limit in city or town.

16. No person shall operate a motor vehicle upon any public highway or street within any city, town or village at a greater speed than one mile in four minutes, nor a greater speed than one mile in six minutes in turning a corner of an intersecting public highway or street in any city, town or village.

Prima facie evidence as to rate of speed.

2. If the rate of speed of any motor vehicle shall in any case exceed the limit herein defined, it shall be *prima facie* evidence that the person operating such motor vehicle is running the same at a rate of speed greater than is reasonable and proper

having regard to the traffic and use of the street or highway, or so as to endanger the life or limb of any person or the safety of any property. No. 14, 1914, s. 16.

17. No male person under sixteen years of age, and no female person under eighteen years of age shall drive or operate a motor vehicle upon any public street, highway; road, park, parkway or driveway; No male under 16 and female no under 18 to drive motor.

2. No intoxicated person shall drive or operate a motor vehicle in any place. No. 14, 1914, s. 17. Intoxicated person not to drive motor.

18. No person shall drive a motor vehicle upon any public highway in a race or on a bet or wager. No. 14, 1914, s. 18. No motor to be driven in race or on wager.

19. Outside the limits of cities, towns and villages any person operating a motor vehicle, upon approaching a portion of any highway where it is impossible or dangerous for such motor vehicle and a horse, or horses, being driven in an opposite direction, to pass each other, shall, before entering upon or along such portion of the highway, stop said motor vehicle, and if said horse or horses being driven as aforesaid, is or are on such portion, or is or are about to enter thereon, to cause the said motor vehicle to remain stationary and to allow the said horse or horses to pass first along said road and past the said motor vehicle, before such motor vehicle proceeds. No. 14, 1914, s. 19. At dangerous places on highway motors to remain stationary to allow horses to pass.

20. Outside the limits of cities, towns and villages, upon approaching a person walking in the roadway of a public highway or a horse or horses, or other draught animal being ridden or led or driven thereon, a person operating a motor vehicle shall not less than two hundred yards from such person, horse or animal slow down to a speed not exceeding one mile in six minutes, and take reasonable precaution to insure the safety of such person, horse or animal and, in the case of horses or other draught animals, to prevent frightening same. No. 14, 1914, s. 20. Motor to slow down when approaching person or horses on highway.

21. A person operating a motor vehicle shall, at the request of or on signal by putting up the hand from a person apprehensive of danger, riding, leading or driving a horse or horses or other animal in the same direction, guide such motor vehicle to the left of the travelled portion of the highway and bring such motor vehicle immediately to a stop and cause the motor of such vehicle to cease running so long as shall be necessary to prevent accident and insure the safety of others, and shall afterwards use reasonable caution in passing such horse or horses or other animal, and if travelling in the opposite direction, shall remain stationary so long as may be reasonable to allow such horse or animal to pass, and it shall be the duty of any male driver of any motor vehicle and other male occupants thereof, over the age of fifteen years, while approaching or passing any horse or horses or other draught animal which appear badly frightened, or upon the request of the person in charge of and Upon request or signal when danger apprehended motor to be stopped and assistance to be given.

driving such horse or other animal, to give such personal assistance as shall be reasonable to insure the safety of all persons concerned and to prevent accidents.

Not to blow horn or make noise when motor stopped.

2. During the time any motor vehicle is stopped or slowed up, pursuant to the provisions of this section, the person operating such motor vehicle, and the occupants thereof, shall refrain from making any noise by means of any gong, bell, horn, whistle or otherwise. No. 14, 1914, s. 21.

Highways Ordinance to apply.

22. The Highways Ordinance shall *mutatis mutandis* apply to motor vehicles. No. 14, 1914, s. 22.

Vehicles overtaken by others wishing to pass to turn to right.

23. If a vehicle drawn by a horse or horses or other draught animal or a motor vehicle be overtaken by any motor vehicle, and the person in charge of such motor vehicle expresses a desire to pass, it shall be the duty of the driver of any such vehicle so overtaken as aforesaid as soon as practicable to turn to the right of the centre of the travelled portion of the highway and give the person so making the request an opportunity to pass, but should such point of passing be at a place on the road where the same is built along a bluff, embankment or hillside with a wall or steep ascent on the inside of said road and a drop or steep declivity on the outside of said road and the vehicle which it is desired to pass is one drawn by one or more horses, such latter vehicle shall turn to the inside of said road, toward such embankment or hillside, and the motor vehicle shall pass such vehicle on the outside of said road, and in passing the person in charge of such motor vehicle and the other male occupants thereof over the age of fifteen years shall give such assistance as they are able to the occupant or occupants of the vehicle, if assistance be asked, and in thus passing the driver of the motor vehicle shall use all care to avoid accidents. No. 14, 1914, s. 23.

Assistance to be given.

In case of accident name and address to be furnished.

24. If an accident occurs to any person, whether on foot or horseback or in a vehicle, or to any horse or vehicle in charge of any person, owing to the presence of any motor vehicle on any public highway, the person in charge of such motor vehicle shall return to the scene of the accident and give to any person sustaining loss or injury his name and address, and also the name and address of the owner of such motor vehicle, and the registration number of said motor vehicle. No. 14, 1914, s. 24.

Certificate may be cancelled for misconduct.

25. The Territorial Secretary may at any time suspend or revoke any registration certificate on account of any misconduct or infraction of the provisions of this Ordinance by any owner or driver of a motor vehicle to whom such certificate has been issued, but no such suspension or revocation shall be made until the person guilty of such misconduct or infraction has been convicted for the same under the provisions of this Ordinance. No. 14, 1914, s. 25.

Onus of proof in case of damage.

26. When any loss or damage is incurred or sustained by any person by a motor vehicle, the onus of proof that such loss or damage did not arise through the negligence or improper conduct

of the owner or driver of the motor vehicle shall be upon the owner or driver of the motor vehicle. No. 14, 1914, s. 26.

27. Nothing in this Ordinance shall be construed to curtail or abridge the right of any person to prosecute an action for damages by reason of injury to person or property resulting from the negligence of the owner or operator, or his agent, employee or servant, of any motor vehicle or resulting from the negligent use of the highway by them or any of them. No. 14, 1914, s. 27.

Right of action for damages not curtailed.

28. The owner of a motor vehicle for which a certificate of registration has been issued under the provisions of this Ordinance shall be liable for violation of any of the provisions thereof in connection with the operation of such motor vehicle. No. 14, 1914, s. 28.

Owner of motor liable for violation of Ordinance.

29. Except as hereinafter provided, any person violating any of the provisions of this Ordinance shall on summary conviction before a justice of the peace or police magistrate be liable—

Penalties.

1. For a first offence, to a penalty of not more than \$20 and costs;

2. For a second offence, to a penalty of not less than \$20 nor more than \$50 and costs; and

3. For a third or subsequent offence, to a penalty of not less than \$50 nor more than \$100 and costs, and to imprisonment for a term of not less than one week nor more than one month. No. 14, 1914, s. 29.

30. Any person violating any of the provisions of section 24 of this Ordinance shall, upon summary conviction before a police magistrate or two justices of the peace, be liable, for the first offence, to a fine of \$50 and costs; for the second offence, to a fine of \$100 and costs or to one month's imprisonment or to both; and for the third offence or any subsequent offence, to imprisonment not exceeding six months. No. 14, 1914 s. 30.

Penalty under Section 24.

31. In any prosecution of any person for violation of the provisions of subsection 2 of section 17 of this Ordinance it shall not be necessary, in proving that any person was intoxicated or under the influence of intoxicating liquors, to show the nature of the liquor or that any liquor was actually consumed by such person; but the justice, magistrate or other officer trying the case shall draw conclusions of fact from all the circumstances of the case as shown by the evidence adduced before him. No. 14, 1914, s 31.

In prosecution under subsection 2 of section 17 not necessary to prove that liquor was consumed.

32. Every police magistrate or justice of the peace who shall make a conviction under the preceding section shall certify the same to the Territorial Secretary, setting out the name of the person, the motor vehicle with or with respect to which the

Magistrate to certify conviction to Territorial Secretary.

offence was committed, the nature of the offence, and the time when it was committed, and, if three such convictions are made against the same person within a calendar year, the certificate of registration of the motor vehicle owned or driven by such person at the time when the offence for which such third conviction was made was committed may be cancelled. No. 14, 1914, s. 32.

Cancellation of certificate for third offence.

33. All fines and penalties imposed by this Ordinance shall enure to the benefit of His Majesty in the right of the Territory, and shall from time to time be transmitted by the convicting magistrate or justice of the peace to the Territorial Treasurer and shall form part of the general revenue fund of the Territory. No. 14, 1914, s. 33.

Fines to be paid to Territorial Treasurer.

34. No person not actually residing in the Territory shall operate, or permit to be operated, any motor vehicle not registered under this Ordinance upon any of the highways in the Territory for any greater period than ninety days to be computed from the time such motor vehicle is brought into the Territory. No. 14, 1914, s. 34.

Non-resident not to operate motor longer than 90 days.

35. Upon any person being charged with an offence under any of the provisions of this Ordinance, if the justice of the peace or magistrate trying the case be of opinion that the offence was committed wholly by accident or misadventure and without negligence, and could not by the exercise of reasonable care or precaution have been avoided, such justice of the peace or magistrate may dismiss the complaint. No. 14, 1914, s. 35.

Magistrate of opinion accident without negligence may dismiss.

36. All operators of motor vehicles upon the request or signal of any constable or police officer shall stop and give all information respecting such motor vehicles as may be desired by the said constable or police officer, as the case may be. No. 14, 1914, s. 36.

Operator to stop on signal from police.

37. No motor vehicle shall be operated or driven under any other number than that of its own registration. No. 14, 1914, s. 37.

Motor to use its own registration number.

38. In case of the loss of number plates, a new pair of number plates of another number than that borne by the lost number plates may be obtained from the Territorial Secretary upon satisfactory proof being adduced as to the loss of the said number plates and the payment of a fee of one dollar. No. 14, 1914, s. 38.

If number plate lost, new plate furnished on payment of fee.

39. In the event of any license issued under the provisions of this Ordinance being suspended or cancelled by the Territorial Secretary, as hereinbefore provided, the number plates assigned to the motor vehicle owned or being operated under such number shall be returned to the said Territorial Secretary, and may be re-issued by him to another applicant for registration. No. 14, 1914, s. 39.

When license cancelled number plates to be returned to Territorial Secretary.

40. If any person shall knowingly make or give false or misleading information in any application for registration under the provisions of this Ordinance, and as a result such registration has been made and a certificate issued, the certificate of registration issued to any such person may be immediately cancelled by the Territorial Secretary. No. 14, 1914, s. 40.

Certificate of person giving false information may be cancelled.

41. No person shall tamper with a motor vehicle without the authority of the person in charge or climb upon or in any motor vehicle, whether the same is in motion or at rest or hurl stones or any other missiles at the same, or the occupants thereof; or, while such motor is at rest and unattended, sound the horn or other signalling device, or attempt to manipulate any of the levers, starting crank, brakes or machinery thereof, or set such vehicle in motion or otherwise damage or interfere with the same. No. 14, 1914, s. 41.

Motor not to be interfered with without authority of person in charge.

42. This Ordinance shall not apply to or affect any action or proceeding pending, or any right of action existing at the coming into force of this Ordinance. No. 14, 1914, s. 42.

Ordinance not to apply to existing right of action.

CHAP. 67.

An Ordinance respecting Newspapers.

Interpretation
"Newspaper." **1.** In this Ordinance "newspaper" means: Any paper containing public news intelligence or occurrences, or any remarks or observation thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers, and any paper printed in order to be distributed and made public weekly or oftener, or at intervals not exceeding twenty-six days and containing only, or principally advertisements. C.O.Y.T. c. 56, s. 1.

PARTICULARS TO BE FILED—PENALTY.

Information to be filed with clerk of the Court. **2.** It shall be the duty of the proprietor, or proprietors, of the editor or editors and of the business manager and of each of them, of every newspaper published in the Yukon Territory, to file with the clerk of the Territorial Court of the Yukon Territory within one month from the date of the coming into force of this Ordinance, a declaration under oath or affirmation (in case where by law affirmation is allowed) setting forth the name in full of the proprietor or proprietors, editor or editors, and business manager of such newspaper, his nationality, both by birth and allegiance, the place of publication of such newspaper, and the name or title under which such newspaper is published, and any proprietor, editor or manager neglecting to comply with the provisions of this Ordinance shall, upon summary conviction, before a justice of the peace, be liable to a fine not exceeding five hundred dollars and not less than fifty dollars for each day during which such neglect continues. C.O.Y.T. c. 56, s. 2.

Penalty for neglect.

"Proprietor." **3.** In the next preceding section of this Ordinance, the word "proprietor" includes any and all persons financially interested, directly or indirectly, in any such newspaper. C.O.Y.T. c. 56, s. 3.

Information to be filed before publication of newspaper. **4.** In the case of newspapers to be hereafter established in the Yukon Territory, the declaration mentioned in the second section of this Ordinance shall be filed with the clerk of the Territorial Court before such newspaper is published and on failure to comply with the provisions of this section each and every, the proprietor or proprietors, editor or editors, and business manager of such newspaper shall, upon summary conviction before a justice of the peace, be liable to a fine not exceeding five hundred dollars and not less than fifty dollars and each issue of such newspaper shall be deemed to constitute a fresh offence against the provisions of this Ordinance. C.O.Y.T. c. 56, s. 4.

5. Upon every change in the proprietorship, editorship or management of any newspaper, the declaration mentioned in the second section of this Ordinance shall be filed under a like penalty in case of default, as in the said second section provided. C.O.Y.T. c. 56, s. 5.

On every change of proprietorship declaration to be filed.

FEEES.

6. The clerk of the Territorial Court shall be entitled to receive from the person filing the declaration above-mentioned a fee of \$5, and it shall be the duty of the said clerk to send to the Commissioner a copy of such declaration forthwith after the filing thereof. C.O.Y.T. c. 56, s. 6.

Fec.

CHAP. 68.

An Ordinance respecting Notaries Public.

Barristers to
be Notaries
Public.

Other
persons to
pass
examination
and pay
annual fee
of \$50.

Appoint-
ments.

Powers.

1. All Barristers entitled to practise in the Yukon Territory shall be *ex officio* Notaries Public, and no other person shall act as such unless he receives from the Commissioner a commission to that effect, after such an examination as the Commissioner deems to be sufficient and is enrolled in a register kept for that purpose by the Territorial Secretary, and pays an annual fee of fifty dollars, such sum to form part of the general revenue fund. C.O.Y.T. c. 23, s. 1.

2. The Commissioner may appoint by commission under his hand and the seal of the Territory one or more notaries public for the said Territory, provided that no appointment shall be made of any person or persons who at the time is not actually residing within the said Territory. C.O.Y.T. c. 23, s. 2.

3. Every such notary shall have, use and exercise the power of drawing, passing, keeping and issuing all deeds and contracts, charter parties and other mercantile transactions in the said Territory, and also of attesting all commercial instruments that are brought before him for public protestation and otherwise of acting as usual in the office of notary and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the said calling of notary public during pleasure. C.O.Y.T. c. 23, s. 3.

CHAP. 69.

repealed

An Ordinance respecting Partnerships.

REGISTRATION OF COPARTNERSHIPS.

1. All persons associated in partnership for trading, manufacturing or mining purposes in the Territory shall cause to be filed in the office of the registration clerk of the registration district for registration of chattel mortgages and other transfers of personal property in the Territory in which they carry on or intend to carry on business a declaration in writing signed by the several members of such partnership:

Declaration of partnerships to be filed in certain cases.

Provided, however, that if any of the said members be absent from the place where they carry on or intend to carry on business at the time of making such declaration then such declaration shall be signed by the members present, in their own names and also for their absent co-members under their special authority to that effect; such special authority to be at the same time filed with the said registration clerk and annexed to such declaration C.O.Y.T. c. 41, s. 1.

Where parties absent.

2. Such declaration shall be in the form A in the schedule to this Ordinance and shall contain the names, surnames, additions and residences of each and every partner or associate as aforesaid and the name, style or firm under which they carry on or intend to carry on such business and stating also the time during which the partnership has existed and is to exist also declaring that the persons therein named are the only members of such copartnership or association. C.O.Y.T. c. 41, s. 2.

Contents of declaration.

3. Such declaration shall be filed within two months next after formation of any such partnership and a similar declaration shall in like manner be filed when and so often as any change or alteration of partnership takes place in the membership of such partnership or in the name, style or firm under which they intend to carry on business or in the place of residence of any member of said firm and every new declaration shall state the alteration in the partnership. C.O.Y.T. c. 41, s. 3.

Time for filing declaration. Changes in firm.

PERSONS USING TRADE NAME, REGISTRATION.

4. Every person engaged in business for trading, manufacturing or mining purposes and who is not associated in partnership with any other person or persons but who uses as his business style some name or designation other than his own name or who in such business uses his own name with the addition of "and company" or some other word or phrase indicating a plurality of members in the firm shall cause to be filed as aforesaid a declaration of the fact in writing signed by such person. C.O.Y.T. c. 41, s. 4.

Individual using trade name.

Contents of individual declaration.

5. The declaration last aforesaid shall contain the name, surname, addition and residence of the person making the same and the name, style or firm under which he carries on or intends to carry on business and shall also state that no other person is associated with him in partnership and the same shall be filed within two months of the time when such style is first used. C.O.Y.T. c. 41, s. 5.

REGISTRATION BOOKS.

Registration books.

6. It shall be the duty of the registration clerk aforesaid to keep two alphabetical index books of all declarations of co-partnership filed in his office in pursuance of the provisions hereof. C.O.Y.T. c. 41, s. 6.

"Firm index book."

7. In one of such books, hereinafter called the "firm index book," the registration clerk shall enter in alphabetical order the style of the respective firms in respect of which declarations have been filed in his office, and shall place opposite each entry the names of the person or persons composing such firm, and the date of the receipt by him of the declaration in the manner shown in form B in the schedule to this Ordinance. C.O.Y.T. c. 41, s. 7.

"Individual index book."

8. In the second of such books, hereinafter called the "individual index book," the said registration clerk shall enter in alphabetical order the names of the respective members of each of such firms and shall place opposite such entry the style of the firm of which such person is a member and the date of the receipt of the declaration in the manner shown in form C in the schedule to this Ordinance. C.O.Y.T. c. 41, s. 8.

PENALTY FOR NON-REGISTRATION.

Failure to comply with Ordinance.

9. Each and every member of any partnership or other person required to register a declaration under the provisions of this Ordinance who fails to comply with the requirements aforesaid shall be liable to a penalty not exceeding \$500 on summary conviction before a justice of the peace, and thereafter to a penalty of \$20 for each and every day during which default in compliance with the provisions of this Ordinance continues, on summary conviction thereof before a justice of the peace, such penalties to belong to the general revenue fund. C.O.Y.T. c. 41, s. 9.

Commissioner may appoint officer to prosecute.

10. The Commissioner may from time to time appoint a person, with a salary, to prosecute all persons who fail to comply with the requirements of this Ordinance. C.O.Y.T. c. 41, s. 10.

EFFECT OF DECLARATION.

Binding effect of declaration.

11. The allegations made in the declaration aforesaid cannot be controverted by any person who has signed the same nor can they be controverted as against any party not being a partner by

a person who has not signed the same but who was really a member of the partnership therein mentioned at the time such declaration was made. C.O.Y.T., c. 41, s. 11.

12. Until a new declaration is made and filed by him or by his co-partners or any of them as aforesaid no such signer shall be deemed to have ceased to be a partner; but nothing herein contained shall exempt from liability any person who being a partner fails to declare the same as already provided and such person may notwithstanding such omission be sued jointly with the partners mentioned in the declaration or they may be sued alone and if judgment is recovered against them any other partner or partners may be sued jointly or severally in an action on the original cause of action upon which such judgment was rendered nor shall anything in this Ordinance be construed to affect the rights of any partners with regard to each other except that no such declaration as aforesaid shall be controverted by any signer thereof. C.O.Y.T., c. 41, s. 12.

Liability of persons signing declaration. Failure to declare does not exempt from liability.

Partners rights *inter se*.

DECLARATION OF DISSOLUTION.

13. Upon the dissolution of any partnership any or all of the persons who compose such partnership may sign and file a declaration certifying the dissolution of the partnership in the form D in the schedule to this Ordinance. C.O.Y.T., c. 41, s. 13.

Declaration of dissolution.

REGISTRATION FEES.

14. The said registration clerk shall be entitled for filing a declaration under this Ordinance to a fee of \$2 including the certificate on the duplicate thereof and for searches made in each of such books the following fees and no more:
For searching in the firm index book, each firm.....\$0 50
For searching in the individual index book, each name.... 0 50
C.O.Y.T., c. 41, s. 14.

Fees.

SCHEDULE.

FORM A.

DECLARATION OF CO-PARTNERSHIP.

YUKON TERRITORY, }
 } We,
of in (occupation) and of
 } (occupation) hereby certify:

1. That we have carried on and intend to carry on trade and business as at in partnership under the name and firm of (or I or we) the undersigned of in hereby certify that I (or we)

have carried on and intend to carry on trade and business as _____ at _____ in partnership with _____ of _____ and _____ of _____ (as the case may be).

2. That the said partnership has subsisted since the day of _____ one thousand nine hundred _____

3. And that we (or I or we) and the said _____ and _____ are and have been since the said day the only members of the said partnership.

Witness our hands at _____ this _____ day of _____ 19 _____

FORM B.

FIRM INDEX BOOK.

Style of Firm.	Names of Persons Composing the Firm and their Residences.	Date of filing declaration.
John Smith & Co.....	John Smith, Dawson.... Edward Ives, Dawson...	15 Sept. 1889
James Abott, & Son....	Jas. Abbott, Whitehorse.. George Abbott, Calgary.	10 " 1889
Bernard & Johnson....	Arthur Bernard, Dawson.. Alex. Johnson, Bonanza..	1 Mar., 1899

FORM C.

INDIVIDUAL INDEX BOOK.

Name of Individual and Residence.	Style of firm of which a member.	Date of filing declaration.
Abbott, Jas., Dawson..	Jas. Abbott & Son.....	10 Sept. 1889
Abbott, Geo. Dawson..	James Abbott & Son....	10 Sept. 1889
Bernard A., White Ho'e	Bernard & Johnson.....	1 Mar. 1889
Johnson, Alex., "	Bernard & Johnson....	1 Mar. 1889

FORM D.

DECLARATION OF DISSOLUTION OF PARTNERSHIP.

YUKON TERRITORY, }

I,

formerly a member of the firm of carrying on business
as at in the of
under the style of do hereby certify that the said
partnership was on the day of dissolved.

Witness my hand at the day of
19

A.B.

CHAP. 70.

An Ordinance respecting Pawnbrokers.

SHORT TITLE.

- Short title. **1.** This Ordinance may be cited as *The Pawn Brokers Ordinance*.
- License to pawnbroker. **2.** No person shall exercise the trade of a pawnbroker in the Yukon Territory unless he shall have obtained a license therefor under the hand of the Territorial Secretary, nor unless he has obtained a renewal of the same annually. No. 3, 1913, s. 1.
- Fee on license and renewal. **3.** On receipt of such license and also on receipt of each renewal thereof each pawnbroker shall pay to the Territorial Treasurer the sum of fifty dollars. No. 3, 1913, s. 2.
- Penalty for acting without license. **4.** Every person exercising such trade without having obtained a license, or renewal thereof, as aforesaid, shall forfeit twenty-five dollars for every pledge he takes to be recovered with costs before any police or stipendiary magistrate. No. 3, 1913, s. 3.
- Table of rates to be exhibited in shop. **5.** Every pawnbroker shall exhibit in some conspicuous part of his shop, or place of business, during the whole of each day, a printed or clearly and legibly written table showing in detail the rates of charges authorized by law to be taken by such pawnbroker, and for each default to comply with the provisions of this section shall be liable to a penalty of eight dollars. No. 3, 1913, s. 4.
- Information to be entered in book and duplicate given to pawnbroker. **6.** He shall also keep a book, in which shall be entered at the time of each loan a description of the goods pawned and when the sum lent thereon, the name and residence of the pawner, and at the same time shall deliver to the pawner a duplicate of the entry, which shall be produced to the pawnbroker before he shall be obliged to restore the pawn except as hereinafter provided. The book so kept shall at all reasonable times within business hours be open to the inspection of any justice, and shall be produced by such pawnbroker, if required, under the penalty of ten dollars for each offence. No. 3, 1913, s. 5.
- Inspection of book by Justice.
- Sale of unredeemed goods. **7.** Pawned goods not redeemed within one year may be sold at public auction after ten days notice of the time and place of sale, with a description of them published in a newspaper or posted up in the pawn office and two other public places in the town where the sale is to take place; if any surplus remain after deducting the loan, interest, expense of advertising and selling, it shall be paid to the person entitled thereto, and for every

offence against this section the pawnbroker shall be liable to a penalty of twenty-five dollars. No. 3, 1913, s. 6.

8. Every pawnbroker shall enter in a book an account of the sale of such goods, the time and place thereof, when pledged, the name of the pawner, the name of the auctioneer, the proceeds of sale and the expenses, which book may be inspected by the pawner or his personal representatives at any time; the pawnbroker shall also pay over the net proceeds of sale to the pawner when demanded. For a breach by the pawnbroker of any of the duties imposed upon him by this section he shall be liable to a penalty of twenty-five dollars. No. 3, 1913, s. 7.

Account of sale to be kept in book.

9. Goods pawned may be redeemed at any time within one year from the pawning thereof. If the pawnbroker refuse to return the pledge after tender of principal and interest due thereon, he shall, upon conviction thereof before a Justice, be committed until he re-deliver the pledge or make satisfaction for the value. No. 3, 1913, s. 8.

Within what time goods may be redeemed.

10. The person producing the duplicate entry shall be deemed the owner, and the pawnbroker shall be indemnified if he deliver the goods to the holder of such duplicate, unless the same be lost, mislaid or fraudulently obtained. No. 6, 1913, s. 9.

Holder of duplicate entry to be deemed owner.

11. If the duplicate entry be lost, mislaid, or obtained as aforesaid, and on oath before a Justice or a Commissioner for taking affidavits he shall so certify, the pawner shall then be entitled to redeem the goods upon leaving with the pawnbroker copies of the duplicate entry and the oath. No. 3, 1913, s. 10.

Loss of duplicate entry.

12. No pawnbroker shall take goods in pledge from any person under the age of eighteen years, knowing him to be so, or an intoxicated person, at any time; every pawnbroker whilst carrying on his business in any shop, or store or other place shall place over the outside door thereof a sign, upon which shall be painted or printed in large and legible characters his name, and underneath the words "Loan Office." For every week such sign is not there he shall forfeit ten dollars. No. 3, 1913, s. 11.

Goods not to be pawned by minor or intoxicated person.

Sign.

13. Every person who takes or receives by way of pawn, pledge or exchange any goods for the repayment of money lent thereon, shall be deemed a "pawnbroker" within the meaning of this Chapter. No. 3, 1913, s. 12.

Who to be deemed pawnbroker.

CHAP. 71.

An Ordinance respecting the Procedure and Practice
in connection with the Exercise of the Civil Juris-
diction of Police Magistrates.

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as *The Police Magistrate Courts Ordinance*.

Civil jurisdiction of Police Magistrates. Proceedings, how intitled. **2.** The civil jurisdiction of Police Magistrates in the Yukon Territory shall be exercised as to practice and procedure in the following manner:

(a) All proceedings in the said Court shall be intituled "In the Police Magistrates Court for the District of (name of District)".

Jurisdiction, how exercised. (b) The jurisdiction of such Police Magistrates shall be exercised as to procedure and practice in the same manner as such jurisdiction is exercised by a Judge of the Territorial Court of the Yukon Territory in civil cases to which the jurisdiction of the Police Magistrate extends.

Practice, how regulated. (c) The practice and procedure in civil cases in said Police Magistrate's Court shall, except as to appeals and the title of the said Court, be regulated by, and proceeded with, in the same manner as provided for the practice and procedure in the Territorial Court of the Yukon Territory in all matters to which the civil jurisdiction of such Police Magistrate extends, by the Ordinance respecting the administration of Civil Justice and the Rules of Court and forms in the Schedule thereto shall, with such variations as may be necessary, be the forms for use in such Court.

Proceedings as in Territorial Court. (d) Every such case shall be commenced and proceeded with before judgment and subsequently thereto in the same manner and as if the same was a cause commenced in the Territorial Court save that the same shall be tried and judgment given and decisions and determinations and rules, orders and decrees made in such case by the proper Police Magistrate.

Judgments and orders to have same force as if in Territorial Court. (e) Every judgment, order, decree, decision, determination and pronouncement of a Police Magistrate shall have the same force and effect and may be proceeded under in the same manner as if the same were a judgment, order, decree, decision, determination or pronouncement of the Territorial Court or a Judge thereof. No. 4 of 1914, s. 1.

Clerk of Court. **3.** The clerks, deputy clerks and acting clerks of the Territorial Court of the Yukon Territory shall in each District in which any Police Magistrate has jurisdiction, be and perform the duties of Clerk of the Police Magistrate's Court within such

District and such clerk shall be entitled to keep and retain for his services as such clerk seventy-five per cent of all fees paid into his office under the provisions of this Ordinance. No. 4 of 1914, s. 2.

4. There shall be paid to the clerk of such Court in each District and to the Sheriff or Deputy Sheriff respectively for their services in all actions or suits brought in such Courts where the action is one which if instituted in the Territorial Court should be brought under the provisions of Part III of *The Judicature Ordinance*, the fees prescribed by the tariff of Clerks and Sheriff's fees in the Small Debt Tariff in the Schedule to such Ordinance, and in all other actions and suits the fees prescribed in Scale "A" of the tariff of Clerks' fees and in Scale "B" of the tariff of Sheriff's fees as approved by the Judges of the Territorial Court of the Yukon Territory on the 24th day of December, A.D. 1903. No. 4 of 1914, s. 3.

Fees to Clerk and Sheriff.

5. Duly qualified and enrolled solicitors holding certificates as such and resident in the Territory shall in causes and matters other than such causes and matters which if brought in the Territorial Court of the Yukon Territory would be brought under the provisions of said Part III. of *The Judicature Ordinance*, in which they are employed in such Courts and upon appeals therefrom be entitled to charge and be allowed the fees prescribed in Scale "A" of the Tariff of Solicitor's Fees in the Territorial Court of the Yukon Territory approved by the Judges of said Court on the 24th day of December, 1903. No. 4 of 1914, s. 4.

Tariff of Solicitors fees.

6. All necessary books and forms required for use in the office of the Clerk of each Court and all forms required for use therein may be provided by and shall be the property of the Yukon Government and such entries shall be made therein by the said Clerk as shall be prescribed from time to time by the Commissioner. No. 4 of 1914, s. 5.

Books and forms to be provided.

7. The Clerk of each Court shall further keep a separate book in which he shall enter from day to day all fees and emoluments received by him under and by virtue of this Ordinance, showing therein separately the fees received by him for each service performed hereunder, and such further facts and information as the Commissioner from time to time requires. No. 4 of 1914, s. 6.

Clerk to keep fee book.

8. The Clerk shall on or before the 15th day of March in each year make up a statement in duplicate from such book and return the same to the Territorial Treasurer, verified under oath; such statement shall set forth the total amount of fees which have been received by such Clerk during the twelve months ended on the last day of February next preceding and with such statement the Clerk shall transmit to the Territorial Treasurer such proportion of the fees and moneys received by

Clerk to make return of fees to Treasurer.

him during the next preceding year as he is not entitled to retain to his own use, and such fees and moneys shall form part of the general revenue fund of the Territory. No. 4, of 1914, s. 7.

Commissioner may appoint clerk in certain cases.

9. Should there be no Deputy Clerk of the Territorial Court appointed and acting in any District for which a Police Magistrate has been appointed the Commissioner shall appoint some person as Clerk of the Police Magistrate's Court therein. No. 4 of 1914, s. 8.

Seal to be provided.

10. Each Police Magistrate's Court shall be provided with a seal to be in the form prescribed by the Commissioner and such seal shall be affixed to all processes, subpoenas, writs, orders, judgments and all other proceedings issued by the Clerk of such Court. No. 4 of 1914, s. 9.

Appeal.

11. An appeal shall lie from any judgment or order of the Police Magistrate to a Judge of the Territorial Court and shall be brought by a notice of appeal in a summary way, and no petition, case or other formal proceeding other than such notice of appeal shall be necessary. No. 4 of 1914, s. 10.

No appeal unless sum exceeds \$200 without leave.

12. No such appeal shall lie from any judgment or order of a Police Magistrate without the special leave of such Judge unless the matter in controversy on the appeal exceeds the sum of two hundred dollars exclusive of costs. No. 4 of 1914, s. 11.

Security for costs of appeal.

13. No security for costs shall be required in applications for new trials or appeals or motions in the nature of appeals unless by reason of special circumstances such security is ordered by a Judge or Police Magistrate upon application to be made within fifteen days from the service of the notice of motion, application or appeal. No. 4, of 1914, s. 12.

Motions for new trials, etc., to be by notice.

14. Motions for new trials, appeals and motions in the nature of appeals shall be brought by notice of appeal and any party appealing may by the same notice of appeal and in the alternative ask for a new trial. In motions for new trials, appeals or motions in the nature of appeals the applicant may, by the notice of appeal, appeal from the whole or any part of the verdict, judgment or order and the notice of appeal shall state whether the whole or part only of such verdict, judgment or order is complained of and in the latter case shall specify such part, and such notice of appeal shall state the grounds on which such application is based. No. 4 of 1914, s. 13.

Notice to be filed and served.

15. The notice of appeal shall be filed in the Police Magistrate's Court in the District from which the appeal is taken and served on all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected, but the Judge may direct notice of appeal to be served upon all or any of the parties to the action or other proceeding or upon any person not a party, and in the meantime may postpone or adjourn

the hearing of the appeal upon such terms as are just, and may give such judgment and make such order as might be given or made if the persons served with such notice had been original parties. Any notice of appeal may be amended at any time by leave of the judge on such terms as the Judge thinks fit. No. 4 of 1914, s. 14.

16. The notice of appeal shall be filed and served within twenty days from the date upon which the judgment or order appealed from is signed, entered or pronounced, but the Judge or Police Magistrate may enlarge and extend the time for giving such notice of appeal either before or after the expiration thereof. No. 4 of 1914, s. 15.

Judge or
Police
Magistrate
may extend
time.

17. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from except so far as the Magistrate appealed from or the Judge orders, and no intermediate act or proceeding shall be invalidated except so far as the Judge directs. Such security shall be made or given thereon as directed by the Judge or Police Magistrate. No. 4 of 1914, s. 16.

Appeal not
to operate
as stay
except as
may be
ordered.

18. When any question of fact is involved in an appeal the evidence taken before the Magistrate bearing on such question shall, subject to any special order, be brought before the Court as follows:

Question of
fact involved
evidence may
be brought
before Court.

(a) As to any evidence taken by affidavit by the production of copies of such affidavit;

(b) As to any evidence given orally, by production of the notes of the evidence as extended by the stenographer or made by the Magistrate or such other material as the Judge deems expedient.

(c) The appeal book must be clearly and legibly typewritten or printed and must be approved by the opposite party or settled by the Police Magistrate before filing same. No. 4 of 1914, s. 17.

19. The appellant shall serve the respondent or his solicitor with a copy of the appeal book, and shall file with the Clerk of the Territorial Court at Dawson two copies of the appeal book within twenty days from the filing of the notice of appeal or within such time as the Judge of Police Magistrate may allow. No. 4 of 1914, s. 18.

Appeal book
to be filed.

20. Upon the appeal book being filed the appeal shall be heard at such time as may be fixed by the Judge of the Territorial Court, provided such time is not less than ten days from the filing of the appeal book. No. 4 of 1914, s. 19.

Judge to fix
time for
hearing
appeal.

21. There shall be paid to the Clerk of the Territorial Court on all appeals from a Police Magistrate's Court the fees prescribed in the tariff of Clerk's fees in the Territorial Court cases as approved by the Judges of the Territorial Court on the 24th day of December, 1903. No. 4 of 1914, s. 20.

Fees to be
paid Clerk
Territorial
Court.

CHAP. 72.

An Ordinance to Prevent the Pollution of Running Streams.

Depositing
filth in
streams.

1. Any person who deposits or causes or allows to be deposited along the bank of any running stream in the Territory or who casts or throws into its waters any stable manure or any night soil, carcasses, or any other filthy or impure matter or substance of any kind shall be guilty of an offence and on summary conviction for each and every such offence incur a penalty of not less than \$5 together with the costs of prosecution; and on non-payment of such penalty and costs forthwith after conviction be imprisoned in the nearest common gaol for a term not exceeding one month unless such penalty and costs are sooner paid. C.O.Y.T. c. 73, s. 1.

Penalty.

Banks of
streams.

2. The banks of all running streams within the Territory shall for the purposes of this Ordinance include all lands within fifty feet of ordinary high water mark on either side of such streams. C.O.Y.T. c. 73, s. 2.

Sewage.

3. This Ordinance shall not refer to the discharge of sewer waters from any pipe or drain leading from any dwelling house, house, hotel or public institution. C.O.Y.T. c. 73, s. 3.

CHAP. 73.

An Ordinance respecting Preferential Assignments.

1. Every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects or of bonds, bills, notes, securities or of shares, dividends, premiums or bonus in any bank, company or corporation made by any person at any time when he is in insolvent circumstances or is unable to pay his debts in full or knows that he is on the eve of insolvency with intent to defeat or delay or prejudice his creditors or to give to any one or more of them a preference over his other creditors or over any one or more of them or which has such effect shall as against them be utterly void. C.O.Y.T. c. 38, s. 1.

Fraudulent
and
preferential
assignments.

2. Every such gift, conveyance, assignment, transfer, delivery over or payment whether made owing to pressure or partly owing to pressure or not, which has the effect of defeating, delaying or prejudicing creditors or giving one or more of them a preference shall as against the other creditors of such debtor be utterly void. C.O.Y.T. c. 38, s. 2.

Pressure.

3. Nothing in this Ordinance shall apply to any deed of assignment made and executed by a debtor for the purpose of paying and satisfying ratably and proportionately and without preference or priority all the creditors of such debtor their just debts or any *bona fide* sale of goods or payment made in the ordinary course of trade or calling, to innocent purchasers or parties. C.O.Y.T. c. 38, s. 3.

Assignments
for creditors
and *bona fide*
transactions.

1925 c.4
1936 c.2

repealed

CHAP. 74.

An Ordinance respecting the Office of Public Administrator.

ADMINISTRATION OF THE ESTATES OF DECEASED PERSONS.

To furnish security.

1. The Public Administrator shall furnish security to the satisfaction of the Commissioner in the penal sum of \$10,000 conditioned for the due performance of his duties; but shall not otherwise be required to furnish security as Administrator unless a judge so directs, and such security may be furnished by bond or agreement of any guarantee company approved by the Commissioner. C.O.Y.T. c. 21, s. 1.

To report in January and July.

2. During the months of January and July in each year, the Public Administrator shall furnish to the Commissioner a statement in detail, verified on oath, of the emoluments of his office for the six months preceding the first of January or the first of July, as the case may be. C.O.Y.T. c. 21, s. 2.

Public administrator to administer until some other person appointed.

3. Unless and until letters of administration are granted by the proper court in that behalf to some person entitled thereto or letters probate of the last will of the deceased are granted to the executor or executors therein named, the Public Administrator shall be the administrator, or the administrator with the will annexed (as the case may be) of the estates, both real and personal, of all persons who have heretofore died or may hereafter die, leaving property within the Yukon Territory, and shall, without grant of letters of administration have, in respect to such estates, all the rights, powers, privileges and authority, and shall perform all the duties incumbent upon, and shall be subject to all the liabilities of, an administrator or executor, acting under the authority of letters of administration or letters probate. C.O.Y.T. c. 21, s. 3.

Death to be notified to Police and Public administrator.

4. Any person or persons in whose charge or care, or upon whose premises any person dies, shall forthwith give notice of such death to the Public Administrator or to the officer or constable commanding at the post of the Royal North-West Mounted Police nearest the place where such death occurred, and shall also forthwith deliver to the Public Administrator or to such officer or constable all moneys, goods, chattels, books, documents, papers and effects in his, or their possession or custody belonging to the estate of the deceased, and shall also inform the Public Administrator or such officer or constable of all facts within his, or their knowledge, information or belief, touching the name, age, former place of residence without the Yukon Territory,

relatives and property, both real and personal of the said deceased; and any person neglecting to comply with the provisions of this section, shall be liable, upon summary conviction before a justice of the peace, to a fine not exceeding \$500, and not less than \$50 with costs. C.O.Y.T. c. 21, s. 4.

5. The officer or constable, to whom such notice and information are given, shall, as soon as possible, transmit the same to the Public Administrator, together with such assets of the estate as have been delivered under the next preceding section hereof. Whenever immediate transmission of the assets is practicable, a complete inventory (with an approximate valuation) of such assets shall be forthwith transmitted. C.O.Y.T. c. 21, s. 5.

Officer to transmit notice and assets to Public administrator.

6. Rule 598 of the rules of court contained in *The Judicature Ordinance* shall not apply to the Public Administrator who shall, without order, exercise the powers and perform the duties therein set forth in such mode as to administer the estate which comes to his hands in a speedy and inexpensive manner, having due regard to the interests of all parties entitled to share in such estates. Where the Public Administrator has given such or the like notice as in the opinion of the court in which such administrator is sought to be charged, would have been given by the court in an administration suit for creditors and others to send in to such Public Administrator their claims against the estate of the testator or intestate (as the case may be) the Public Administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate (as the case may be) or any part thereof amongst the parties entitled thereto, having regard to the claims of which the Public Administrator has then notice, and shall not be liable for the assets or any part thereof, so distributed to any person of whose claim the Public Administrator has not notice at the time of the distribution thereof, or a part thereof (as the case may be) but nothing in this Ordinance contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof, into the hands of the person or persons who have received the same respectively. C.O.Y.T. c. 21, s. 6. No. 6, 1907, s. 1.

Rule of court contained in Judicature Ordinance not to apply to Public administrator.

7. Rule 600 of the said rules of court, shall apply to the Public Administrator. C.O.Y.T. c. 21, s. 7. No. 6, 1907, s. 2.

Rule to apply to administrator.

added to INFANTS AND LUNATICS.

8. When no other appointment has been made the Public Administrator shall be guardian of the estate within the Yukon Territory of all infants whose parents are dead or do not (one or both) reside in the Yukon Territory. C.O.Y.T. c. 21, s. 8.

Public administrator to be guardian where no other appointed.

9. The Public Administrator shall have power to summon before him any person or persons who, in his opinion, have knowledge of the estate and effects of any deceased person, and may

Public administrator to have

192504

and 520

not - 1936 C. 2.

added to

1936 C 2

power to
summon
witnesses.

examine any such person or persons, upon oath, touching his, or their knowledge of the estate and affects aforesaid, and any person so summoned who neglects to attend before the Public Administrator at the time and place by him appointed or who refuses to answer any lawful questions put to him by the Public Administrator upon such examination shall, for such neglect or refusal, be subject, upon summary conviction before any justice of the peace, to a fine not exceeding \$500 and not less than \$50. C.O.Y.T., c. 21, s. 9.

Scale of
fees.

10. The fees of the Public Administrator on all estates coming into his hands for administration on and after the 1st day of May, A. D. 1909, shall be in accordance with the schedule to this Ordinance. No. 2, 1909, s. 1.

1925 C. 4
Passing
account
service of
summons
by publication

11 added

SCHEDULE.

1. Minimum charge on each estate, \$10.
2. Upon an estate of an aggregate value of \$5,000 or less, 10 per cent of the value of the estate.
3. Upon an estate of an aggregate value of over \$5,000, ten per cent up to \$5,000.00 and 5 per cent. up to \$25,000 and 2½ per cent .of the remainder.

CHAP. 75.

An Ordinance respecting Public Printing.

1. This Ordinance may be cited as *The Public Printing Ordinance*. No. 4, 1904, s. 1. Short title. ✓

2. The Commissioner shall appoint a person to be known as the King's Printer to assist in the performance of the duties required by this Ordinance. He shall perform under the direction and supervision of the Commissioner all such duties as from time to time are assigned to him by law or by order of the Commissioner, ~~and shall be paid such salary as the Commissioner shall determine.~~ No. 4, 1904, s. 2. King's Printer to be appointed by Commissioner. ✓

3. It shall be the duty of the King's Printer to cause to be printed and published for the Government of the Yukon Territory under his superintendence the official gazette of the Territory, to be known as *The Yukon Gazette*, the Ordinances of the Yukon Territory, the Proceedings of the Yukon Council, and all such official and departmental and other reports, books, forms, documents, and other papers as are required to be printed at the expense of the Territory, and shall perform all such other duties as are from time to time assigned to him by the Commissioner, and whatever is printed under his superintendence by authority of this Ordinance shall be held to be printed by the King's Printer. No. 4, 1904, s. 3. Duties of King's Printer. ✓

4. The printing, binding and other like work to be done under the superintendence of the King's Printer shall be done and furnished under contract entered into under the authority of the Commissioner in such form and for such time as the commissioner appoints and deems advisable. No. 4, 1904, s. 4. Printing to be done under contract. ✓

5. The Ordinances and Proceedings of the Yukon Council shall be printed and published in such form and style as the Commissioner directs. No. 4, 1904, s. 5. Commissioner to direct style of printing. ✓

6. The King's Printer shall immediately after the close of each session of the Yukon Council, or so soon after as is practicable, deliver or transmit by post or otherwise in the most economical mode the proper number of printed copies of the Ordinances of the Council to such persons as may be designated by the Commissioner. No. 4, 1904, s. 6. Distribution of Ordinances. ✓

7. The King's Printer shall print and publish or cause to be printed and published for the Government under his superintendence the official gazette of the Territory, which shall be known as *The Yukon Gazette*. No. 4, 1904, s. 7. The Yukon Gazette. ✓

Contents of Gazette.

8. Proclamations, official and other notices, and all such matter whatsoever as the Commissioner requires to be published, shall be published in *The Yukon Gazette*; and all advertisements, notices or publications which by any ordinance or law in force in the Territory are required to be published by the Territorial Government or any department thereof, or by the Sheriff or other officer, or by any officer or person whomsoever, shall be published in *The Yukon Gazette*, unless some other mode of publishing the same is directed by law. No. 4, 1904, s. 8.

Form of Gazette, etc.

9. The Commissioner may from time to time prescribe the form, mode and conditions of the publication of *The Yukon Gazette* and designate the public bodies, officers and persons to whom it shall be sent without charge, and regulate the publication of notices, advertisements and documents for persons other than the Government; and all sums payable for subscriptions and charges shall be paid in advance to the King's Printer. No. 4, 1904, s. 9.

Quarterly returns.

10. The King's Printer shall make quarterly returns under oath of all moneys received by him for subscriptions to *The Yukon Gazette* and for advertising therein, and shall pay over all sums so received to the Comptroller of the Territory, and such said sums shall form part of the Local Revenue Fund of the Territory. No. 4, 1904, s. 10.

King's Printer to assist in preparation of contracts, etc.

11. The King's Printer shall assist the Commissioner in preparing advertisements, specifications and contracts in connection with public printing, examine all work done under any contract, and require contractors to carry out fully the terms and provisions of the same.

To audit accounts.

2. He shall check and audit all accounts for advertising rendered to the Commissioner or any department or officer thereof. No. 4, 1904, s. 11.

To certify to accounts.

12. No money for printing, binding or other such work shall be paid out of the Local Revenue Fund without a certificate from the King's Printer that the work has been properly done, and that the person who did the same is lawfully entitled to receive the amount certified to.

Penalty for fraudulent certificate.

2. If the King's Printer signs any false or fraudulent certificate under this section, he shall, in addition to any other penalty to which he is liable, forfeit and pay a sum equal to the amount so falsely or fraudulently certified. No. 4, 1904, s. 12.

Record of work to be kept.

13. The King's Printer shall keep an accurate record of all transactions of his office, and furnish a report of the same annually to the Commissioner, by whom the same shall be submitted to the council. No. 4, 1904, s. 13.

Annual estimate to be prepared.

14. The King's Printer shall prepare annually an estimate of the sums which will probably be required to provide for all public printing during the financial year, which estimate shall be submitted to the Commissioner for his approval, and shall

be laid before the Yukon Council with the other estimates for the year. No. 4, 1904, s. 14.

15. The Commissioner may make all such rules and regulations not inconsistent with this Ordinance as are deemed advisable for the direction of the King's Printer. No. 4, 1904, s. 15. Commissioner to make rules for King's Printer.

16. The expenses to be incurred under the foregoing provision of this Ordinance shall be paid out of such moneys as are appropriated for the purpose by the Commissioner in Council, and accounted for in like manner as other moneys expended for the public service. No. 4, 1904, s. 16. Expenses—how provided.

1949 (1st) C.12
 1950 (1st) C.7
 1951 (2nd) C.5
 1952 (2nd) C.1
 1953 (1st) C.3
 1954 (3rd) C.40

CHAP. 76.

An Ordinance respecting the Public Service of the Territory.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Yukon Territorial Public Service Ordinance.* C.O.Y.T. c. 5, s. 1.

1954 (3rd) C.40 head of Department
 Public Service Ordinance

INTERPRETATION.

Interpretation. **2.** In this Ordinance, unless the context otherwise requires, the expression "head of Department" or "head" means the officer appointed for the time being to take charge of a Department. C.O.Y.T. c. 5, s. 2.

"Employee." **3.** The expression "employee" or "employees" in this and any other Ordinance shall include all persons in the service of the Government of the Territory. C.O.Y.T. c. 5, s. 3.

DIVISION OF THE PUBLIC SERVICE.

Commissioner to be Chief Executive Officer. **4.** The Commissioner of the Yukon Territory shall be the Chief Executive Officer of the Territory, and the head of every Department of the public service. C.O.Y.T. c. 5, s. 4.

Departments. **5.** The public service of the Territory shall be divided into the following departments:—

- (a.) Department of the Territorial Treasurer;
- (b.) Department of the Territorial Secretary;
- (c.) Department of Public Works and Buildings;
- (d.) Department of Education;
- (e.) License Department; and
- (f.) Health Department, C.O.Y.T. c. 5, s. 5.
- (g) Dept of Home & Industries 1951 (2nd) C.15

MANAGEMENT OF DEPARTMENTS.

Duties of head. **6.** The head of each Department shall oversee and direct the employees of the Department, and shall have general control of the business thereof; and in addition to the duties required of him by any law or Ordinance of the Territory, he shall perform the duties hereinafter provided and such other duties as are assigned to him from time to time by the Commissioner. C.O.Y.T. c. 5, s. 6.

Acting head may be appointed in absence of head. **7.** In the absence of any head, the senior officer of the Department shall perform the duties of such head, unless some other person is appointed as acting head of such Department by the Commissioner, and any such person so acting during such

absence, shall exercise all the powers vested in the head, as to the control of the other employees of the Department. C.O.Y.T. c. 5, s. 7.

APPOINTMENTS.

8. The Commissioner may at any time appoint such officers, clerks and servants as are required for the proper conduct of the business of the Departments, and all appointments shall be made by him upon the application and report of the head of the Department in which the person appointed is to be employed, and their respective duties in all matters not expressly regulated by law shall be such as are assigned to them by order of the Commissioner or of the head of the Department, and all such appointments shall be during pleasure. C.O.Y.T. c. 5, s. 8.

Commissioner to make any appointment.

9. It shall be lawful for the Commissioner to appoint any acting officer or servant of any kind, who shall have all the power and authority of the person for whom he is acting;

Commissioner may appoint acting officer.

2. Such acting head of Department, officer or servant shall act only in the absence from the post of duty or during the illness or other physical disability of the person for whom he acts, or in case of a vacancy in office. C.O.Y.T. c. 5, s. 9.

To act in absence of person for whom he acts.

SALARIES.

10. All employees in the public service of the Territory shall receive such salaries respectively, as may be assigned to them by order of the Commissioner and voted by the Commissioner in Council. C.O.Y.T. c. 5, s. 10.

Salaries to be fixed by Commissioner.

DEPARTMENT OF THE TERRITORIAL TREASURER.

11. The Department of the Territorial Treasurer shall be presided over by the Territorial Treasurer, who shall be the head of said Department. No. 1, 1911, s. 1.

Territorial Treasurer to be head of Treasurer's Department.

12. The accounts of the Territory and of the different Departments of the public service shall be kept in the Department of the Territorial Treasurer in such manner and under such regulations for the fullness and accuracy and as to the measure of oversight and responsibility attached in regard to them to the Treasurer, as the Commissioner by order or (subject to all such orders) the Treasurer may make from time to time. The Treasurer shall supervise all books and records kept by the other Departments, and give such instructions as to the keeping of the same as he considers necessary. C.O.Y.T. c. 5, s. 12.

Accounts of territory to be kept by Treasurer.

13. The fiscal year of the Territory shall be the period from the thirty-first day of March in one year to, and including the 31st day of March in the next year. C.O.Y.T. c. 5, s. 13. No. 7, 1909, s. 1.

Fiscal year.

Public accounts to be made out at end of year.

✓

14. As soon as practicable after the close of each fiscal year there shall be prepared under the direction of the Treasurer for submission to the Council at its next session a statement of the public accounts for such year showing clearly and fully the several revenues and expenditures of the Territory for the year, the state of the general revenue fund and all trust and special funds under the management of the Territorial Government, and all matters requisite to explain the financial transactions and position of the Territory during and at the close of each year. C.O.Y.T. c. 5, s. 14.

Estimates, what to contain.

✓

15. The estimates shall contain the statutory appropriations which do not require to be voted upon by the Council year by year, and also the respective amounts required for any service in addition to such statutory appropriations or otherwise (as the case may be) for which a vote of the Council is required to authorize the expenditure of the same. C.O.Y.T. c. 5, s. 15.

Expenditure to be made by cheque.

16. All expenditure of public moneys shall be made by official cheque on a chartered bank, such cheque being signed by the Treasurer and countersigned by the Commissioner or some person appointed by him. C.O.Y.T. c. 5, s. 16. No. 7, 1909, s. 2.

1954(3rd) C 40

all substitute

DEPARTMENT OF THE TERRITORIAL SECRETARY.

Territorial Treasurer to be head of Territorial Secretary's Department.

17. The Department of the Territorial Secretary shall be presided over by the Territorial Treasurer for the time being, who shall be the head of said Department. C.O.Y.T. c. 5, s. 17. No. 1, 1911, s. 2.

Duties of Territorial Secretary.

18. The powers, duties and functions of the Territorial Secretary are as follows:

- (a.) He shall be the clerk of the Yukon Council;
- (b.) He shall be the keeper of the seal of the Territory; and shall issue all letters patent, commissions and other documents under the said seal and countersign the same, and all commissions under the seal shall run in His Majesty's name;
- (c.) He shall be the keeper of all registers, archives and documents of the Territory;
- (d.) He shall be King's Printer;
- (e.) He shall be Registrar of Joint-Stock Companies. C.O. Y.T. c. 5, s. 18. No. 7, 1909, s. 3. No. 9, 1914, s. 1.

1950(1st) C 7

Territorial Secretary to be Registrar.

(F) He shall execute under the seal of the Y.T. all transfers of land given by the Govt of Y.T. as the executive officer of land.

19. The Territorial Secretary shall be the Registrar of the Territory; and as such shall register all instruments of summons, commissions, letters patent, writs and other instruments and documents issued under the seal of the Territory; and his signature shall be proof of the fact that such registers, archives, instruments of summons, commissions, letters patent, writs and other instruments and documents exist and are lawfully in his possession; and any copy (signed by him) of any document shall be equivalent to the original instrument itself in any court

in the Territory, and every document or copy of document purporting to bear his signature shall be deemed so to do until proof of the contrary. C.O.Y.T., c. 5, s. 19.

FEES.

20. The Commissioner may from time to time make a tariff of fees which shall be paid for the issuing and registering of commissions, letters patent, licenses and other instruments and documents, and for the delivery of certified copies thereof or of certified extracts from the registers and archives in the Territorial Secretary's Department as hereinbefore mentioned; and the said Territorial Secretary shall account to the Territorial Treasurer for all moneys received in virtue of such tariff or of any Ordinance in force in the Territory, in such manner as is prescribed by law or by the Commissioner, as the case may be. C.O.Y.T. c. 5, s. 20.

DEPARTMENT OF WORKS AND BUILDINGS.

21. The Department of Works and Buildings shall be presided over by an officer to be called the Superintendent of Works, and said Department shall have charge of all public works and buildings which may be constructed out of public funds, and may, with the approval of the Commissioner employ such assistance as he requires. C.O.Y.T. c. 5, s. 21. No. 4, 1912, s. 2.

22. The powers, duties and functions of the Superintendent of Works are as follows:

(a.) He shall have the supervision of all matters of business which may come under the jurisdiction of the Department, initiate expenditures on new works or buildings and attend to their maintenance and repair. He shall have no power to authorize any expenditure until he has reported to the Commissioner,

1. The necessity of such expenditure;
2. The particular service it will render;
3. A statement of the estimated cost; and,
4. Such other particulars as he may be able to give in connection with the same, and the Commissioner has approved of such expenditure;

(b.) He shall certify to all bills or accounts for the construction, maintenance or repair of public works or buildings, the materials supplied for the same, the employees' salaries or wages and any other accounts which may be rendered in connection with the same;

(c.) He shall keep proper records of all works authorized and put in writing any memorandum concerning any changes or matter in connection with the Department;

(d.) He shall have the custody of all plans of buildings and roads in course of construction, and also of all buildings which are the property of the Government; and

(e.) He shall make a report in writing once each week to the Commissioner. C.O.Y.T. c. 5, s. 23. No. 7, 1909, s. 5.

Fees for registering documents.

Superintendent of Works to be head of Department of Works.

Powers of Superintendent of Works to supervise all business.

Certify accounts.

With approval of commissioners to enter into contract.

23. The Superintendent of Public Works with the approval of the Commissioner shall have power to enter into any contract with any person or corporation that may be necessary or advisable in carrying out the provisions of any Ordinance of the Territory but no deeds, contracts or writings shall hereafter be deemed to be binding on the Department nor shall be held to be acts of the Commissioner unless signed by him and the Superintendent of Works. C.O.Y.T. c. 5, s. 24.

Security to be taken.

24. The Superintendent of Works, when any public work is being carried out by contract, and in other cases, may require that security be given to and in the name of His Majesty for the due performance of the work within the amount and time specified for the completion of the work; and in all cases where it seems to the Superintendent of Works not to be expedient to let such work to the lowest bidder, it shall be his duty to report the fact and obtain the authority of the Commissioner previous to passing by such lowest tender, but no sum of money shall be paid to the contractor nor shall any work be commenced on any contract until the contract has been signed by all the parties therein named, or until any security required has been given. C.O.Y.T. c. 5, s. 25.

If contractor fails to pay workmen - superintendent may pay.

25. In case a contractor for the construction of, or in connection with, a public work let under contract with the Commissioner, or any sub-contractor in the construction of any such public work, makes default in payment of the wages of any foreman, workman or labourer employed on such work, or in payment of any sum due by the contractor or sub-contractor for labour done by such foreman, workman or labourer, or by any team employed on the work, if the claim for such wages or sum is filed in the office of the Superintendent of Works not later than two months after the same becomes due and satisfactory proof thereof is furnished to him, he may, with the approval of the Commissioner, cause such claims to be paid to the extent of any moneys or securities at the time of the filing of the said claim in the hands of the Territorial Treasurer for securing the performance of the contract. C.O.Y.T. c. 5, s. 26.

Provisions to apply to previous contracts.

26. The next preceding section shall apply to contracts heretofore entered into, as well as contracts hereafter entered into, but without prejudice to the claims of other persons who may, before the date of the passing of this Ordinance have acquired liens upon the contract money. C.O.Y.T. c. 5, s. 27.

LICENSE DEPARTMENT.

License Department.

27. The License Department shall be divided into two branches; one branch shall be presided over by the Chief Inspector of Licenses and the other by the Chief Preventive Officer. C.O.Y.T. c. 5, s. 28.

Treasurer to be Chief License Inspector.

28. The Treasurer of the Yukon Territory shall be Chief Inspector of Licenses and Inspector of Licenses for the City of Dawson. No. 7, 1909, s. 6.

29. The Chief Inspector of Licenses, in addition to performing the duties required of him by the Liquor License Ordinance and by the By-Laws of the City of Dawson shall have charge of, and issue all licenses which may be issued under any Ordinance of the Territory or under said by-laws, upon receipt of the necessary fee for the same. He shall also report to the Commissioner upon all matters affecting applications for licenses and make a recommendation on the same whenever required to do so by Ordinance or by direction of the Commissioner. He shall also see that all decisions of the Commissioner affecting his branch of the License Department are enforced and prosecute all infractions of the law. No. 7, 1909, s. 7.

Chief Inspector of Licenses to issue all licenses.

30. The Chief Preventive Officer, in addition to performing the duties required of him by the Ordinance respecting the Importation of Liquor, shall prosecute all infractions against said Ordinance, and see that all decisions of the Commissioner affecting his branch of the License Department are carried into effect. C.O.Y.T. c. 5, s. 30.

Duties of Chief Preventive Officer.

DEPARTMENT OF EDUCATION.

31. The Department of Education shall be presided over by the Superintendent of Schools. C.O.Y.T. c. 5, s. 31.

Department of Education.

32. The Superintendent of Schools, in addition to performing the duties required of him by the School Ordinance, shall perform the following duties:

Supt. of Schools.

(a) He shall prepare a recommendation for submission to the Commissioner setting forth all facts in connection with any expenditure required in the public schools of the Territory, and shall make a recommendation as to what action should be taken on the same; and,

To make recommendation to Commissioner.

(b) He shall certify to all accounts for expenditure in connection with the public schools of the Territory, and to the accounts for the salaries of the school teachers, as well as the other officers under him. C.O.Y.T. c. 5, s. 32.

To certify accounts.

HEALTH DEPARTMENT.

33. The Medical Health Officer, appointed under the Health Ordinance, shall be the head of the Health Department. C.O.Y.T. c. 5, s. 33.

Health Department.

34. The Medical Health Officer, in addition to performing all duties required of him by the Ordinances of the Territory, shall report at least once each month to the Commissioner regarding the general health of the Territory, making therein such recommendations as he considers necessary to improve the health of the Territory, or to prevent the spread of disease therein. C.O.Y.T. c. 5, s. 34.

Duties of Medical Health Officer.

34 A

34 B

Dept of Home & Probitary

1951 (2nd)
c5

GENERAL.

Accounts to be approved by Commissioner. ✓

35. No money shall be expended by the head of any Department unless authorized by Ordinance and the said expenditure has been approved by the Commissioner. C.O.Y.T. c. 5, s. 35.

Head of Department to approve of requisitions. ✓

36. The head of a Department shall satisfy himself as to the necessity of all moneys applied for by officers, workmen or employees of his Department, for travelling or other expenses, and if he approves of the same, shall make a requisition upon the Treasurer for the amount required, and after approval thereof by the Commissioner, the Treasurer shall issue a cheque therefor. C.O.Y.T. c. 5, s. 36.

Accounts to be certified. ✓

37. All accounts incurred by the head or any official of any Department for materials supplied or work done, shall be certified to by the official receiving the materials, or in charge of the work performed, that the said materials have been supplied or work performed, and that the charges therefor are fair and reasonable, before the same shall be approved of by the head of the Department, and the Treasurer shall obtain the approval of the Commissioner thereto before the same shall be paid. C.O.Y.T. c. 5, s. 37.

1952 (2nd) C. 1

Commissioner to fix hours of attendance.

38. The Commissioner may regulate the hours of attendance of the employees in any Department; and when the public service demands (in case of pressure or urgency) that additional time be given, such additional time as the head of any Department requires shall be given by all the clerks and employees without additional compensation. C.O.Y.T. c. 5, s. 38. ✓

(c. 5, s. 37) to add compensation as the may authority

1153 (1st) C. 3
38 (2) added

1949 (1st) C. 12-38 A + B

Commissioner may transfer employees.

39. The Commissioner may transfer any clerk or employee from one Department to another or assign any duties to any clerk or employee temporarily or otherwise. C.O.Y.T. c. 5, s. 39.

No extra allowances to be made.

40. No allowance or compensation shall be made for any extra services whatsoever which any clerk or employee is required to perform. C.O.Y.T. c. 5, s. 40.

Head of Department may suspend employee.

41. The head of a Department may, subject to the approval of the Commissioner, suspend from the performance of his duty or from the receipt of his salary any employee guilty of improper conduct or negligence in the performance of his duties; and may subsequently remove such suspension; but no person shall receive any salary or pay for the time during which he was under suspension. C.O.Y.T. c. 5, s. 41.

Treasurer to be Assessor and Collector for Dawson.

42. The Treasurer shall be Assessor and Tax Collector for the City of Dawson, and may employ such assistants as may be required. No. 7, 1909, s. 8.

Conflict of sections.

43. In case of any conflict or inconsistency between the next preceding section and any Ordinance or By-Law, the next preceding section shall prevail. No. 7, 1909, s. 8.

44. No person who is a member of the Yukon Council shall be appointed an officer, clerk, or servant under the provisions of this Ordinance; and in the event of such person being appointed as such officer, clerk or servant he shall forthwith cease to be a member of the Yukon Council. No. 4, 1912, s. 3.

Member
Yukon
Council not
to be
appointed.

45 (1) }
 (2) } *repealed & substituted*
 (3) }

1949 (1st) }
 C12

repealed
CHAP. 77.

An Ordinance respecting Roadhouses.

1. This Ordinance may be cited as the *Roadhouse Ordinance*. No. 3, 1907, s. 1.

“Roadhouse.”

2. In this Ordinance the expression “Roadhouse” extends to and includes all buildings whose owner, lessee or proprietor provides board or lodging for remuneration. No. 3, 1907, s. 2.

Keeper to provide fire-escapes.

3. The keeper of every roadhouse shall, where the same is more than one story in height, provide and keep in each of the sleeping apartments or bedrooms which are situate above the ground floor, a fire escape for the use of guests occupying the same.

Nature of fire-escapes.

2. Such fire escape shall be sufficient within the meaning of this Ordinance if it consists of a rope not less than three-quarters of an inch in thickness and of sufficient length to reach from the room or apartment in which it is kept to the ground below, and is kept in a coil or other convenient position in each of the said rooms or sleeping apartments; and if the outside window or opening of such sleeping apartments or bedrooms is provided with proper, secure and convenient fastenings or appliances to which one end of the rope may be safely secured or fastened. No. 3, 1907, s. 3.

Further provisions as to nature of fire-escapes.

4. In case any roadhouse is provided with outside stationary, or other fire escapes, differing from what is herein provided for, by means of which, in the opinion of a non-commissioned officer of the Royal North-West Mounted Police in charge of the district in which any such roadhouse is situated, a reasonably safe and convenient means of egress from the sleeping apartments or bedrooms is provided in case of fire, the same shall be deemed a compliance with this Ordinance, so far as relates to all sleeping apartments or bedrooms from the outside windows or openings of which there is access to the said fire escapes. No. 3, 1907, s. 4.

Notice in sleeping apartments.

5. The keeper of every roadhouse shall require to keep posted up in each of the sleeping apartments or bedrooms a notice calling attention to the said fire escapes and containing full directions for the use of the same as well as a description of the outside stairway and the situation and means of egress to the same. No. 3, 1907, s. 5.

No inflammable material on walls, etc.

6. No cotton, paper or other inflammable material shall be used in furnishing the walls of any roadhouse unless it is pasted firmly to the wall. No. 3, 1907, s. 6.

7. All water closets and privies in connection with roadhouses shall be built of wood and shall be so constructed as to be hidden from view from the public roads; and they shall be divided in two distinct parts, one for males and one for females. No. 3, 1907, s. 7. Condition of privies, etc.

8. Any person guilty of an infraction of any of the provisions of this Ordinance shall be liable to a penalty of not less than \$10 and not exceeding \$100, and in default of payment to imprisonment for a term not exceeding three months. No. 3, 1907, s. 8. Penalty.

9. The keeper of every hotel and roadhouse shall keep a public register in which shall be entered the name of every person who is supplied with board or lodging on the premises. No. 1, 1908, s. 1. Register for names of guests to be kept.

repealed

CHAP. 78

An Ordinance respecting the Sale of Goods.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Sale of Goods Ordinance*. C.O.Y.T. c. 35, s. 1.

INTERPRETATION.

Interpre- **2.** In this Ordinance unless the context or subject matter tation. otherwise requires:

- (a) "Action" includes counterclaim and set off;
 - (b) "Buyer" means a person who buys or agrees to buy goods;
 - (c) "Contract of sale" includes an agreement to sell as well as the sale;
 - (d) "Delivery" means voluntary transfer of possession from one person to another;
 - (e) "Document of title to goods" has the same meaning as it has in *The Factors Ordinance*;
 - (f) "*Factors Ordinance*" means *The Factors Ordinance* and any enactment amending, or substituted for, the same;
 - (g) "Fault" means wrongful act or default;
 - (h) "Future goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale;
 - (i) "Goods" includes all chattels personal other than things in action or money. The term includes implements, industrial growing crops and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;
 - (j.) "Property" means the general property in goods and not merely a special property;
 - (k.) "Quality of goods" includes their state or condition;
 - (l.) "Sale" includes a bargain and sale as well as a sale and delivery;
 - (m) "Seller" means a person who sells or agrees to sell goods;
 - (n.) "Specific goods" means goods identified and agreed upon at the time a contract of sale is made;
 - (o.) "Warranty" means an agreement with reference to goods which are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.
- 2.** A thing is deemed to be done "in good faith" within the meaning of this Ordinance when it is in fact done honestly whether it is done negligently or not.

3. A person is deemed to be insolvent within the meaning of this Ordinance who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

4. Goods are in a "deliverable state" within the meaning of this Ordinance when they are in such state that the buyer would under the contract be bound to take delivery of them. C.O.Y.T. c. 35, s 2.

PART I.

FORMATION OF THE CONTRACT.

Contract of Sale.

3. A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price. There may be a contract of sale between one part owner and another. Sale and agreement to sell.

2. A contract of sale may be absolute or conditional.

3. Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.

4. An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. C.O.Y.T. c. 35, s. 3.

4. Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property; Capacity to buy and sell.

Provided that where necessaries are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract he must pay a reasonable price therefor. "Necessaries" in this section means goods suitable to the condition in life of such infant or minor or other person and to his actual requirements at the time of the sale and delivery. C.O.Y.T. c. 35, s. 4. Proviso.

Formalities of the Contract.

5. Subject to the provisions of this Ordinance and of any Ordinance in that behalf a contract of sale may be made in writing (either with or without seal) or by word of mouth or partly in writing and partly by word of mouth or may be implied from the conduct of the parties: Contract of sale, how made.

Provided that nothing in this section shall affect the law relating to corporations. C.O.Y.T. c. 35, s. 5. Proviso.

6. A contract for the sale of any goods of the value of fifty dollars or upwards shall not be enforceable by action unless the Contract of sale for \$50 and upwards.

buyer accepts part of the goods so sold and actually receives the same or gives something in earnest to bind the contract or in part payment or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf.

2. The provisions of this section apply to every such contract notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of such contract be actually made, procured or provided, or fit or ready for delivery or some act is requisite for the making or completing thereof or rendering the same fit for delivery.

3. There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods which recognizes a pre-existing contract of sale whether there is an acceptance in performance of the contract or not. C.O.Y.T. c. 35, s. 6,

Subject matter of Contract.

Existing or
future goods.

7. The goods which form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods."

2. There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

3. Where by a contract of sale the seller purports to effect a present sale of future goods the contract operates as an agreement to sell the goods. C.O.Y.T. c. 35, s. 7.

Goods which
have
perished.

8. Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void. C.O.Y.T. c. 35, s. 8.

Goods
perishing
before sale
but after
agreement
to sell.

9. Where there is an agreement to sell specific goods and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer the agreement is thereby avoided. C.O.Y.T. c. 35, s. 9.

The Price.

Ascertain-
ment of price.

10. The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

2. Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case. C.O.Y.T. c. 35, s. 10.

Agreement
to sell at
valuation.

11. Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and

such third party cannot or does not make such valuation the agreement is avoided:

Provided that if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

2. Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. C.O.Y.T. c. 35, s. 11.

Conditions and Warranties.

12. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. Stipulations as to time.

2. In a contract for sale "month" means *prima facie* calendar month. C.O.Y.T. c. 35, s. 12.

13. Where a contract or sale is subject to any condition to be fulfilled by the seller the buyer may waive the condition or may elect to treat the breach of such condition as a breach of warranty and not as a ground for treating the contract as repudiated. When condition to be treated as warranty.

(a) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated depends in each case on the construction of the contract. A stipulation may be a condition though called a warranty in the contract.

(b) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated unless there is a term of the contract expressed or implied to that effect.

2. Nothing in this section shall affect the case of any condition or warranty, fulfilment of which is excused by law by reason of impossibility or otherwise. C.O.Y.T. c. 35, s. 13.

14. In a contract of sale unless the circumstances of the contract are such as to show a different intention there is: Implied undertaking as to title, etc.

1. An implied condition on the part of the seller that in the case of a sale he has a right to sell the goods and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;

2. An implied warranty that the buyer shall have and enjoy quiet possession of the goods;

3. An implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made. C.O.Y.T. c. 35, s. 14.

Sale by description.

15. When there is a contract for the sale of goods by description there is an implied condition that the goods shall correspond with the description; and if the sale be by sample as well as by description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. C.O.Y.T. c. 35, s. 15.

Implied conditions as to quality or fitness.

16. Subject to the provisions of this Ordinance and of any Ordinance in that behalf there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale except as follows:

1. Where the buyer expressly or by implication makes known to the seller the particular purpose for the which the goods are required so as to show that the buyer relies on the seller's skill or judgment and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not) there is an implied condition that the goods shall be reasonably fit for such purpose:

Provided that in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose;

2. Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or not) there is an implied condition that the goods shall be of merchantable quality:

Provided that if the buyer has examined the goods there shall be no implied condition as regards defects which such examination ought to have revealed;

3. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade;

4. An express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith. C.O.Y.T. c. 35, s. 16.

Sale by Sample.

Sale by sample.

17. A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect;

2. In a case of a contract for sale by sample:

(a.) There is an implied condition that the bulk shall correspond with the sample in quality;

(b.) There is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(c.) There is an implied condition that the goods shall be free from any defect rendering them unmerchantable which would not be apparent on reasonable examination of the sample. C.O.Y.T. c. 35, s. 17.

PART II.

EFFECTS OF THE CONTRACT.

Transfer of Property as between Seller and Buyer.

18. Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained. C.O.Y.T. c. 35, s. 18. Goods must be ascertained.

19. Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intended it to be transferred. Property passes when intended to pass.

2. For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. C.O.Y.T. c. 35, s. 19.

20. Unless a different intention appears the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer: Rules for ascertaining intention.

Rule I.—Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both be postponed.

Rule II.—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing be done and the buyer has notice thereof.

Rule III.—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Rule IV.—When goods are delivered to the buyer on approval or “on sale or return” or other similar terms the property therein passes to the buyer.

(a.) When he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(b.) If he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection then if a time has been fixed for the return of the goods, on the expiration of such time; and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

Rule V.—Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the

assent of the buyer, or by the buyer with the assent of the seller the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied and may be given either before or after the appropriation is made;

2. Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee or custodian (whether named by the buyer or not) for the purpose of transmission to the buyer and does not reserve the right of disposal he is deemed to have unconditionally appropriated the goods to the contract. C.O.Y.T. c. 35, s. 20.

Reservation of right of disposal.

21. Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract the seller may by the terms of the contract or appropriation reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee or custodian for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

2. Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent the seller is *prima facie* deemed to have the right of disposal.

3. Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him. C.O. Y.T. c. 35, s. 21.

Risk *prima facie* passes with property.

22. Unless otherwise agreed the goods remain at the seller's risk until the property therein is transferred to the buyer but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not:

Provided that where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee or custodian of the goods of the other party. C.O.Y.T. c. 35, s. 22.

Transfer of Title.

Sale by person not owner.

23. Subject to the provisions of this Ordinance, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

Provided also that nothing in this Ordinance shall affect:

- (a.) The provisions of *The Factors Ordinance* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof;
- (b.) The validity of any contract or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. C.O.Y.T. c. 35, s. 23.

24. When the seller of goods has a voidable title thereto but his title has not been voided at the time of sale the buyer acquires a good title to the goods provided he buys them in good faith and without notice of the seller's defect of title. C.O.Y.T. c. 35, s. 24. Sale under voidable title.

25. Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer was expressly authorized by the owner of the goods to make the same. Seller or buyer in possession after sale.

2. When a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer to that person or by a mercantile agent, acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

3. In this section the term "mercantile agent" has the same meaning as in *The Factors Ordinance*. C.O.Y.T. c. 35, s. 25.

PART III.

Performance of the Contract.

26. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. C.O.Y.T. c. 35, s. 26. Duties of seller and buyer.

27. Unless otherwise agreed delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods. C.O.Y.T. c. 35, s. 27. Payment and delivery are concurrent conditions.

Rules as to
delivery.

28. Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract express or implied between the parties. Apart from any such contract expressed or implied the place of delivery is the seller's place of business if he has one and, if not, his residence:

Provided that if the contract be for the sale of specific goods which to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

2. Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed the seller is bound to send them within a reasonable time.

3. Where the goods at the time of the sale are in possession of a third person there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

4. Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

5. Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller. C.O.Y.T. c. 35, s. 28.

Delivery
of wrong
quantity.

29. Where the seller delivers to the buyer a quantity of goods less than he contracted to sell the buyer may reject them but if the buyer accepts the goods so delivered he must pay for them at contract rate.

2. Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

3. Where the seller delivers to the buyer goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest or he may reject the whole.

4. The provisions in this section are subject to any usage of trade, special agreement or course of dealing between the parties. C.O.Y.T. c. 35, s. 29.

Instalment
deliveries.

30. Unless otherwise agreed the buyer of goods is not bound to accept delivery thereof by instalments.

2. Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a

claim for compensation but not to a right to treat the whole contract as repudiated. C.O.Y.T. c. 35, s. 30.

31. Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer is *prima facie* deemed to be a delivery of the goods to the buyer. Delivery to carrier.

2. Unless otherwise authorized by the buyer the seller must make such contract with the carrier on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do and the goods are lost or damaged in course of transit the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages.

3. Unless otherwise agreed where goods are sent by the seller to the buyer by a route involving sea transit under circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their sea transit and if the seller fails to do so the goods shall be deemed to be at his risk during such sea transit. C.O.Y.T. c. 35, s. 31.

32. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold the buyer must nevertheless unless otherwise agreed take any risk of deterioration in the goods necessarily incident to the course of transit. Risk where goods delivered at distant place. C.O.Y.T. c. 35, s. 32.

33. Where goods are delivered to the buyer which he has not previously examined he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract. Buyer's right of examining goods.

2. Unless otherwise agreed when the seller tenders delivery of goods to the buyer he is bound on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. C.O.Y.T. c. 35, s. 33.

34. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them. Acceptance. C.O.Y.T. c. 35, s. 34.

35. Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller but it is sufficient if he intimates to the seller that he refuses to accept them. Buyer not bound to return rejected goods. C.O.Y.T. c. 35, s. 35.

Liability of
buyer for
neglecting or
refusing
delivery of
goods.

36. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. C.O.Y.T. c. 35, s. 36.

PART IV.

Rights of Unpaid Seller against the Goods.

Unpaid seller
defined.

37. The seller of the goods is deemed to be an "unpaid seller" within the meaning of this Ordinance—

- (a.) When the whole of the contract price has not been paid or tendered;
- (b.) When a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

2. In this part of this Ordinance the term "seller" includes any person who is in the position of a seller, as for instance an agent of the seller to whom the bill of lading has been indorsed or a consigner or agent who has himself paid or is directly responsible for the price. C.O.Y.T. c. 35, s. 37.

Unpaid
seller's
rights.

38. Subject to the provisions of this Ordinance and of any Ordinance in that behalf, notwithstanding that the property in the goods may have passed to the buyer the unpaid seller of goods as such has by implication of law—

- (a.) A lien on the goods or right to retain them for the price while he is in possession of them;
- (b.) In the case of the insolvency of the buyer a right of stopping the goods *in transitu* after he has parted with the possession of them;
- (c.) A right of resale as limited by this Ordinance.

2. Where the property in goods has not passed to the buyer the unpaid seller has in addition to his other remedies a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage *in transitu* where the property has passed to the buyer. C.O.Y.T. c. 35, s. 38.

Unpaid Seller's Lien.

Seller's lien.

39. Subject to the provisions of this Ordinance the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price, in the following cases, namely;

- (a.) Where the goods have been sold without any stipulation as to credit;

(b.) Where the goods have been sold on credit but the term of credit has expired;

(c.) Where the buyer becomes insolvent.

2. The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. C.O.Y.T. c. 35, s. 39.

40. Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention on the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention. C.O.Y.T. c. 35, s. 40. Part delivery.

41. The unpaid seller of goods loses his lien or right of retention thereon— Termination of lien.

(a) When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b) When the buyer or his agent lawfully obtains possession of the goods;

(c) By waiver thereof.

2. The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods. C.O.Y.T. c. 35, s. 41.

Stoppage in Transitu.

42. Subject to the provisions of this Ordinance when the buyer of goods becomes insolvent the unpaid seller who has parted with the possession of the goods has the right of stopping them *in transitu* that is to say he may resume possession of the goods as long as they are in course of transit and may retain them until payment or tender of the price. C.O.Y.T. c. 35, s. 42. Right of stoppage in transitu.

43. Goods are deemed to be in course of transit from the time when they are delivered to a carrier, by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee. Duration of transit.

2. If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

3. If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

4. If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is not deemed to be at an end even if the seller has refused to receive them back.

5. When goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

6. Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.

7. Where part delivery of the goods has been made to the buyer or his agent in that behalf the remainder of the goods may be stopped *in transitu* unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods. C.O.Y.T. c. 35, s. 43.

How stoppage *in transitu* effected.

44. The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent a delivery to the buyer.

2. When notice of stoppage *in transitu* is given by the seller to the carrier or other bailee in possession of the goods he must re-deliver the goods to or according to the direction of the seller. The expenses of such re-delivery must be borne by the seller. C.O.Y.T. c. 35, s. 44.

Resale by Buyer or Seller.

Affect of subsale or pledge by buyer.

45. Subject to the provisions of this Ordinance the unpaid seller's right of lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto:

Provided that where a document of title of goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration then if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee. C.O.Y.T. c. 35, s. 45.

Sale not generally rescinded by lien or stoppage *in transitu*.

46. Subject to the provisions of this section a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

2. Where an unpaid seller who has exercised his right of lien or retention or stoppage *in transitu* resells the goods the buyer acquires a good title thereto as against the original buyer;

3. Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention

to resell and the buyer does not within a reasonable time pay or tender the price the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract;

4. Where the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default resells the goods the original contract of sale is thereby rescinded but without prejudice to any claim the seller may have for damages. C.O.Y.T. c. 35, s. 46.

PART V.

ACTIONS FOR BREACH OF THE CONTRACT.

Remedies of the Seller.

47. When under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract the seller may maintain an action against him for the price of the goods. Action for price.

2. Where under a contract of sale the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

3. Nothing in this section shall prejudice the right of the seller to recover interest on the price from the date of tender of the goods or from the date on which the price was payable, as the case may be. C.O.Y.T. c. 35, s. 47.

48. Where the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may maintain an action against him for damages for non-acceptance. Damages for non-acceptance.

2. The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from buyer's breach of contract.

3. Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or if no time was fixed for acceptance then at the time of the refusal to accept. C.O.Y.T. c. 35, s. 48.

Remedies of the Buyer.

49. Where the seller wrongfully neglects or refuses to deliver the goods to the buyer the buyer may maintain an action against the seller for damages for non-delivery. Damages for non-delivery.

2. The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

3. Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered or if no time was fixed then at the time of the refusal to deliver. C.O.Y.T. c. 35, s. 49.

Specific performance.

50. In any action for breach of contract to deliver specific or ascertained goods the Court may if it thinks fit on the application of the plaintiff by its judgment or decree direct that the contract shall be performed specifically without giving the defendant the option of retaining the goods on payment of damages. The judgment or decree may be unconditional or upon such terms and conditions as to damages, payment of the price and otherwise as to the Court seems just and the application by the plaintiff may be made at any time before judgment or decrec. C.O.Y.T. c. 35, s. 50.

Remedy for breach of warranty.

51. Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may—

(a) Set up against the seller the breach of warranty in diminution or extinction of the price; or

(b) Maintain an action against the seller for damages for the breach of warranty.

2. The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

3. In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

4. The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. C.O.Y.T. c. 35, s. 51.

Interest and special damages.

52. Nothing in this Ordinance shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law, interest or special damages may be recoverable or to recover money paid where the consideration for the payment of it has failed. C.O.Y.T. c. 35, s. 52.

PART VI.

SUPPLEMENTARY.

Exclusion of implied terms and conditions.

53. Where any right, duty or liability would arise under a contract of sale by implication of law it may be negatived or varied by express agreement or by the course of dealing between the parties or by usage if the usage be such as to bind both parties to the contract. C.O.Y.T. c. 35, s. 53.

54. Where by this Ordinance any reference is made to a reasonable time the question what is a reasonable time is a question of fact. C.O.Y.T. c. 35, s. 54. Reasonable time a question of fact.

55. Where any right, duty or liability is declared by this Ordinance it may unless otherwise by this Ordinance provided be enforced by action. C.O.Y.T. c. 35, s. 55. Rights, etc., enforceable by action.

56. In the case of a sale by auction: Auction sales.

1. Where goods are put up for sale by auction in lots each lot is *prima facie* deemed to be the subject of a separate contract of sale.

2. A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner. Until such announcement is made any bidder may retract his bid.

3. Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person. Any sale contravening this rule may be treated as fraudulent by the buyer.

4. A sale by auction may be notified to be subject to a reserve or upset price and the right to bid may also be reserved expressly by or on behalf of the seller. Where a right to bid is expressly reserved, but not otherwise, the seller or any one person on his behalf may bid at the auction. C.O.Y.T. c. 35, s. 56.

57. Where a buyer has elected to accept goods which he might have rejected and to treat a breach of contract as only giving rise to a claim for damages he may in an action by the seller for the price be required, in the discretion of the court before which the action depends, to consign or pay into court the price of the goods or part thereof or to give other reasonable security for the due payment thereof. C.O.Y.T. c. 35, s. 57. Payment into court when breach of warranty alleged.

58. The rules of the common law including the law merchant save in so far as they are inconsistent with the express provisions of this Ordinance and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress or coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods. Existing laws preserved subject hereto.

2. Nothing in this Ordinance shall affect the enactments relating to bills of sale or any enactment relating to the sale of goods which is not expressly repealed by this Ordinance.

3. The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security. C.O.Y.T. c. 35, s. 58. Mortgages or pledges.

repealed

CHAP. 79.

An Ordinance respecting Schools.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The School Ordinance*, C.O.Y.T. c. 66, s. 1.

INTERPRETATION.

Interpretation **2.** In this Ordinance, unless the context otherwise requires:
 "Department." 1. "Department" means the Department of Education.
 "Municipality." 2. "Municipality" includes the City of Dawson and any place incorporated under the Towns Ordinance.
 "Superintendent." 3. "Superintendent" means the Superintendent of Schools.
 "Board." 4. "Board" means Board of School Trustees. C.O.Y.T. c. 66, s. 2.

COUNCIL OF PUBLIC INSTRUCTION.

Council of Public Instruction. **3.** Three members of the Council of the Yukon Territory named by the Commissioner and two persons, one of whom shall be a Protestant and one a Roman Catholic, appointed by the Commissioner in Council for the term of two years, shall constitute a Council of Public Instruction; and one of the said Council of the Yukon Territory, to be nominated by the Commissioner, shall be Chairman of the said Council of Public Instruction. The appointed members shall be entitled to vote.
withd. 2. The Commissioner shall be *ex-officio* a member of the Council of Public Instruction. C.O.Y.T. c. 66, s. 3. No. 14 of 1904, s. 2.

Quorum. **4.** A majority of the Council of Public Instruction or of any sub-committee thereof appointed for that purpose, shall constitute a quorum of the Council of Public Instruction. C.O.Y.T. c. 66, s. 4.

Annual meeting. **5.** An annual meeting of the Council shall be held in the month of July at such time and place as the Commissioner appoints;
 2. Additional meetings of the Council may be called at any time by the Commissioner or at the request of any two members. C.O.Y.T. c. 66, s. 5.

Powers of Council. **6.** All general regulations respecting the inspection of schools, the examination, licensing and grading of teachers, courses of study, teachers institutes and text and reference books shall before being adopted or amended be referred to the Council for its discussion and report. C.O.Y.T. c. 66, s. 6.

7. The Council shall consider such matters as may be referred to it as hereinbefore provided or by the Commissioner, and may also consider any question concerning the educational system of the Territory as to it seems fit, and shall report thereon to the Commissioner in Council. C.O.Y.T. c. 66, s. 7.

General powers.

8. The Council may also select, adopt and prescribe series of text books to be used in the schools of the Territory, as well as the courses and standards of instruction for schools.

To prescribe series of text books.

2. Suspend or cancel for cause the certificate of qualification of any teacher.

3. Determine all cases of appeal arising from the decisions of trustees and make such orders thereon as may be required. C.O.Y.T. c. 66, s. 8.

POWERS OF THE COMMISSIONER.

9. The Commissioner may appoint a Superintendent of Schools for the Yukon Territory, who shall *ex officio* be Secretary of the Council of Public Instruction. C.O.Y.T. c. 66, s. 9.

Commissioner to appoint superintendent of schools.

10. It shall be lawful for the Commissioner from time to time:

Powers of commissioner.

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1. To establish schools in any part of the Territory not within a school district, as he considers necessary.

2. On application of the trustees of any school district to grant such moneys as he considers necessary to pay the salary of the teacher in such school district, and the cost of erecting a school-house.

3. To grant such sum as he thinks proper to aid in the establishment and maintenance of a school in any part of the Territory not being a school district.

4. To appoint two or more examiners, at such remuneration as he thinks proper, who, together with the superintendent of schools, shall constitute a board of examiners, to examine teachers and grant certificates of qualification. Such certificates shall be of two classes, viz.: First-class certificates and Second-class certificates.

5. To grant interim certificates of qualification for one year to teachers having first or second class certificates of any province of Canada, and on the report of the Superintendent of Schools, to make such certificates permanent.

6. To appoint an official trustee to conduct the affairs of any district; and any such official trustee shall have all the powers and authorities conferred by this Ordinance on a board and its officers; and shall be remunerated out of the funds of the district or otherwise as the Commissioner decides, and upon the appointment of any such official trustee the board of any district for which he is appointed shall cease to hold office as such.

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7. To appoint some person to inquire into and report upon the conditions existing in any portion of the Territory that has not been erected into a school district, and subject to the provisions of this Ordinance in that behalf to take such action thereon as to him seems expedient; and such person shall receive such remuneration as the Commissioner determines.

8. To make any provision not inconsistent with this Ordinance that may be necessary to meet exigencies occurring under its operation: and generally from time to time to make and enforce all such general rules orders and regulations as are necessary for the purpose of giving full effect to all or any of the provisions of this Ordinance.

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9. To direct the Department of Education to perform any of the duties conferred upon him by this Ordinance. C.O.Y.T. c. 66, s. 10.

DUTIES OF SUPERINTENDENT OF SCHOOLS.

Duties of superintendent of schools.

11. It shall be the duty of the Superintendent of Schools:

1. To visit all schools established under this Ordinance and inquire into and report to the Commissioner and to the Council of Public Instruction upon the progress and attendance of the pupils, the discipline and management of schools, the system of education pursued, the mode of keeping school registers, the condition of school buildings and premises, and generally the compliance with the provisions of this Ordinance and all such other matters as by the Commissioner is deemed expedient or advisable in the public interests.

2. Subject to the approval of the Commissioner to make and establish rules and regulations for the conduct of schools, to prescribe the duties of teachers and their classification not inconsistent with the provisions of this Ordinance.

3. To perform the duties of a board of trustees in respect to all schools heretofore established or which are hereafter established under this Ordinance which are not within the limits of an established school district.

4. To make annually for the information of the Yukon Council a report of the actual state of the public schools throughout the Territory, showing the number of pupils taught in each school, the branches taught, and average attendance, the amount of moneys expended in connection with each school, the number of official visits made to each school, the salaries of teachers, the number of qualified teachers, their standing and sex, together with any other information that he may possess respecting the educational state and wants and advantages of each school and district in the Territory, and such statements and suggestions for improving the schools and school laws, and promoting education generally, as he deems useful and expedient; which report shall be laid before the Yukon Council immediately after the opening of the next succeeding session thereof.

5. To prepare suitable forms and give such instructions as he considers necessary and proper for making all reports and conducting all proceedings under this Ordinance.

6. With due diligence, after any complaint has been made to him respecting the mode of conducting any election of trustees (as hereinafter provided for) to investigate such complaint, and report the facts to the Commissioner.

7. To close schools when the average attendance falls below seven.

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8. To perform such other duties as are assigned to him by the Commissioner or by the Council of Public Instruction: C.O.Y.T. c. 66, s. 11.

SCHOOL DISTRICTS.

12. The Commissioner may by proclamation establish the City of Dawson and every town incorporated under the Towns Ordinance or which is hereafter incorporated under said Ordinance or any other part of the Territory where a school has been established, a school district under this Ordinance; and on the petition of three ratepayers in an area of not more than five square miles containing not less than four ratepayers and twelve children between the ages of 5 and 16 inclusive, and upon verification of these facts by solemn declaration the Commissioner shall erect such area into a school district under this Ordinance. C.O.Y.T. c. 66, s. 12.

Commissioner may establish school districts.

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13. As soon as the City of Dawson is erected into a School District the Commissioner shall appoint a returning officer and fix a day for holding an election of five trustees, who shall hold office until the second Monday of January next following the date of the election, or until their successors are elected.

City to elect five trustees.

2. The returning officer shall within ten days from the receipt of his appointment post notices as nearly as may be in form "A" in the schedule hereto in various public places within the city.

Returning officer to post notice.

3. Every person who is a British subject and who was assessed upon the assessment roll of the City of Dawson last preceding the date of such election and whose taxes have been paid in full on or before the day of such election, shall be entitled to vote at such election and no other person shall be entitled except as hereinafter provided.

Who entitled to vote.

4. The collector of taxes shall cause to be prepared for use at such election a list alphabetically arranged of the names of all persons assessed upon said assessment roll who have paid their taxes up to the hour of closing his office on the seventh day prior to the date of such election and such list shall be certified by said collector of taxes and shall be the voters' list for said election.

Voters' list to be prepared.

5. Every person assessed upon said assessment roll who shall have paid his taxes in full at any time after the said seventh day prior to the date of the election and before four o'clock in the afternoon of the day of such election shall be entitled to receive from said collector of taxes a certificate that all his taxes have been paid in full and shall on production of such certificate to the deputy returning officer at any polling place and filing the same with him be entitled to have his name entered on the voters' list at the polling place and shall be given a ballot and be entitled to vote. All such certificates shall after the close of the poll be placed in the ballot box and delivered therewith to the returning officer. No. 1 of 1914, s. 1.

Persons paying taxes after list made up entitled to vote.

Qualification
of trustees.

14. The persons qualified to be elected trustees shall be British subjects and actual resident ratepayers within the city able to read and write and not disqualified under this Ordinance.

Nomination
of
candidates.

2. Every candidate for the office of trustee shall be nominated in writing by two ratepayers of the city and such nomination paper shall be delivered to the returning officer not later than five o'clock in the afternoon of the Monday previous to the second Monday in January.

If
nominations
do not exceed
required
number.

Returning
officer to
declare.

3. In case the number of nominations do not exceed the number of trustees to be elected the returning officer shall declare the person or persons nominated to be elected and shall make a return thereof to the Commissioner with the nomination papers of all persons so nominated. No. 1 of 1914, s. 1.

Returning
Officer to
appoint
Deputy, etc.

15. The returning officer shall provide a polling place for every 250 voters and for each polling place shall appoint a deputy returning officer and poll clerk and said election as to division of voters' lists for the several polling stations, the secret marking of ballots and otherwise shall be conducted as far as may be under the provisions hereof in the same manner as is provided by law at an election of a member of the Yukon Council.

Oath to be
taken by
officials.

2. The returning officer, deputy returning officers and poll clerks shall before entering upon their respective duties take the oath in form "B" in the schedule to the Ordinance to the proper and faithful discharge of the same. No. 1 of 1914, s. 1.

Opening and
closing of
poll; ballot
papers to
be provided.

16. Upon the day fixed by the Commissioner the deputy returning officer shall open the poll at nine o'clock in the forenoon and shall keep the same open until five o'clock in the afternoon. The returning officer shall provide a poll book, which poll book shall be in the same form, with such variations as may be necessary, as that provided in an Ordinance respecting elections, for use on an election for a member of the Yukon Council, a ballot box, a sufficient number of ballot papers and the necessary material to mark the ballots for each deputy returning officer.

Form of
ballot.

2. Ballot papers for use at such election shall be in form "C" in the schedule hereto.

Poll clerk to
enter names in
poll book.

3. The poll clerks shall write in the poll books the name of each voter when he offers to vote.

Each
candidate
may be
represented
by agent.

4. Every candidate shall be entitled to be represented at such polling booth by an agent, who shall produce to the deputy returning officer his appointment as such agent signed by the candidate, or in case of his absence from Dawson by two electors, one of whom shall be one of the nominors of the candidate.

Deputy
returning
officer to
initial
ballots, etc.

5. When the name of any person claiming to vote is found upon the list of voters, or such person produces a certificate from the collector of taxes as hereinbefore provided and when the proper entries respecting him have been made in the poll book the deputy returning officer shall write his initials on the back of a ballot paper and deliver the same to such person unless such person has refused to take any prescribed oath or affirmation, when no ballot paper shall be delivered to him.

6. At the hour of five o'clock in the afternoon the deputy returning officer shall declare the poll closed and shall forthwith thereafter, with the assistance of his poll clerk and in the presence of the candidates and their agents or such of them as are then present, open the ballot box and examine the ballots therein and proceed to count the votes.

Closing of poll and counting of ballots.

7. Any ballot paper,

- (a) Not initialled by the deputy returning officer, or
- (b) On which votes are given to more candidates than are to be elected, or
- (c) On which anything is written or marked appearing to have been designedly put there, for the purpose of enabling the same to be identified as a ballot of a particular voter, or
- (d) Which is unmarked, or
- (e) From which it is uncertain for which candidate or candidates the voter votes,

Certain ballots not to be counted.

shall be void and not counted. No. 1 of 1914, s. 1.

17. After summing up the votes the deputy returning officer, if requested so to do by any of the candidates or agent of any candidate, shall give to such candidate or agent a certificate of the number of votes given for each candidate and of the number of rejected ballots and shall then place all the ballots, poll books and oaths, voters' lists and certificates of the collector of taxes in the ballot box and seal up the same and return to the returning officer with a written statement of the votes cast for each candidate and the number of rejected ballots.

Deputy returning officer to furnish certificates of vote.

18. The returning officer shall as soon as possible sum up the result of the returns of all the deputy returning officers and shall declare the five candidates receiving the greatest number of votes elected and shall make a return thereof to the Commissioner and shall then deliver all voters' lists, certificates of the collector of taxes, ballot boxes, ballots and oaths to the collector of taxes.

Returning officer to declare election and make return.

3. Every election for trustees in the City of Dawson after the first election thereof shall be held on the second Monday in January in each year and shall be conducted in the same manner as herein provided for the first election of such trustees.

Date of election after the first.

4. The returning officer shall cause to be posted in every polling place a copy of the instructions in the schedule to this Ordinance.

Instructions to be posted.

5. The returning officer shall cause the notice in form "A" to be posted not less than three weeks preceding any election subsequent to the first election for school trustees in the City of Dawson. No. 1 of 1914, s. 1.

Notice of election.

18. In case any objection is made to the right of any person to vote at an election of trustees in any public school district, the returning officer may require the person whose right to vote is objected to to make the following oath or affirmation:

Oath of voter.

"I, _____ do solemnly swear or affirm that I am a *bona fide* ratepayer of (give name of district in full) and a duly

qualified voter in said district, and have paid all taxes due by me to the said school district, that I am of the full age of twenty-one years; that I have not before voted at this election; and that I have not received any reward either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place. So help me God." C.O.Y.T. c. 66, s. 18.

First election
in all other
districts.

19. As soon as any other part of the Territory is erected into a school district it shall elect from amongst those persons who would be entitled to vote for an overseer under the Towns Ordinance, three trustees, who shall hold office until the first Wednesday in September next following the date of their election, or until their successors are elected. C.O.Y.T. c. 66, s. 19.

Who may
vote.

20. The persons qualified to vote at the election of trustees in any school district other than the Dawson school district shall be those persons in said district who would be entitled to vote for an overseer under the Towns Ordinance if said district was incorporated as a town under said Ordinance. C.O.Y.T. c. 66, s. 20.

Subsequent
elections.

21. The nomination and election of trustees for any school district other than the Dawson school district shall take place on the first Wednesday of September in each year, and the nomination and election of said trustees shall be conducted in the same manner as the nomination and election of an overseer under the Towns Ordinance. If said school district is within the limits of a town said nomination and election shall be held at the same time and place and before the same returning officer as the nomination and election of the overseer of said town, but if said district is not within the limits of a town, the Commissioner shall appoint a returning officer for said nomination and election, and fix the polling places, and the provisions of the Towns Ordinance respecting the time for opening and closing of the poll, the mode of voting, vacancies and declaration of office shall, *mutatis mutandis*, apply to the election of school trustees. C.O.Y.T. c. 66, s. 21.

DECLARATION OF OFFICE.

Trustee
to make
declaration.

22. Every trustee shall before the first meeting of the board is held make the following declaration before a justice of the peace or commissioner for taking affidavits:

I, _____ do hereby accept the office of trustee to which I have been elected (name of school district in full) and I will to the best of my ability honestly and faithfully discharge the duties devolving on me as such trustee.

Dated this _____ day of _____ 19____. C.O.Y.T. c. 66, s. 22.

ORGANIZATION OF BOARD.

First meeting
of board.

23. Upon the erection of a district one of the trustees elected shall be notified of the erection of the district by the

Commissioner and he shall thereupon within ten days after the receipt of such notice call a meeting of the board in the manner provided in this Ordinance for calling such meetings for the purpose of choosing one of its number as chairman and appointing a secretary and treasurer or secretary-treasurer and transacting such other business as is necessary. C.O.Y.T. c. 66, s. 23.

SEPARATE SCHOOLS.

24. The minority of the ratepayers of any school district, whether Protestant or Roman Catholic, may petition the Commissioner to establish a separate school district therein, and in such case the ratepayers of such Protestant or Roman Catholic separate school district shall be liable only for assessments of such rates as they impose upon themselves in respect thereof. C.O.Y.T. c. 66, s. 24. Separate schools.

25. The petition for the erection of a separate school district shall be signed by three resident ratepayers of the religious faith indicated in the name of the proposed district. The petition shall set forth: To be erected on petition.

- (a) The religious faith of the petitioners;
- (b) The proposed name (stating whether Protestant or Roman Catholic) of the district;
- (c) The proposed limits, definite location and approximate area;
- (d) The total number of ratepayers and of children between the ages of five years and sixteen years inclusive, of the religious faith (Protestant or Roman Catholic) of the petitioners residing within the limits of the proposed district;
- (e) The total assessed value of the real and personal property according to the last revised assessment roll of the district; and such petition shall be accompanied with a solemn declaration of one of the petitioners verifying the facts set forth in their petition. C.O.Y.T. c. 66, s. 25.

26. If the Commissioner is satisfied that said district contains: Commissioner to issue proclamation on being satisfied of certain particulars.

- (a) Twelve children of the religious faith (Protestant or Roman Catholic) of the petitioners;
- (b) Four persons actually residing therein who on the erection of the district would be liable to assessment;

he shall by proclamation order the erection of such parties into a school district. C.O.Y.T. c. 66, s. 26.

27. The number of trustees, their term of office and the manner of their nomination and election shall be the same as for the public school district within which said separate school district is situated. C.O.Y.T. c. 66, s. 27. Number of trustees same as public school districts.

28. The persons qualified to vote for the election of trustees of a separate school district shall be the qualified voters in the Who may vote.

~~the~~ district of the same religious faith (Protestant or Roman Catholic) as the petitioners. C.O.Y.T. c. 66, s. 28.

Oath of voter. **29.** In case any objection is made to the right of any person to vote at an election of trustees in any separate school district, the returning officer may require the person whose right of voting is objected to to make the following oath or affirmation:

"I do solemnly swear (or affirm) that I am a *bona fide* ratepayer of (give name of district in full) and a duly qualified voter in said district and have paid all taxes due by me to the said school district; that I am a (give religious denomination, either Protestant or Roman Catholic) and a supporter of said separate school; that I am of the full age of twenty-one years; that I have not before voted at this election; and that I have not received any reward either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place. So help me God." C.O.Y.T. c. 66, s. 29.

Board to possess same powers as public school district.

30. After the establishment of a separate school district under the provisions of this Ordinance such separate school district and the board thereof shall possess and exercise all rights, powers, privileges and be subject to the same liabilities and method of government as is herein provided in respect to public school districts;

Person assessed for public school not liable for separate school.

2. Any person who is legally assessed for a public school shall not be liable to assessment for any separate school established therein. C.O.Y.T. c. 66, s. 30.

ANNUAL SCHOOL MEETING.

Annual meetings.

31. An annual meeting of the ratepayers of every school district other than the Dawson school district shall be held in the school house or some other suitable place within the district, not later than the first Tuesday of September in each year, commencing at the hour of eight o'clock in the evening. C.O.Y.T. c. 66, s. 31.

Notice to be given.

32. The meeting shall be called by the board which shall at least eight days before the day for which the meeting is called post public notices giving the day, place and hour of the meeting; and such notices shall be posted up in five conspicuous places within the district, one of which shall be the post office and if there be no such post office, a sixth notice shall be posted up in the post office nearest thereto. C.O.Y.T. c. 66, s. 32.

Officers of annual meeting.

33. At the time hereinbefore provided for the commencement of the meeting the chairman of the board shall take the chair and call the meeting to order and the secretary of the board or some one appointed by the chairman shall record the minutes of the meeting, and perform such other duties as may be required of him by this Ordinance;

2. In the absence of the chairman the ratepayers present shall forthwith elect one of their number to preside. C.O.Y.T. c. 66, s. 33.

34. The chairman shall not vote on any question whether the same is to be declared by a show of hands or a poll, but in case of a tie, he shall give a casting vote. C.O.Y.T. c. 66, s. 34. Chairman to have only casting vote.

35. The business of the annual meeting may be conducted in the following order: Order of business.

1. Reading and approving minutes of the last annual meeting;
2. Receiving and considering the statements prepared by the teacher, trustees, treasurer, collector and auditor;
3. Receiving and considering the report of the Superintendent of Schools;
4. Miscellaneous business. C.O.Y.T. c. 66, s. 35.

36. The chairman upon taking his place shall immediately call upon the secretary to read the following statements and reports, which shall be considered and disposed of by the meeting: Secretary to read minutes and statements.

1. A statement of the teacher signed by him giving the following particulars: Teachers statement.

(a) The number of days on which school was kept open during each term succeeding the last annual meeting;

(b) The total number of children attending school during that period specifying the number of males and females;

(c) The number of children of school age residing in the district who did not attend school during the year;

(d) The average daily attendance for each term and for the year;

(e) The classification of pupils and the number of pupils in each standard or class;

(f) The subjects taught in the school and the number of children studying each;

(g) The number of scholars suspended or expelled for misbehaviour or other causes;

(h) The date upon which the public examination of the school was held and the number of visitors present.

2. A statement prepared by the trustees showing:

(a) The names of the trustees; Trustees' statement.

(b) The officers of the district appointed by the trustees, and their salaries;

(c) Vacancies created in the board during the year, giving the causes thereof with an account of the elections held to fill such vacancies and the results thereof;

(d) The engagements entered into during the year by the board as well as an account of those entailed upon them by their predecessors;

(e) The number of regular and special meetings of the board held during the year together with a statement showing the number of meetings attended by each member;

(f) The number of visits made by each member of the board to the school while it was in operation.

Treasurer's statement. 3. The treasurer's statement for the fiscal year ending the 30th day of June preceding the annual meeting, in which shall be set forth:

(a) The amounts of money received by the district from each source of revenue including government grants whether paid directly to the teachers or not;

(b) The amount of money paid out by the district with particulars of payment;

(c) The amount of money due to the district from all sources with the particulars;

(d) The amount of money due by the district and the terms and times of payment.

Statement of collector of taxes.

4. A statement prepared by the collector of taxes and signed by him giving the following particulars:

(a) The total assessed value of all property as shown by the last revised assessment roll;

(b) The rate of the school tax;

(c) The total amount of taxes levied during the year;

(d) The current taxes collected during the year;

(e) The arrears of taxes collected during the year;

(f) The total arrears of taxes which are due together with a statement of the amount owing by each ratepayer.

Auditor's report. Superintendent of school's report. Other statements.

5. The Auditor's report.

6. The Superintendent of School's report received since the next preceding annual meeting was held.

7. Such further statements in relation to the affairs of the district as is deemed advisable. C.O.Y.T. c. 66, s. 36.

DAWSON SCHOOL DISTRICT.

Annual meeting of Dawson school district.

37. An annual meeting of the ratepayers of the Dawson school district shall be held at the same time and place as may be appointed for the nomination of school trustees for said district. C.O.Y.T. c. 66, s. 37. No. 1 of 1914, s. 2.

Reports may be published instead of being read.

38. At the annual meeting held in the Dawson school district the reading of any or all reports mentioned in section 35 of this Ordinance may be omitted upon a resolution being passed to that effect by the ratepayers present, but any ratepayer of the district may have access to such reports and statements either during or after the meeting is held; and the board, if it deem it advisable or upon being authorized to do so by resolution of the ratepayers at the annual meeting, may have any or all of such reports or statements, or any parts of them except the Superintendent of School's report printed in a newspaper published in the district. C.O.Y.T. c. 66, s. 38.

DEFERRED SCHOOL MEETINGS.

Deferred school meetings, how called and powers.

39. In case from want of proper notice or other cause any first, annual or other school meeting required to be held under this Ordinance, is not held at the proper time, it shall be the duty of

the secretary of the board when required to do so by any two resident ratepayers or by the Commissioner to call a meeting of the ratepayers by posting notices in the manner prescribed by this Ordinance for such meeting; and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it was called. C.O.Y.T. c. 66, s. 39.

SPECIAL MEETINGS OF RATEPAYERS.

40. A special meeting of the ratepayers of any district may be held at any time for any necessary purpose not otherwise provided for in this Ordinance. C.O.Y.T. c. 66, s. 40. Special meeting of ratepayers.

41. It shall be the duty of the secretary of the board to call any special meeting when required to do so; Secretary to call meetings.

- (a) by the board;
- (b) by the Commissioner;
- (c) by the Superintendent of Schools.

2. The notice calling a special meeting shall set forth the purpose of the meeting and shall be posted in the manner provided for notices of annual meetings. C.O.Y.T. c. 66, s. 41. Notice to state purpose.

42. At the meeting so held the ratepayers present shall elect a chairman and secretary and no business shall be considered by the meeting other than that mentioned in the notices calling the same. C.O.Y.T. c. 66, s. 42. To elect chairman and secretary.

AUDIT.

43. The books and accounts of every school district shall be audited in each year prior to the annual meeting, by an official auditor appointed by the Commissioner. C.O.Y.T. c. 66, s. 43. Books of district to be audited each year.

BOARD OF TRUSTEES.

TRUSTEES A BODY CORPORATE.

44. The trustees of every district shall be a corporation under the name "The Board of Trustees for the School District No. of the Yukon Territory". C.O.Y.T. c. 66, s. 44. Trustees to be a corporation.

ORGANIZATION OF BOARD.

45. Within ten days after his election every trustee shall make the declaration of office provided for in section 22 of this Ordinance. Trustees to make declaration.

46. The board shall meet within ten days after the election of trustees in each year for the purpose of organizing, and transacting such other business as is required. C.O.Y.T. c. 66, s. 46. Organization of board.

Board to
appoint
chairman
and secretary.

47. At the meeting thus held the board shall appoint a chairman and shall also appoint a secretary and a treasurer or a secretary-treasurer who shall respectively hold office during the pleasure of the board and shall be allowed such remuneration as the board fixes.

2. Any member of the board other than the chairman may be appointed secretary, treasurer or secretary-treasurer.

3. The teacher of a school district may be appointed secretary but not treasurer, nor secretary-treasurer. C.O.Y.T. 66, s. 47.

BOARD MEETINGS.

Meetings
how called.

48. A meeting of the board may be called by the chairman or any trustee. C.O.Y.T. c. 66, s. 48.

Two days'
notice.

49. Every regular or special meeting of the board shall be called by giving two clear days' notice in writing, which notice may be given by delivering such notice to each trustee or in the absence from his residence of any trustee, to any adult person thereat:

Provided that the board of any district may at any meeting at which all the members of the board are present decide by resolution to hold regular meetings of the board, and such resolution shall state the day, hour and place of every such meeting and no further or other notice of any such meeting shall be necessary.

2. The board may by unanimous consent waive notice of meeting and hold a meeting at any time, which consent shall be subscribed to by each member of the board and shall be recorded in the minutes of the meeting in the following form:

We the undersigned trustees of
hereby waive notice of this meeting.

Trustees.

C.O.Y.T. c. 66, s. 49.

Acts of board
to be valid
must be
adopted at
meeting.

50. No act or proceeding of any board shall be valid or binding on any party which is not adopted at a regular or special meeting at which a quorum of the board is present.

2. A majority of the board shall be a quorum. C.O.Y.T. c. 66, s. 50.

One trustee
not to
transact
business.

51. If the number of trustees be reduced to one, that one shall immediately take the necessary steps to fill the vacancies in the board but he shall not transact any other business of the district. C.O.Y.T. c. 66, s. 51.

Seconder
not required
for motion.

52. All questions shall be submitted to the board on the motion of the chairman or any other trustee, and no seconder shall be required. C.O.Y.T. c. 66, s. 52.

53. At all meetings of the board all questions shall be decided by the majority of the votes, and the chairman shall have the right to vote; but in case of an equality of votes the question shall be decided in the negative. Questions to be decided by majority of votes

2. In case of the absence of the chairman from any meeting of the board the trustees present shall elect one of their number to act as chairman of the meeting. C.O.Y.T. c. 66, s. 53. In absence of chairman trustee to elect one.

Duties of Trustees and their Officers.

54. It shall be the duty of the board of every district, and it shall have power: Duties of board.

1. To appoint a chairman, a secretary and treasurer or a secretary-treasurer and such other officers and servants as are required by this Ordinance;

2. To procure a corporate seal for the district;

3. To see that all the reports and statements required by this Ordinance or by the Superintendent of Schools are transmitted to the department without delay;

4. To keep a record of the proceedings of each meeting of the board signed by the chairman and secretary and see that true accounts both of the school and district are kept, and that the affairs of the district are conducted in the manner provided by this Ordinance and with due regard to efficiency and economy;

5. To provide the officers of the board with the books necessary for keeping proper records of the district;

6. To take possession and to have the custody and safe keeping of all the property of the district;

7. To purchase or rent school sites or premises, and to build, repair, furnish and keep in order the school house or houses, furniture, fences, and all other school property; to keep the well, closets and premises generally in a proper sanitary condition, and to make due provision for properly lighting, heating, ventilating and cleaning the school-room or rooms under its control and if deemed advisable to purchase or rent sites or premises for a house for the teacher and to build, repair and keep in order such house;

9. To provide wholesome drinking water for the use of the children during school hours;

10. To provide separate buildings for privies for boys and girls. The buildings shall be erected in the rear of the school house at least ten feet apart, their entrances facing in opposite directions or otherwise effectually screened from each other;

11. To erect and keep in order if deemed advisable suitable stabling accommodations;

12. To insure and keep insured the school building and equipment;

13. To provide when deemed expedient a suitable library for the school and to make regulations for its management;

14. To select and provide from the list authorized by the Commissioner all such reference books for the use of pupils and teachers and all such globes, maps, charts and other

apparatus as are required for the proper instruction of pupils;

15. To require that no text books or apparatus be used in the school under its control other than those authorized by the Council of Public Instruction;

16. To exempt, in its discretion, from the payment of school taxes wholly or in part any indigent persons resident within the district, and where necessary to provide for the children of such persons text books and other supplies at the expense of the district;

17. To engage a teacher or teachers duly qualified under the regulations of the department to teach in the school or schools in its charge on such terms as it deems expedient; the contract therefor shall be in writing and may be in the form prescribed by the Superintendent of Schools and a certified copy of such contract shall forthwith be transmitted to the department;

18. To suspend or dismiss any teacher for gross misconduct, neglect of duty or for refusal or neglect to obey any lawful order of the board and to forthwith transmit a written statement of the facts to the department;

19. To see that the school is conducted according to the provisions of this Ordinance and the regulations of the Commissioner or department;

20. To provide for the payment of teachers salaries at least once in every three months;

21. To make regulations for the management of the school subject to the provisions of this Ordinance and to communicate them in writing to the teacher;

22. To provide in the cases of graded schools when deemed expedient at what times pupils may be admitted to Standard I;

23. To settle all disputes arising in relation to the school between the parents or children and teacher;

24. To suspend or expel from school any pupil who upon investigation by the board is found to be guilty of truancy, open opposition to authority, habitual neglect of duty, the use of profane or improper language or other conduct injurious to the moral tone or well-being of the school;

25. To see that the law with reference to compulsory education and truancy is observed; and

26. To perform such duties as are required by this Ordinance or the regulations of the Commissioner or department. C.O.Y.T. c. 66, s. 54.

**Duties of
chairman.**

55. It shall be the duty of the chairman of the board:

1. To have the general supervision of the affairs of the district;
2. To certify all accounts against the district passed by the board before such accounts are paid by the treasurer. C.O.Y.T. c. 66, s. 55.

**Duties of
secretary.**

56. It shall be the duty of the secretary or secretary-treasurer of the board—

1. To keep a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose and to see that the minutes when confirmed are signed by the chairman;

2. To conduct the correspondence of the board as he is directed by the board;

3. To have charge of and keep on record all the books, papers, accounts, assessment rolls, plans and maps committed to his charge by the board during his term of office and deliver the same to the chairman on ceasing to hold office;

4. To faithfully prepare and duly transmit to the department such reports and statements and such other information in regard to the district as is from time to time required by the Superintendent of Schools and in such form as is provided by the Superintendent of Schools;

5. To call, at the request in writing of the chairman or any trustee, a meeting of the board;

6. To produce the minute and other books, assessment rolls and all papers and other records of the board for inspection when required by the Superintendent of Schools so to do;

7. To prepare the statement of the trustees to be submitted at the annual meeting of the ratepayers;

8. To give the notice required by this Ordinance of each annual meeting of the ratepayers and to call special meetings of the ratepayers as provided by section 41 of this Ordinance. C.O.Y.T. c. 66, s. 56.

57. It shall be the duty of the treasurer or secretary-treasurer of the board: Duties of treasurer.

1. To give security to the board before entering upon his duties by a bond signed and acknowledged in duplicate before a commissioner, notary public or justice of the peace, and such security shall be given by any two solvent sureties jointly and severally to the satisfaction of the board, or he may furnish in lieu thereof a guarantee bond from any guarantee company authorized to do business in Canada to the amount of any moneys for which the treasurer may at any time be responsible whether arising from the school fund or from any particular contribution or donation paid into his hands for the support or benefit of the district and such security shall be renewed at the beginning of each year or renewed at other times or changed whenever renewal or change is necessary as required by the board. The members of any board failing to take such bond or security from its treasurer shall be jointly and severally liable for his default to the extent of the sum for which such bond should have been taken:

Provided that when the majority of the board refuse or neglect to take security from the treasurer on the demand of any trustee such demand shall be duly recorded in the minutes and such trustee shall be relieved from all personal liability in case of the default of such officer;

2. To receive all school moneys collected from the ratepayers or other persons for the purpose of the district of which he is treasurer and to disburse such moneys in the manner directed by the board;

3. To pay all accounts against the district only when they are certified by the chairman of the board;

4. To keep in a cash book provided for the purpose a complete and detailed account of all moneys received and disbursed for school purposes including government grants which may have been paid directly to the teacher;

5. To give and take receipts for all school moneys received and paid out and to keep on file all vouchers of expenditure;

6. To close and balance the books of the district at the end of the school year;

7. To produce when called for by the trustees, auditor, Superintendent of Schools, or other competent authority, all books, vouchers, papers and moneys belonging to the district and to hand over the same to the trustees or any person named by them upon his ceasing to hold office;

8. To prepare at the end of each year and in the manner provided by this Ordinance a statement of the finances of the district to be submitted to the annual meeting of the ratepayers;

9. To faithfully prepare and duly transmit to the department such reports and statements with reference to the finances of the district as are from time to time required by the Superintendent of Schools and in such form as is provided by the Superintendent of Schools. C.O.Y.T. c. 66, s. 57.

HALF-YEARLY AND YEARLY RETURNS.

Returns.
and reports.

58. The board of every district shall cause to be prepared by the proper officers of the district and transmitted to the department the half-yearly and yearly returns respecting attendance and classification of pupils and the finances of the district which returns shall be in the form prescribed by the Superintendent of Schools.

2. In case the board of any district neglects or refuses to have prepared and transmitted to the department such half-yearly and yearly returns within thirty days from the close of the half-year or year, as the case may be, such district shall forfeit the sum of \$10 out of any government grant which may have been earned and to which the district is entitled for each week that the returns are delayed, and the trustees through whose neglect or refusal such sums have been forfeited shall be jointly and severally responsible for the amount thus lost to the district, which amount may be recovered by action in the Territorial Court of the Yukon Territory by any person authorized by the Superintendent of Schools to bring such action. C.O.Y.T. c. 66, s. 58.

RESIGNATION OF TRUSTEES.

How trustee
may resign.

59. Any trustee wishing to resign may do so by sending notice in writing to the remaining member or members of the board who shall immediately take the necessary steps to fill the vacancy, and such resignation shall only take effect upon the election of a new trustee.

2. A trustee who resigns his office may be re-elected with his own consent. C.O.Y.T. c. 66, s. 59.

DISQUALIFICATION OF TRUSTEES.

60. Any trustee who is convicted of any felony or misdemeanour or becomes insane or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be an actual resident within the district for which he is trustee shall, *ipso facto* vacate his seat and the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election to fill any vacancy thus created. C.O.Y.T. c. 66, s. 60.

Trustee to vacate seat if convicted of crime or absent for three months, etc.

61. No trustee shall take or possess any pecuniary interest, profit or promise or expected benefit in or from any contract, agreement or engagement either in his own name or in the name of another, with the corporation of which he is a member, or receive or expect to receive any compensation for any work, engagement, employment or duty on behalf of such corporation except as secretary, treasurer, secretary-treasurer or for a school site.

Trustee not to have interest in contract.

2. Any trustee violating any of the provisions of this section shall thereby forfeit his seat, and the remaining trustees shall declare the seat vacant, and it shall thereby become vacant, and an election to fill the vacancy so created shall be held forthwith. C.O.Y.T. c. 66, s. 61.

ELECTIONS TO FILL VACANCIES.

62. When any vacancy is created in the board of any school district, it shall be the duty of the remaining trustee or trustees in office to forthwith appoint a returning officer and hold an election to elect the required number of trustees to complete the board, which election shall be held in the same manner as is provided by this Ordinance for the annual election of trustees:

In case of vacancy remaining trustee to hold election.

Provided that if any vacancy is not filled within one month the Commissioner may appoint some qualified person to fill the same. C.O.Y.T. c. 66, s. 62.

63. A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected, and he shall within ten days after his election take the declaration of office provided for in section 22 of this Ordinance. C.O.Y.T. c. 66, s. 63.

Trustee elected to fill vacancy to hold seat for remainder of term.

BORROWING POWERS OF DISTRICT.

64. The board of any district may by resolution authorize its chairman and treasurer to borrow from any person, bank or corporation, such sum of money as is required to meet the expenditures of the district until such time as the taxes levied for the current year are available, and such loan shall be repaid out of and shall be a first charge upon the taxes which are collected for the year in which the loan was made, and may

Board may borrow until taxes received.

be secured by the promissory note or notes of the chairman and treasurer given on behalf of the board. C.O.Y.T. c. 66, s. 64.

With approval of commissioner may borrow for certain purposes.

65. The board of any district may upon receiving the approval of the Commissioner borrow a sum of money not to exceed \$2,000 for the purposes of securing or improving a school site, or purchasing, repairing, erecting, furnishing or adding to any school building or for all or any of the said purposes:

Provided that any such loan shall be made repayable in equal annual instalments with interest and may be extended over a period of not more than five years; and any such loan may be secured by the promissory note or notes of the chairman and treasurer given on behalf of the board. C.O.Y.T. c. 66, s. 65.

ASSESSMENT AND TAXATION.

Assessment Ordinance to apply.

66. The Assessment Ordinance shall be deemed to form part of this Ordinance and shall apply *mutatis mutandis* to all school districts established throughout the Territory.

2. Where a district is situated within a municipality the trustees may as soon as may be after the final revision of the assessment roll of the municipality make a demand on the overseer or council of such municipality for the sum required for school purposes for the then current year; but such sums shall not exceed an amount equal to five mills on the dollar according to the last revised assessment roll on the property liable to assessment in such district for ordinary school purposes with such additional amount as may be necessary to meet any indebtedness that has been incurred and is coming due, and the same shall be assessed and collected as the rates of the municipality.

3. For the purposes of this section any portion of a district which is not within the limits of a municipality shall be deemed to be within the limits of the municipality, and the provisions of the Towns Ordinance or of any special Ordinance creating such municipality and any amendments thereto shall apply to such portion as if the same formed a part of the municipality.

4. Subject to the provisions of this Ordinance the property liable to assessment and taxation for school purposes shall be the property liable to assessment and taxation for municipal purposes. C.O.Y.T. c. 66, s. 66.

WHERE SEPARATE SCHOOL DISTRICT.

In separate school district column to be added by assessor for religion.

67. After a separate school district is established the assessor shall add a column to the assessment roll, in which he shall place the religion (Protestant or Roman Catholic) of the person assessed. C.O.Y.T. c. 66, s. 67.

Joint interests of persons of different religion to be assessed separately.

68. In cases where separate school districts have been established whenever property is held by two or more persons as joint tenants or tenants in common, the holders of such property being Protestants and Roman Catholics, they shall

be assessed in proportion to their interest in the property in the district in which they respectively are ratepayers. C.O.Y.T. c. 66, s. 68.

69. A company may by notice in that behalf to be given to the overseer or treasurer of any municipality wherein a separate school district is either wholly or in part situated and to the secretary of the board of any public school district in which a separate school has been established, and to the secretary of the board of such separate school district, require any part of the real property of which such company is either the owner and occupant or not being such owner is the tenant or occupant or in actual possession of and any part of the personal property if any of such company liable to assessment to be entered, rated and assessed for the purposes of said separate school and the proper assessor shall thereupon enter said company as a separate school supporter in the assessment roll in respect of the property specially designated in that behalf in or by said notice and so much of the property as shall be so designated shall be assessed accordingly in the name of the company for the purposes of the separate school and not for public school purposes but all other property of the company shall be separately entered and assessed in the name of the company as for public school purposes:

Company to be assessed according to religion of shareholders.

Provided always that the share or portion of the property of any company entered rated or assessed in any municipality or in any school district for separate school purposes under the provisions of this section shall bear the same ratio and proportion to the whole property of the company assessable within the municipality or school district as the amount or proportion of the shares or stock of the company so far as the same are paid or partly paid up, held and possessed by persons who are Protestants or Roman Catholics as the case may be, bears to the whole amount of such paid or partly paid-up shares or stock of the company;

2. Any such notice given in pursuance of a resolution in that behalf of the directors of the company shall for all purposes be deemed to be sufficient and every such notice so given shall be taken as continuing and in force and to be acted upon unless and until the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or of its directors;

3. Every such notice so given to such overseer or treasurer shall remain with and be kept by him on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect the assessment roll, and the assessor shall in each year before the completion and return of the assessment roll search for and examine all notices which may be on file in the overseer's or treasurer's office and shall thereupon in respect of said notices, if any, follow and conform thereto and to the provisions of this Ordinance in that behalf;

4. False statements made in any such notice shall not relieve the company from rates. Any company fraudulently giving

such notice or making false statements therein shall be liable to a penalty not exceeding \$100. Any person giving for a company such a statement fraudulently or wilfully inserting in any such notice a false statement shall be guilty of an offence and liable on summary conviction to a like penalty. C.O.Y.T. c. 66, s. 69.

EXECUTION AGAINST SCHOOL DISTRICTS.

Writs of execution how realized.

70. Any writ of execution against the board of any district may be indorsed with a direction to the sheriff to levy the amount thereof by rate; and the proceedings thereon shall be the following;

1. The sheriff shall deliver a copy of the writ and indorsement to the treasurer or leave such copy at the office or dwelling house of such officer with a statement in writing of the sheriff's fees and of the amount required to satisfy such execution including such amount of interest calculated to some day as near as is convenient to the day of service;

2. In case the amount with interest thereon from the day mentioned in the statement be not paid to the sheriff within one month after the service the sheriff shall examine the assessment roll of such district and shall in like manner as rates are struck for general school purposes, strike a rate on the dollar on the assessable property in the said district sufficient to cover the amount due on the execution with such additional amount as the sheriff deems sufficient to cover the interest and his own fees up to the time when such rate will probably be available;

3. He shall thereupon issue a precept or precepts under his hand and seal of office directed to the said treasurer and shall by such precept after reciting the writ and that the said board had neglected to satisfy the same, command the said treasurer to levy or cause to be levied such rate at the time and in the manner by law required in respect to the general school rates;

4. At the time for levying the annual rate after the receipt of such precept the treasurer shall add a column to the tax roll in the said district headed "Execution rate A. B. vs. Trustees of School District" (or as the case may be, adding a column for each execution if more than one) and shall insert therein the amount of such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid; and such treasurer so soon as the amount of such execution or executions is collected shall return to the sheriff the precept with the amount levied thereon;

5. The sheriff shall after satisfying the executions and all fees thereon return any surplus within ten days after receiving the same to the said treasurer for the general purposes of the said district;

6. The treasurer shall for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to such executions be deemed to be an officer of the court out of which the writ issued and as such shall be amenable to the court and

may be proceeded against by attachment, mandamus or otherwise in order to compel him to perform the duties hereby imposed upon him. C.O.Y.T. c. 66, s. 70.

71. In the foregoing section the word "treasurer" shall Meaning of "Treasurer." mean:

(a) In the case of a school district situate wholly or partially within a municipality, the overseer or treasurer of said municipality:

(b) In the case of any other school district, the treasurer of the school district. C.O.Y.T. c. 66, s. 71.

CONDUCT OF SCHOOLS.

FEES.

72. No fees shall be charged by the board of any district Fees not to be charged ratepayers. on account of the attendance at its school of any child whose parent or lawful guardian is a ratepayer of the district:

Provided that if the board of any district maintains one Exceptions. or more departments in its school exclusively for pupils above standard V. as it may be defined from time to time by the regulations of the department it may charge the parent or lawful guardian of any pupil in attendance at any such department a fee not exceeding nine dollars for the first term and six dollars for the second term in any year if such parent or lawful guardian is a resident ratepayer of the district, and in case such parent or lawful guardian is not a resident ratepayer of the district, a fee not exceeding thirteen dollars for the first term and eight dollars for the second term and all such fees shall be payable at such times and in such amounts as may be determined by the board. C.O.Y.T. c. 66, s. 72.

SCHOOL TERMS.

73. The school year shall begin on the first day of January School terms. and end on the thirty-first day of December, and shall be divided into two terms ending the thirtieth day of June and the thirty-first day of December respectively. C.O.Y.T. c. 66, s. 73.

HOURS.

74. School shall be held between nine o'clock and twelve o'clock in the forenoon and half past one o'clock and four o'clock Hours of attendance. in the afternoon of every day standard time, not including Saturdays, Sundays or holidays, but the board may alter or shorten the school hours upon receiving the permission of the Commissioner.

2. A recess of fifteen minutes in the forenoon and in the afternoon shall be allowed the children attending school. C.O.Y.T. c. 66, s. 74.

VACATION AND HOLIDAY.

Vacations.

75. In any school open during the whole year there shall be seven weeks holidays of which not less than two nor more than six shall be given in the summer and not less than one nor more than five shall be given in the winter, to be apportioned at the discretion of the board. The summer holidays shall fall between the second day of July and the thirty-first day of August and the winter holidays shall commence on the twenty-fourth day of December in all schools.

2. The board of any district in which the school is open during the whole year may allow two weeks additional holidays.

3. When a school is open during only a portion of the year the board may give holidays not to exceed two weeks beginning on the second day of July:

Provided that the Commissioner may on proper representation being made to him allow the board to give holidays not exceeding two weeks at some other time. C.O.Y.T. c. 66, s. 75.

Holidays.

76. Ash Wednesday, Good Friday, Easter Monday, Arbour Day (second Friday in May) the birthday of the reigning sovereign, Victoria Day, Dominion Day, Discovery Day, Labour Day, Thanksgiving Day, Christmas Day, New Year's Day and any day specially appointed as a holiday by the Governor General, the Commissioner of the Yukon Territory, the Mayor of a city, or overseer of a town shall be holidays; and it shall be at the discretion of the board to permit any other holiday not exceeding one day at a time. C.O.Y.T. c. 66, s. 76. No. 1 of 1914, s. 3.

LANGUAGES TO BE USED.

English language to be used but preparatory course may be taught in French.

77. All schools shall be taught in the English language, but it shall be permissible for the board of any district to cause a primary course to be taught in the French language.

2. The board of any district may, subject to the regulations of the department employ one or more competent persons to give instruction in any language other than English in the school of the district to all pupils whose parents or guardians have signified a willingness that they should receive the same, but such course of instruction shall not supersede or in any way interfere with the instruction by the teacher in charge of the school as required by the regulations of the department and this Ordinance.

3. The board shall have the power to raise such sums of money as are necessary to pay the salaries of such instructors and all costs, charges and expenses of such course of instruction shall be collected by the board by a special rate to be imposed upon the parents or guardians of such pupils as take advantage of the same. C.O.Y.T. c. 66, s. 77.

RELIGIOUS INSTRUCTION.

78. No religious instruction except as hereinafter provided shall be permitted in the school of any district from the opening of such school until one-half hour previous to its closing in the afternoon after which time any such instruction permitted or desired by the board may be given. Religious instruction not to be given until close of school.

2. It shall however, be permissible for the board of any district to direct that the school be opened by the recitation of the Lord's prayer. C.O.Y.T. c. 66, s. 78.

79. Any child shall have the privilege of leaving the school at the time at which the religious instruction is commenced as provided for in the next preceding section, or of remaining without taking part in any religious instruction that is given if the parents or guardians so desire. C.O.Y.T. c. 66, s. 79. Child may leave during religious instruction.

80. No teacher or school trustee shall in any way attempt to deprive such child of any advantage that it might derive from the ordinary education given in such school, and any such action on the part of any trustee, or teacher shall be held to be a disqualification for and voidance of the office held by him. C.O.Y.T. c. 66, s. 80. Teacher not to deprive child of ordinary education.

KINDERGARTEN CLASSES.

81. Kindergarten classes may be established in any school for the teaching and training of children between the ages of four and six years according to kindergarten methods and in such school a fee may be charged not exceeding \$1 per month for each pupil to cover cost of maintaining such department. C.O.Y.T. c. 66, s. 81. Kindergarten classes.

NIGHT CLASSES.

82. The board of any district may engage a qualified teacher and make necessary arrangements at the expense of the district for the maintenance of a night school: Night schools.

Provided that if the school is kept open for one month a fee may be charged of not more than \$2 per month for each month or portion of month that the pupil is in attendance. C.O.Y.T. c. 66, s. 82.

COMPULSORY EDUCATION.

83. In every district where there are at least fifteen children between the ages of seven and fourteen inclusive within a radius of one mile from the school house, it shall be compulsory for the board of such district to keep the school open the whole year. C.O.Y.T. c. 66, s. 83. Certain schools to be kept open whole year.

84. In every district where there are at least ten children between the ages of seven and fourteen years inclusive it shall be compulsory for the board of such district to keep the school in operation at least six months in every year. C.O.Y.T. c. 66, s. 84. Schools with 10 children to be kept open six months.

Children must be sent to school 16 weeks in year.

85. Every parent, guardian or other person resident in a school district having charge of any child or children between the ages of seven and twelve inclusive, shall be required to send such child or children to school for a period of at least sixteen weeks in each year, at least eight weeks of which time shall be consecutive, and every parent, guardian or other person who does not provide that every such child under his care shall attend school or be otherwise educated shall be subject to the penalties hereinafter provided. C.O.Y.T. c. 66, s. 85.

Penalty for not sending child to school.

86. It shall be the duty of the board of every district or any person authorized by it after being notified that any parent, guardian or other person having control of any child or children neglects or violates the provisions of the next preceding section to make complaint of such neglect or violation to a justice of the peace and the person complained of shall on summary conviction be liable to a fine not exceeding \$1 for the first offence and double that penalty for each subsequent offence. C.O.Y.T. c. 66, s. 86.

Excuses for not sending child to school.

87. It shall be the duty of the justice of the peace to ascertain as far as may be the circumstances of any party complained of for not sending his child or children to school or otherwise educating him or them, and he shall accept any of the following as a reasonable excuse:

(a) That the child is under instruction in some other satisfactory manner;

(b) That the child has been prevented from attending school by sickness or unavoidable cause;

(c) That there is no school open which the child can attend within such distance not exceeding one mile measured according to the nearest passable road from the residence of such child;

(d) That such child has reached a standard of education of the same or of a greater degree than that to be attained in the school of the district within which such child resides;

(e) That such parent or guardian was not able by reason of poverty to clothe such child properly or that such child's bodily or mental condition has been such as to prevent his or her attendance at school or application to study for the period required. C.O.Y.T. c. 66, s. 87.

TRUANCY.

Truant officer may be appointed.

88. The board of any district may appoint a truant officer who shall for the purpose of this Ordinance be vested with police powers and it shall have authority to make regulations for the direction of such officer in the enforcement of the provisions of this Ordinance as it deems expedient, provided such regulations are not inconsistent with any of the provisions of this Ordinance and have been approved by the Commissioner. C.O.Y.T. c. 66, s. 88.

Penalty for neglecting to send child to

89. If the parent, guardian or other person having the legal charge of any child shall neglect or refuse to cause such

child to attend some school within five days after being notified as herein required, unless excused from such attendance as provided in this Ordinance the truant officer shall make or cause to be made a complaint against such person before a justice of the peace and such person shall on summary conviction be liable to a fine not exceeding \$1 and costs for the first offence and double that penalty for each subsequent offence.

Provided that the provisions of the foregoing clauses relating to truancy shall not apply to children who may reside more than one mile from the school house. C.O.Y.T. c. 66, s. 89.

TEACHER.

QUALIFICATION.

90. No person shall be engaged, appointed, employed or retained as teacher in any school unless he holds a valid certificate of qualification issued under the regulations of the Council of Public Instruction or of the department. C.O.Y.T. c. 66, s. 90.

ENGAGEMENT AND DISMISSAL.

91. A teacher shall not be engaged except under the authority of a resolution of the board passed at a regular or special meeting of the board. C.O.Y.T. c. 66, s. 91.

92. The contract entered into shall be in the form prescribed by the Superintendent of Schools and such form may be altered or amended as may be mutually agreed upon by the contracting parties, provided such alterations or amendments are not inconsistent with any of the provisions of this Ordinance or the regulations of the department. C.O.Y.T. c. 66, s. 92.

93. The contract shall be valid and binding if signed by the teacher and by the chairman on behalf of the board. C.O.Y.T. c. 66., s. 93.

94. Any teacher who has been suspended or dismissed by the board may appeal to the Superintendent of Schools who shall have power to take evidence and confirm or reverse the decision of the board and in the case of reversal he may order the reinstatement of said teacher:

Provided that in case there is no appeal to the Superintendent of Schools or in the event of an appeal if the decision of the board is sustained the teacher shall not be entitled to salary from and after the date of such suspension or dismissal. C.O.Y.T. c. 66, s. 94.

PAYMENT OF TEACHERS.

95. Every teacher shall be paid the amount of salary due to him at least once in every three months, and it shall be the duty of the board to make provision for such payment. C.O.Y.T. c. 66, s. 95.

Salary how estimated.

96. The salary of a teacher who has been engaged in any district for four months or more continuously shall be estimated by dividing the rate of salary for the year by 210 and multiplying the result obtained by the number of actual teaching days within the period of his engagement:

Provided that if a teacher has taught more than 210 days in any calendar year, he shall only be entitled to a year's salary. C.O.Y.T. c. 66, s. 96.

Teacher entitled to salary during sickness.

97. Every teacher in case of sickness certified by a qualified medical practitioner shall be entitled to his salary during such sickness for a period not to exceed four weeks for the entire year, which period may be increased by the board. C.O.Y.T. c. 66, s. 97.

If salary not paid teacher may recover same.

98. A teacher whose agreement with a board has expired or who is dismissed by them shall be entitled to receive forthwith all moneys due him for his services as teacher while employed by said board; if such payment be not made by the board or tendered to the said teacher he shall be entitled to recover the full amount of his salary due and unpaid with interest in any court of competent jurisdiction. C.O.Y.T. c. 66, s. 98.

DUTIES OF TEACHER.

Duties of teacher.

99. It shall be the duty of every teacher:

(a) To teach diligently and faithfully all the subjects required to be taught by the regulations of the department;

(b) To maintain proper order and discipline and to conduct and manage the school according to the regulations of the department;

(c) To keep in a conspicuous place in the school room a time table which shall show the classification of pupils, the subjects taught each day and week, the length of each recitation period and the seat work given; and to submit such time table to the Superintendent of Schools for his approval and signature on the occasion of his visit to the school;

(d) To keep in the prescribed form the school registers and to give access to them to trustees, officers of the board, the Superintendent of Schools and any other person authorized thereto by the Commissioner;

(e) To make at the end of each term or at any other time promotions from one class or standard to another as he may deem expedient, subject to the ratification of the Superintendent of Schools at his next visit;

(f) To hold during each year a public examination of his school of which he shall give due notice to the board, and through the pupils to their parents or guardians;

(g) To send monthly to the parents or guardians of each pupil if required by the board a report of the pupil's attendance, conduct and progress;

(h) To encourage the observance of Arbour Day by holding suitable exercises, to take an interest in the cleanliness and

tidiness of the school grounds and to secure the co-operation of trustees and parents in planting trees and shrubs about the school;

(i) To give strict attention to the proper heating, ventilating and cleanliness of the school house and to the condition of the outhouses in connection with the same and to report to the board any defect with respect thereto;

(j) To exercise vigilance over the school property, the buildings, fences, furniture and apparatus so that they may not receive unnecessary injury, and to give prompt notice in writing to the board of any such injury;

(k) To report to the secretary of the board any necessary repairs to the school buildings or furniture and any required supply of fuel, drinking water, furniture or equipment;

(l) To see that the provisions of clause 10 of section 54 of this Ordinance have been complied with, and if not to report to the board and in case of any neglect on the part of the board to notify the Commissioner;

(m) To notify the chairman of the board whenever he has reason to believe that any pupil attending school is affected with or exposed to small-pox, cholera, scarlatina, diphtheria, whooping cough, measles, mumps, or other infectious or contagious disease, and to prevent the attendance of any pupil so affected or exposed or suspected of being affected or exposed until furnished with the written statement of a physician or the chairman of the board that such contagious or infectious disease does not exist or that all danger from exposure to any of them has passed away;

(n) To suspend from school any pupil for violent opposition to authority and to forthwith report in writing the facts of such suspension to the board which may take such action with regard thereto as it deems necessary;

(o) To assist the board and its officers in making the prescribed returns to the department;

(p) To furnish to the Commissioner, the Superintendent of Schools, the board or any person appointed by the Commissioner any information which it is in his power to give respecting any thing connected with the operation of the school or in anywise affecting its interests or character;

(q) To deliver up any school registers, school house key or other property of the district in his possession when required to do so by a written order of the board;

(r) To attend all meetings of the teachers called by the Superintendent of Schools where more than one teacher is employed;

(s) If the school is not within the limits of an established school district, to make all reports to the Superintendent of Schools which he is required by this Ordinance to make to the Board of School Trustees. C.O.Y.T. c. 66, s. 100.

DUTIES OF PRINCIPAL OF SCHOOLS.

101. In every school in which more teachers than one are employed the head teacher shall be called the principal and the other teachers the assistants. C.O.Y.T. c. 66, s. 101. Principal.

Duties of principal.

102. The principal shall prescribe with the concurrence of the board the duties of the assistants and shall be responsible for the organization and general discipline of the whole school. C.O.Y.T. c. 66, s. 102.

TEACHERS ASSOCIATION.

Teachers association.

103. Any number of teachers may organize themselves into an association, and subject to the regulations of the department, may hold conventions and institutes for the purpose of receiving instruction in and discussing educational matters. C.O.Y.T. c. 66, s. 103.

EDUCATION OF NON-RESIDENT CHILDREN.

Persons outside district may have children taught in school.

104. The parent or lawful guardian of any child residing outside the limits of any district may apply to the board for the admission of such child to its school, and it shall be the duty of the board to admit such child:

Provided always that the board may demand that the application for admission of any non-resident child be accompanied by a statement from the Superintendent of Schools to the effect that the accommodation of the school is sufficient for the admission of such child. C.O.Y.T. c. 66, s. 104.

Persons not ratepayers may send children to school.

105. The parent or lawful guardian of any child residing within the limits of any district and who is not a ratepayer thereof may send his children to the school operated within the district. C.O.Y.T. c. 66, s. 105.

Persons outside district may have their property assessed.

106. Any person not living within a district may apply to the board of any district to have his or her property if not already included in any other district, assessed in such district to secure the advantages of education for his children, and in such case on the report of the Superintendent of Schools that the accommodation of the school room is sufficient for the admission of the children of such person the board shall receive such application and place the said property on the assessment roll of the district, and such property shall remain liable to assessment in such district until a new district is established including the said property; and for the purpose of enforcing payment of taxes and of all remedies therefor the said property shall be deemed to be within the school district on whose assessment roll it is placed. C.O.Y.T. c. 66, s. 106.

PENALTIES AND PROHIBITION.

Liability of trustees.

107. Any board or any member thereof that wilfully neglects or refuses to exercise or to assist in exercising all the corporate powers vested in such board by this Ordinance for the fulfilment of any contract or agreement made by it shall be personally responsible for the fulfilment of such contract or agreement. C.O.Y.T. c. 66, s. 107.

108. Should the board of any district wilfully contract liabilities in the name of the district, greater or other than as provided or allowed by this Ordinance, or appropriate any of the moneys of the district for purposes other than are provided or allowed by this Ordinance, the treasurer of the district or some other person authorized by the Commissioner may recover as a debt in a court of competent jurisdiction from such board jointly or severally the sum or sums for which the district has been rendered liable through the action of such trustees over and above the amount so provided by this Ordinance in addition to the total amount of any moneys that have been misappropriated by such trustees. C.O.Y.T. c. 66, s. 108.

Liability of trustees for debts.

109. If any trustee knowingly signs a false report, or if any teacher keeps a false school register, or knowingly makes a false return, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$20. C.O.Y.T. c. 66, s. 109.

Penalty for false report.

110. Any trustee, officer or employee of a district who after ceasing to hold office retains any money, book, paper or thing belonging to the district, shall thereby incur a penalty not exceeding \$20 for each day during which he wrongfully retains possession of such money, book, paper or thing after having received notice in writing from the chairman of the board or from the Commissioner requiring him to deposit the same in the hands of some person mentioned in such notice. C.O.Y. T. c. 66, s. 110.

Penalty for retaining money or books.

111. Any returning officer of any district or proposed district acting under the provisions of this Ordinance who shall knowingly and wilfully prejudice the result of any voting by preventing votes from being taken or by taking unlawful votes or by altering returns or books in any way, or by any other means, shall be liable to a penalty of not less than \$10 and not exceeding \$100. C.O.Y.T. c. 66, s. 111.

Penalty on returning officer for prejudicing result of election.

112. Any person who wilfully disturbs, interrupts or disquiets the proceedings of any school meeting authorized to be held by this Ordinance, or any one who wilfully interrupts or disquiets any school established and conducted under its authority by rude or indecent behaviour, or by making a noise either within the place where school is kept or held, or so near thereto as to disturb the order of exercises of the school, shall be guilty of an offence for which he shall forfeit for the use of the district within which the offence was committed a sum not exceeding \$20. C.O.Y.T. c. 66, s. 112.

Penalty for disturbing meeting.

113. No school trustee shall be eligible to appointment as teacher within the district of which he is trustee, nor shall the teacher of any school hold the office of school trustee. C.O.Y.T. c. 66, s. 113.

Trustee not to be teacher.

114. All moneys accruing from fines or penalties under this Ordinance shall unless otherwise provided belong to the general revenue fund of the Territory. C.O.Y.T. c. 66, s. 114.

Fines to belong to general revenue fund.

SCHEDULE.

FORM "A"

Public notice is hereby given to the electors of the City of Dawson that a poll has been granted for the election of five School Trustees for the School District of the City of Dawson and that a poll will be open on _____, the day of _____, 19____, from the hour of nine o'clock in the morning till five of the clock in the afternoon at _____

And I will at (describe the place) on the _____ day of _____, 19____ at _____ o'clock in the _____ noon sum up the votes and declare the result of the election.

GIVEN under my hand at Dawson, this day of _____, 19____

Returning Officer.

No. 1 of 1914, s. 1.

FORM "B"

Oath of Returning Officer, Deputy Returning Officer and Poll Clerk:

I, _____, do swear that I have not received any sum of money, office, employment or gratuity, or any bond, bill or note, or any promise of gratuity by myself or another, to my use or advantage, for making any return at this election; that I will return to the (Returning Officer or Commissioner, as the case may require), a true and faithful account of the votes polled in this election, and that I will faithfully discharge my duty at the election to the best of my knowledge and judgment. So help me God.

FORM "C"

Election of School Trustees for the City of Dawson.	JOHN DOE	X
	RICHARD DOE	X
	GEFFREY STILES	
	JOHN STILES	X

No. 1 of 1914, s. 1.

INSTRUCTIONS.

The names of the persons nominated shall be printed in the space on the right of the form in alphabetical order and the voter shall mark his ballot for the persons for whom he desires to vote by placing a cross on the right hand side of the ballot, opposite the names of such persons. Any other marks placed on the ballot by any voter will invalidate the same. No. 1 of 1914, s. 1.

CHAP. 80.

An Ordinance for the Protection of Sheep and other
Animals from Dogs.

Dog may
be killed
when in
act of
worrying
cattle, etc.

1. Any person may kill any dog in the act of worrying or destroying cattle, horses, sheep, pigs or poultry elsewhere than on the enclosed land occupied by the owner of such dog. No. 13, 1904, s. 1.

On
complaint
that dog has
worried
cattle, etc.,
justice of
peace may
order dog
to be killed.

2. On complaint made on oath before a justice of the peace that any person owns or has in his possession a dog which has within three months previous, worried, injured or destroyed any cattle, horses, sheep, pigs or poultry outside of the enclosed land occupied by the owner of such dog, such justice of the peace may issue his summons directed to such person stating shortly the matter of such complaint and requiring such person to appear before him at a certain time and place therein stated to answer to such complaint; and upon conviction of having such dog in his possession, the justice of the peace may make an order for the killing of such dog within three days and in default thereof may in his discretion impose a fine upon such person not exceeding \$50 with costs. No. 13, 1904, s. 2.

repealed

CHAP. 81.

•An Ordinance respecting the Sheriff and Deputy Sheriffs.

OFFICE HOURS.

1. It shall be the duty of the sheriff to keep his office open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays except Saturdays when the same may be closed at one o'clock in the afternoon. C.O.Y. T. c. 19, s. 1. Sheriff's office hours.

BOOKS, RECORDS AND PROCESS.

2. The sheriff shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him in virtue of his office showing separately the fees received for each service performed and such further facts and information as the Commissioner from time to time requires. C.O.Y.T. c. 19, s. 2. Fees received to be recorded.

3. The sheriff shall on or before the fifteenth day of January in each year make up a statement in duplicate from such book and return the same to the Commissioner verified under oath; and such statement shall set forth the total amount of fees which have been received during the twelve months ended on the thirty-first day of December next preceding. C.O.Y.T. c. 19, s. 3. Annual statement of fees.

4. The sheriff shall keep in his office open to the inspection of any person the following books, namely: Books open to public inspection.

(a) Process books—in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution received by the sheriff, the court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, the date of the return and the nature of the return made thereto or what was thereunder or therewith done respectively;

(b) Execution books for goods and lands respectively in which shall be entered a memorandum of every writ of execution or writ in the nature of a writ of execution, the court out of which the same issued, the names of the parties thereto, the solicitor by whom issued, the date of return and the nature of the return made thereto or what was done thereunder or therewith; and

(c) A cash book in which shall be entered all cash received or paid away by the sheriff in his official capacity or in connection with his office for any service whatever—for fees, poundage,

service of process and papers, attendance at court, moneys levied under execution or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in which or on account of which the same was received or paid away; and a seal of office. C.O.Y.T. c. 19, s. 4.

Supplying books and seal.

5. The said books and seal may be supplied out of the general revenue fund of the Territory. C.O.Y.T. c. 19, s. 5.

Books, records, etc., to be property of Government.

Disposition on vacancy of office.

6. All books, accounts, records, papers, writs, warrants, processes, moneys, and other matters and things in the possession or under the control of the sheriff by virtue of or appertaining to his office as sheriff shall be the property of the Government and the same and every of them shall immediately upon the resignation, removal from office or death of any sheriff be, by the party in whose possession or control they may come or happen to be, handed over to and taken possession of by the successor in office of such sheriff or such person as the judge appoints to receive the same. C.O.Y.T. c. 19, s. 6.

Possession of books, etc., after vacancy.

7. No person except the successor in office of the sheriff so resigning, being removed or dying, or the person so to be appointed by the court as aforesaid shall take, have or hold any such books, accounts, records, papers, writs, warrants, processes, moneys, or other matters or things; and any person having or holding any of the matters aforesaid shall forthwith on demand deliver over the same and every of them to the said succeeding sheriff or to the person so to be appointed as aforesaid; and upon any such person neglecting or refusing so to do on conviction thereof before a judge of the Territorial Court he shall be liable to pay a penalty not exceeding \$100. C.O.Y.T. c. 19, s. 7.

Refusal to give up possession.

Ex-Sheriff to have access to books.

8. The sheriff after resigning office or removal from office, or his heirs, executors or administrators shall or may at any and all time or times thereafter have the right and be at liberty to have access to search and examine into any and all accounts, books, papers, warrants, and processes of whatever kind and all other matters or things which were formerly in the possession of him the said sheriff before his resignation or removal and which at the time of making or requiring to make such search or examination are in the possession or control of the succeeding sheriff, free of all costs, charges and expenses. C.O.Y.T. c. 19, s. 8.

VACANCY IN OFFICE PENDING EXECUTION OF WRIT.

Sale of lands by sheriff. Procedure when vacancy occurs.

9. In case of the death, resignation or removal of the sheriff, or of any deputy where there is no sheriff, after he has made a sale of lands but before he has made a transfer of the same to the purchaser such transfer shall be made to the purchaser by the sheriff or the deputy sheriff who is in office acting as sheriff as aforesaid at the time when the deed of conveyance is made. C.O.Y.T. c. 19, s. 9.

10. If the sheriff goes out of office during the currency of any writ of execution against lands and before the sale, such writ shall be executed and the sale and transfer of the lands be made by his successor in office and not by the former sheriff. C.O.Y. T. c. 19, s. 10.

Sheriff vacating, successor to continue process.

MISFEASANCE OR DEFAULT OF SHERIFF, LIABILITY OF SURETIES.

11. The sureties of the sheriff shall be liable to indemnify the party or parties to any legal proceedings against any omission or default of the sheriff in not paying over moneys received by him and against any damage sustained by any such party or parties in consequence of the sheriff's wilful or neglectful misconduct in his office and the sheriff shall be joint defendant in any action to be brought upon the covenant or security given by the sheriff. C.O.Y.T. c. 19, s. 11.

Liability of sureties.

12. Any person sustaining any damage by reason of any such default or misconduct of any sheriff may bring and maintain an action upon the said covenant or security for such default or misconduct and such action shall not be barred by reason of any prior recovery by the same party upon the covenant or security or of any judgment rendered for the defendant in any prior action upon the same covenant or security or by reason of any other action being then depending upon the same either at the suit of the same plaintiff or of any other party for any other distinct cause of action. C.O.Y.T. c. 19, s. 12.

Default of sheriff.

Action on security.

13. If upon the trial of any action upon any such covenant or security it is made to appear that the plaintiff is entitled to recover and that the amount which such surety has paid or become liable to pay as hereinafter mentioned is not equal to the full amount for which he became surety the court after deducting from such full amount the sums which he has so paid or become liable to pay as aforesaid shall render judgment against him for any sum not exceeding the balance of the sum for which he became surety. C.O.Y.T. c. 19, s. 13.

Limitation of surety liability.

14. Where any such surety actually and *bona fide* and of his own proper moneys and effects has paid or become liable by virtue of a judgment or judgments recovered against him upon his said covenant or security to pay an amount equal to the amount specified in the said covenant or security for which he became surety such covenant or security shall as to him be deemed to be discharged and satisfied and no other or further sum shall be recovered against him. C.O.Y.T. c. 19, s. 14.

When surety discharged from liability.

15. It shall be competent for the Territorial Court or a judge thereof upon proof to the satisfaction of the Court or judge of such payment or liability in a summary manner and at any stage of the cause by stay of proceedings or otherwise to prevent the recovery against any such surety of any further sum

Stay of proceedings against surety.

than the amount specified in his covenant or security and for which he became surety. C.O.Y.T. c. 19, s. 15.

When judgment recovered upon security levy to be on sheriff's goods first.

16. Upon every writ of execution under a judgment recovered on such covenant or security the plaintiff or his solicitor shall by an indorsement on the writ direct the coroner or other officer charged with the execution of such writ to levy the amount thereof upon the goods and chattels of the sheriff in the first place and in default of goods and chattels of the sheriff to satisfy the amount then to levy the same or the residue thereof on the goods and chattels of the other defendant or defendants in such writ and so in like manner with any writ against lands and tenements upon a judgment on any such covenant or security. C.O.Y.T. c. 19, s. 16.

Sheriff liable until successor takes office.

17. Notwithstanding a sheriff may have forfeited his office and become liable to be removed therefrom the liability of himself and his sureties shall remain until a new sheriff has been appointed and sworn into office. C.O.Y.T. c. 19, s. 17.

OFFICERS NOT TO PURCHASE AT EXECUTION SALES.

Sheriff, etc., may not purchase under execution.

18. No sheriff, deputy sheriff, bailiff or constable shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution. C.O.Y.T. c. 19, s. 18.

MISCONDUCT OF BAILIFF OR CONSTABLE.

Liability for misconduct in execution of writ.

19. If any bailiff or constable entrusted with the execution of any writ, warrant, process, mesne or final, wilfully misconducts himself in the execution of the same or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the process issued, he shall answer in damages to any party aggrieved by such misconduct or false return. C.O.Y.T. c. 19, s. 19.

CUSTODY OF WRITS, PROCESS, ETC.

Restoration of documents, etc., to sheriff.

Enforcement of return.

20. Every deputy sheriff, bailiff or other sheriff's officer or clerk entrusted with the custody of any writ or process or of any book, paper or document belonging to the said sheriff or his office shall upon demand upon him by such sheriff restore and return such writ, process, book, paper or document to the custody of the said sheriff and in case of any neglect or refusal to return or restore the same as aforesaid the party so neglecting or refusing may be required by an order of the Territorial Court or of any judge of such court to return and restore such writ, process, book, paper, or document to such sheriff and if he disobeys such order may be further proceeded against by attachment as in other cases of contumacy to orders or rules of court. C.O.Y.T. c. 19, s. 20.

Sheriff's officer to deliver

21. If any deputy sheriff, bailiff or sheriff's officer shall have in his possession, custody or control any writ of summons, *fieri*

facias or other writ or any bench warrant or process whatsoever and shall upon demand made by the sheriff from whom the same has been received or his successor in office or by any other party entitled to the possession of the same neglect or refuse to deliver up the same such sheriff or his successor in office or the party entitled to the possession of the same may proceed by summons and order before any judge having jurisdiction in the court out of which such writ or process issued to compel the production thereof; which order may be enforced in the same manner as like orders for the return of writs against sheriffs and with or without costs or be discharged with costs against the party applying in the discretion of the judge aforesaid. C.O.Y.T. c. 19, s. 21.

process to sheriff when required.

VACANCY IN OFFICE OF SHERIFF, DEPUTY TO ACT.

22. If a sheriff dies, resigns his office and his resignation is accepted or he is removed therefrom the deputy sheriff by him appointed shall nevertheless continue the office of sheriff and execute the same and all things belonging thereto in the name of the sheriff so dying, resigning or being removed until another sheriff has been appointed and sworn into office; and the said deputy sheriff shall be answerable for the execution of the office in all respects and to all intents and purposes whatsoever during such interval as the sheriff so dying, resigning or having been removed would by law have been if he had been living or continuing in office and the security given to the sheriff so deceased, resigning or being removed by his said deputy sheriff and his pledges as well as the security given by the said sheriff shall remain and be a security to the King, His Heirs and Successors and to all persons whatsoever for the due and faithful performance of the duties of his office during such interval by the said deputy sheriff. C.O.Y.T. c. 19, s. 22.

Provision in case of death; resignation or removal of sheriff.

SECURITIES AND OATHS OF OFFICE.

23. Every sheriff before entering upon the duties of his office and if after entering upon his duties a new security is substituted for any previously given shall file in the office of the Territorial Secretary a copy, certified as such by the Secretary of State for Canada, of the security required by and given under any Law, or of such substituted security. C.O.Y.T. c. 19, s. 23.

Copy of security to be filed.

24. Such security shall be available to and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such sheriff. C.O.Y.T. c. 19, s. 24.

Security may be sued upon.

25. A copy of such security purporting to be such, certified by the Territorial Secretary, shall be received in all courts as *prima facie* evidence of the due execution and contents thereof without further proof. C.O.Y.T. c. 19, s. 25.

Certified copy of security evidenc.

Oath of office.

26. Every deputy sheriff appointed under the provisions of any Ordinance of the Territory in that behalf shall upon appointment and before entering upon the duties of his office take the oath of office in the form in the schedule to this Ordinance and also the oath of allegiance.

2. All such oaths shall be filed in the office of the Territorial Secretary immediately after being taken. C.O.Y.T. c. 19, s. 26.

DEPUTY SHERIFFS.

Deputy sheriffs to be appointed.

27. The sheriff of the Yukon Territory may appoint one or several deputy sheriffs and in the event of his being absent from Dawson or becoming incapacitated through illness, or otherwise and failing to appoint such deputy sheriff or sheriffs a judge of the Territorial Court may appoint one or several such deputy sheriffs and such deputy sheriffs shall have and perform the powers, duties and obligations hereinafter mentioned. C.O.Y.T. c. 19, s. 27.

Powers and duties of deputy.

28. All the powers, duties and obligations which may be exercised or performed by the sheriff may be exercised and performed by any such deputy sheriff respectively and process for the purpose of binding property may be placed in the hands of such deputy sheriff and such deputy sheriff shall have and use a duplicate of the seal of the sheriff and keep such books as are kept by the sheriff. C.O.Y.T. c. 19, s. 28.

Deputy to give security.

29. Each deputy sheriff before entering on his duties shall give security to the Commissioner to the satisfaction of the Commissioner in the sum of \$2,000 for the due performance of the duties and obligations of his said office and for the due payment over to the persons entitled thereto of all moneys received by him by virtue of his said office and any person sustaining damage by reason of the non-performance or improper or undue performance of such duties or obligations by reason of the non-payment over of such moneys shall have and possess a right of action against such deputy sheriff and his sureties upon such security for the amount of such damages. C.O.Y.T. c. 19, s. 29.

Security may be proceeded upon.

Sheriff not responsible for deputy.

30. The sheriff shall not after the giving of such security by his said deputies be answerable or accountable for the acts or non-performance or improper performance of the duties and obligations of his said deputies. C.O.Y.T. c. 19, s. 30.

Sheriff or deputy not to act as solicitor.

31. No sheriff or deputy sheriff while holding office shall practise as a solicitor of the Territory or be a member of any firm of solicitors practising in the Territory. C.O.Y.T. c. 19, s. 31.

SCHEDULE.

DEPUTY SHERIFF'S OATH OF OFFICE.

I, _____, do swear that I will truly and faithfully perform the several duties of deputy sheriff to which I have been appointed without fear, favour or malice.
So help me God.
Sworn before me at
in the Yukon Territory,
this day of 19 .

repealed

CHAP. 82.

An Ordinance to amend the Law relating to Slander.

Slander of
females.

1. In any action of slander founded on words spoken of the plaintiff imputing unchastity, adultery or profligacy to a female, whether married or unmarried, it shall not be necessary to allege or prove any special damage but such words shall be actionable *per se*. C.O.Y.T. c. 28, s. 1.

Special
damage.

Not
necessary
to prove
special
damage in
action of
slander.

2. In any action of slander founded on false and malicious defamatory words, reflecting upon the character, reputation, honesty or actions of any person, or on false or malicious statements which might tend to bring into ridicule or contempt any person, it shall not be necessary to allege or prove any special damage, but such false and malicious defamatory words or statements shall be actionable *per se*. C.O.Y.T. c. 28, s. 2.

repealed

CHAP. 83.

An Ordinance respecting Slaughter Houses and the Killing and Dressing of Animals for Food.

SHORT TITLE.

1. This Ordinance may be cited as *The Yukon Slaughter House Ordinance.* Short title. C.O.Y.T. c. 55, s. 1.

INTERPRETATION.

2. Where the following words occur in this Ordinance, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

“Animals” means cattle, sheep, hogs and all other domestic animals generally killed for food. *Interpretation.* “Animals.”

“Slaughter House” means any building or place used for the slaughtering, butchering and dressing of animals. “Slaughter House.”

“Person” means any person, partnership, company or corporation. C.O.Y.T. c. 55, s. 2. “Person.”

LICENSES.

3. No person shall carry on in the Yukon Territory any slaughter house, without first having obtained a license for that purpose, which license shall be issued by such person or persons as the Commissioner in Council may authorize, and in every case the license shall expire on the thirty-first day of December next following the date thereof, which said license may be assigned with the consent of the person issuing the same, and no such slaughter house shall be permitted to exist within a mile from the spot where the post office of Dawson now stands. *No person to carry on slaughter house without license. License to expire December 31.*

2. No such license shall be issued until after the inspector of slaughter houses has inspected the premises and made a report in writing thereon to the Commissioner and said report shall contain,

(a) A description of the premises;

(b) A statement of the distance said premises are from any building occupied as a dwelling;

(c) A statement that the premises are so constructed as to comply with the provisions of this Ordinance and so as not to endanger the health of the inhabitants of the Territory; and

(d) Such other remarks as may be required by the Commissioner. C.O.Y.T. c. 55, s. 3.

4. The license shall be for one year, and the sum of fifty dollars shall be paid therefor by the applicant. License fee. C.O.Y.T. c. 55, s. 4.

5. All animals killed for food to be consumed by the public residing in Dawson and surrounding territory from Dawson to a distance of five miles in the Yukon Territory shall be killed at a licensed slaughter house. For other places the Commissioner in Council may fix by resolution how and where the same are to be killed. C.O.Y.T. c. 55, s. 5.

6. All slaughter houses in the Yukon Territory shall be under the control of the Commissioner in Council and shall be subject to such regulations as may be from time to time passed by resolutions of the said Commissioner in Council. C.O.Y.T. c. 55, s. 6.

INSPECTORS.

7. The Commissioner is hereby authorized to appoint a special inspector of slaughter houses, whose duties shall be as follows, to wit:—

(a) To inspect all slaughter houses as he may be directed from time to time by the resolutions of the Commissioner in Council.

(b) To inspect all animals delivered at said slaughter houses for the purpose of being killed for food.

(c) To inspect all animals brought into the Yukon Territory for the purpose of being killed for food and also all meat offered to the public for sale for food.

(d) To condemn and destroy all diseased animals and tainted meat and food within the territory aforesaid. C.O.Y.T. c. 55, s. 7.

8. It shall be unlawful for any person within the limits aforesaid to offer for sale, or to have in his possession any animal meat which has not been slaughtered at a licensed slaughter house. C.O.Y.T. c. 55, s. 8.

9. All debris and offal accumulated at any slaughter house shall be destroyed by fire and in no other manner. C.O.Y.T. c. 55, s. 9.

10. All slaughter houses must be kept at all times in a cleanly condition, and if they are not kept in said condition the said Commissioner shall have the right at any time to terminate and cancel their license. C.O.Y.T. c. 55, s. 10.

11. No person shall be permitted to offer for sale any meat for public use until after the same shall have been killed for at least a period of ten hours. C.O.Y.T. c. 55, s. 11.

12. The inspector aforesaid shall mark in a manner or way to be by him selected, all animals and meat inspected by him; and no person shall offer for sale, or have in his possession any meat not marked or inspected by said inspector. C.O.Y.T. c. 55, s. 12.

FEES.

13. No slaughter house shall charge or receive a compensation greater than the amount following, to wit:— Fees.

(a) For killing and dressing beef per head, eight dollars (\$8).

(b) For killing sheep and calves per head, one dollar and a quarter (\$1.25).

(c) For killing and dressing hogs per head, two dollars (\$2).
C.O.Y.T. c. 55, s. 13.

14. The Commissioner may appoint one or more inspectors of slaughter houses and fix their salaries and prescribe such other duties as they are to perform in addition to the duties required of them by this Ordinance. C.O.Y.T. c. 55, s. 14. Commissioner to fix salaries and prescribe duties.

15. This Ordinance does not affect or apply to game killed by hunters or other persons in the Yukon Territory. C.O.Y.T. c. 55, s. 15. Not to apply to hunters.

PENALTIES.

16. Any person who violates any of the provisions of this Ordinance, or any of the regulations thereunder, shall be liable for every such offence to a penalty not exceeding one hundred dollars and costs. C.O.Y.T. c. 55, s. 16. Penalties.

17. Any person who obstructs the inspector in the performance of his duties hereunder shall be subject to the same penalty as provided in the next preceding section. C.O.Y.T. c. 55, s. 17. Obstructing inspector.

18. The inspector may, if obstructed in the performance of his duties, call to his assistance any constable or other person he thinks fit, and it shall be the duty of any such constable or other person to render assistance to said inspector in the carrying out of the provisions of this Ordinance. C.O.Y.T. c. 55, s. 18. Inspector may require assistance of constables, etc.

19. The inspector and slaughter houses shall have a right to hold all meat in their possession until the payment of their legal charges, as provided by this Ordinance. If said charges are not paid within ten hours after becoming due, then all meats in their possession may be sold by them at public auction, and out of the proceeds of the said sale shall be paid: first, the cost of sale; second, the fees and charges of said inspector and slaughter houses, and the balance then remaining shall be paid to the person to whom said meat belongs. Licns.

20. Until a special inspector is appointed the Medical Health Officer shall inspect the meat offered for sale within the limits aforesaid. C.O.Y.T. c. 55, s. 20. Medical Health Officer to inspect.

21. If, in the opinion of the Commissioner in Council it is desirable for the sake of the public health or in the interests of the public, to limit the number of slaughter houses Number of slaughter houses may be limited.

to be established within the Yukon Territory, he may limit the number of such slaughter houses to one in any one or more of the districts within the said Territory, which he may establish, and may designate such slaughter house. If in any district the Commissioner in Council limits the number of slaughter houses to one he may make such provision with the person to be entrusted with such slaughter house as in his opinion seems just and proper for the compensation of any person who has already established and has in operation a slaughter house complying with the provisions of this Ordinance. C.O.Y.T. c. 55, s. 21.

Tariff to be fixed.

22. If such slaughter house is established under the next preceding section in any district, the Commissioner in Council may fix a tariff of charges for slaughtering the different kinds of animals. C.O.Y.T. c. 55, s. 22.

Penalty for slaughtering at any other place.

23. If the Commissioner in Council under this Ordinance limits the number of slaughter houses in a district to one, as aforesaid, and designates such one, it shall be unlawful for any animal to be slaughtered at any other house than at the one so designated. Any person violating the provisions of this section shall be liable on summary conviction to a fine not exceeding one hundred dollars and costs, and in default of payment forthwith to imprisonment for a period not exceeding two months. C.O. Y.T. c. 55, s. 23.

repealed

CHAP. 84.

An Ordinance respecting Benevolent and other Societies.

1. Any five or more persons of full age may become incorporated under this Ordinance for any benevolent or provident purpose or for any other purpose not illegal save and except for the purpose of trade or business or any purpose provided for by any of the Ordinances mentioned in the schedule hereto. C.O. Y.T. c. 61, s. 1.

Power to form societies for certain purposes.

2. The proceedings to obtain incorporation shall be as follows:

Mode of incorporation.

1. Such persons shall make and sign a declaration in writing setting forth the intended corporate name of the society, the purpose of the society, the names of those who are to be the first trustees or managing officers, the mode in which their successors are to be appointed and such other particulars and provisions as the society thinks fit provided that the said particulars and provisions are not contrary to law;

2. The declaration may be made and signed in duplicate or in as many parts as are required;

3. The said declaration may be produced to the judge of the Territorial Court of the Yukon Territory and if the same appears to him to be in conformity with this Ordinance he shall indorse thereon a certificate to that effect;

4. One of the original parts of the said declaration shall be filed in the office of the clerk of the court and the fee of fifty cents shall accompany such filing;

5. When these directions shall have been complied with the persons who signed the declaration shall thereby become and they, their associates and successors, shall thenceforth be a body corporate and politic and shall have the powers, rights and immunities vested by law in such bodies. C.O.Y.T. c. 61, s. 2.

3. A society so incorporated may from time to time have or establish and maintain any number of branches thereof to promote the objects of the society. C.O.Y.T. c. 61, s. 3.

Societies may establish branches.

4. The society may from time to time appoint trustees, a treasurer, a secretary and other officers for conducting its affairs and for the discipline and management of the society; and may from time to time make by-laws, rules and regulations for the government and for conducting the affairs of the society or of any branches thereof; and may from time to time alter or rescind such by-laws, rules or regulations. C.O.Y.T. c. 61, s. 4.

Officers.
By-laws and rules.

Different societies or branches may unite.

5. Any two or more societies or branches of a society may unite and form one society or branch for the purpose of erecting buildings for the use of the societies or branches and, if they so desire, for other purposes, on such terms as are agreed upon by authority of a resolution assented to by a majority of the members of each of the said societies or branches proposed to be united.

Provided that every such resolution is passed at a general meeting of each of the societies or branches concerned in such union, to be specially called for that purpose. C.O.Y.T. c. 61, s. 5.

Liability of persons under age.

6. A person under the age of twenty-one years elected, or admitted as a member of a society, or appointed to any office therein shall be liable to the payment of fees and otherwise under the rules of the society as if he were of full age. C.O.Y.T. c. 61, s. 6.

Benefits to members. Exemption from claims of creditors.

7. When under the rules of the society money of the society becomes payable to or for the use or benefit of a member thereof such money shall be free from all claims by the creditors of such member; and when on the death of a member of a society any sum of money becomes payable under the rules of the society, the same shall be paid by the treasurer or other officer of the society to the person or persons entitled under the rules thereof or shall be applied by the society as is provided by such rules; and such money shall be, to the extent of \$2,000, free from all claims by the personal representative or creditors of the deceased; and in case any sum is paid in good faith to the person who appears to the treasurer or other officer to be entitled to receive the same, or is applied in good faith for the purposes by the rules provided, no action shall be brought against the society or such treasurer or officer in respect thereof; but nevertheless if it subsequently appears that such money has been paid to the wrong person, the person entitled thereto may recover the amount with interest from the person who has wrongfully received it. C.O.Y.T. c. 61, s. 7.

Payment in good faith to wrong person.

Powers of societies as to holding lands.

8. No society or branch incorporated under this Ordinance shall be entitled to acquire or hold as purchasers or otherwise any lands or tenements or any interests therein exceeding in the whole at any one time the annual value of \$5,000 nor shall the society or branch be entitled to purchase land except for the actual use and occupation of the society for the purposes of the society. C.O.Y.T. c. 61, s. 8.

Amended 1945 c. 12

Powers as to taking and retaining lands by gift, devise or bequest.

9. Any such society or branch may from time to time take by gift, devise or bequest, any lands or tenements or any interests therein, provided such gift, devise or bequest is made at least six months before the death of the person making the same; but the society or branch shall at no time take by gift, devise or bequest, lands or tenements, or any interests therein, the annual value of which, together with that of all other lands and tenements theretofore acquired by like means and then held by the society or branch, exceeds in the whole \$1,000; nor shall the

Amended

society or branch at any time take by gift, devise or bequest, lands, tenements or hereditaments the annual value of which, together with all the other real estate of the society or branch, exceeds \$5,000; and no lands or tenements acquired by gifts, devise or bequest within the limits aforesaid, but not required for the actual use or occupation of the society or branch, shall be held by the society or branch for a longer period than seven years after the acquisition thereof, and within such period the same shall be absolutely disposed of by the society or branch; and the society or branch shall have power within such period, in the name of the society or branch, to grant and convey the said lands and tenements to any purchaser so that the society or branch no longer retains any interest therein; and the proceeds on such disposition shall be invested in public securities, municipal debentures or other approved securities, not including mortgages on land, for the use of the society or branch; and lands, tenements or interests therein required by this Ordinance to be sold or disposed of by the society or branch which have not, within the said period, been so disposed of, shall revert to the person from whom the same were acquired, his heirs, executors, administrators or assigns. C.O.Y.T. c. 61, s. 9.

10. Any society may in pursuance of a resolution assented to by a majority of the members present at a general meeting specially called for that purpose, of which public notice shall be given in the manner provided by the by-laws, mortgage, sell, exchange or lease any lands of the society. C.O.Y.T. c. 61, s. 10.

Powers to sell mortgage, etc., lands.

11. A copy of the declaration under the second section of this Ordinance certified by the clerk of the said Territorial court or his deputy to be a true copy shall be *prima facie* evidence of the facts alleged in the declaration and of the due making, signing and filing of the declaration as mentioned in the certificate; and a copy of the declaration with the certificate of the said clerk or his deputy showing the particulars necessary for creating a corporation under this Ordinance, shall be *prima facie* evidence that the society or branch is an incorporated society or branch under this Ordinance. C.O.Y.T. c. 61, s. 11.

Copy of declaration of incorporation to be evidence.

12. No defect of form in the certificate of the judge or in the proceedings to which the certificate of the judge relates shall affect the validity of the incorporation. C.O.Y.T. c. 61, s. 12.

Defects in form.

13. To facilitate the proof of a society or branch being an incorporated society or branch under this Ordinance and to prevent any future question as to the same, the society or branch after the same has become incorporated as aforesaid, shall be entitled (if the society or branch thinks fit) to receive a certificate of such incorporation in manner hereinafter mentioned; and a certificate so obtained shall be final and conclusive evidence of the society or branch being an incorporation under this Ordinance unless the certificate on the order or decision of the court granting or authorizing the same is reversed or set aside by some

Certificate of incorporation. its affects as evidence.

direct proceeding taken for the purpose; and the proceedings for the purpose of obtaining the certificate may be as follows:

Application
for certificate.

1. The application for the certificate may be made by the society or branch to a judge of the Territorial Court.

Evidence
thereon.

2. The application shall be supported by satisfactory evidence that the society or branch is a society or branch within the true intent and meaning of this Ordinance: that the proceedings necessary for incorporation have been duly taken; that four weeks' notice of the intention to apply for a certificate has been given to the Commissioner; and that a like notice has been published for four weeks in *The Yukon Gazette*; and if the judge is not satisfied with the evidence offered of these particulars in the first instance he may instead of dismissing the application give an opportunity or opportunities for producing further evidence; and if there is any defect in the proceedings taken to obtain incorporation the judge may permit the same to be supplied and he may in all cases require from time to time any further publication to take place, and any other notice to be mailed, served or given which he deems necessary.

Issue of
certificate.

3. When the judge is satisfied that the society or branch is entitled to the certificate, the certificate may be issued by the clerk of the court in duplicate (under his hand and the seal of the court) or in as many parts as are required and the same shall name the day from and at which the incorporation was complete and effectual, and any person shall thereafter be entitled to receive a certificate to the same effect sealed and signed as aforesaid; which certificate or counterpart thereof shall be final and conclusive as hereinbefore mentioned.

Costs and
practice.

4. The judge of the Territorial Court shall have power to regulate the practice and costs in such cases. C.O.Y.T. c. 61, s. 13.

Society to
furnish
statement of
real property.

14. It shall be the duty of the corporation when thereunto required by the Commissioner or by the Council to furnish a statement of the real property and of the estates therein held by the society and to give such details thereof as the Commissioner or the Council may from time to time require. C.O.Y.T. c. 61, s. 14.

Change of
name, etc.,
of society.

15. When a society incorporated under the provisions of this Ordinance is desirous of changing its name or of changing any of the purposes contained in the original certificate or declaration of incorporation, a judge of the Territorial Court upon being satisfied that the change desired is not for an improper purpose and is not otherwise objectionable, may make an order reciting the certificate and declaration of incorporation and making the change desired.

Order to be
filed.

2. Such order shall be filed in the office in which the certificate and declaration were filed and a copy of the order certified by the clerk of the Court or his deputy to be a true copy of the order filed in the said office shall be *prima facie* evidence of the change having been made as therein set forth.

3. No change under the two next preceding subsections shall affect the rights or obligations of the society and all actions or proceedings commenced by or against the society prior to the change of name may be proceeded with by or against the society under its former name. C.O.Y.T. c. 61, s. 15. Rights and obligations of society not affected.

16. Any person authorized by the Commissioner may make application to a judge of the Territorial Court to set aside and cancel the certificate of incorporation of a society incorporated under this Ordinance, and the judge on being satisfied that said society or a branch thereof is being carried on for any purpose not set out in the certificate of incorporation of said society, may set aside and cancel the certificate of incorporation of said society, and thereupon said society shall cease to be an incorporation under this Ordinance, and the affairs of said society may be wound up under the direction of a judge; provided however, that the cancellation of the certificate of incorporation of any such society shall not affect the rights of any person against said society under any obligation incurred prior to such cancellation. No. 3, 1903, s. 1. Judge may cancel the certificate of incorporation.

17. In case the Commissioner adopts or approves of any forms for any of the proceedings under this Ordinance and the Order adopting or approving of the same is, with the forms, printed in *The Yukon Gazette* such forms shall be as effectual for the purposes mentioned in this Ordinance or in the Order as if the said forms had been inserted in this Ordinance. C.O.Y.T. c. 61, s. 16. Forms.

SCHEDULE.

Ordinances for purposes not intended by this Ordinance:

1. The Ordinance respecting Partnerships.
2. The Ordinance respecting Companies.
3. The Ordinance respecting Cemeteries.

repealed
CHAP. 85.

An Ordinance to Provide for the Payment of
Succession Duties in Certain Cases.

- Short title.** **1.** This Ordinance may be cited as *The Succession Duty Ordinance*. No. 8, 1906, s. 1.
- Interpretation.** **2.** The word "property" in the following sections includes real and personal property of every description, and every estate or interest therein capable of being devised or bequeathed by will, or of passing on the death of the owner to his heirs or personal representatives.
- Value.** **2** "Value" means fair market value after payment of the expenses of administration and all just debts and liabilities. No. 8, 1906, s. 2.
- Exemptions.** **3.** This Ordinance shall not apply—
 (a) To any estate the value of which does not exceed five thousand dollars; nor
 (b) To property passing under a will, intestacy or otherwise, to or for the use of the father, mother, husband, wife, child, grandchild, daughter-in-law or son-in-law of the deceased, where the aggregate value of the property of the deceased does not exceed twenty-five thousand dollars in value. No. 8, 1906, s. 3.
- Property subject to duty.** **4.** Save as aforesaid, all property situate within the Yukon Territory, passing either by will or intestacy, or any interest therein or income therefrom which shall be voluntarily transferred by deed, grant or gift made in contemplation of the death of the grantor or bargainor, or made or intended to take effect in possession or enjoyment after such death, to any person in trust or otherwise, or by reason whereof any person shall become beneficially entitled in possession or expectancy to any property, or the income thereof, shall be subject to a succession duty to be paid for the use of the Yukon Territory, over and above the probate duties prescribed in that behalf from time to time by law.
- Scale of duty.** **2.** The duty payable upon all property liable to duty under this Ordinance shall be computed upon the following scale, that is to say:
 Upon the value up to and including \$100,000, a duty of \$1 on every \$100.
 Where said value exceeds \$100,000 but does not exceed \$200,000 a duty of \$2 on every \$100 of the value.
 Where the said value exceeds \$200,000 but does not exceed \$700,000 a duty of \$3 on every \$100 of the value.
 Where said value exceeds \$700,000 but does not exceed \$1,000,000 a duty of \$4 on every \$100 of the value.

Where said value exceeds \$1,000,000 or more, a duty of \$5 on every \$100 of the value.

3. Provided that property passing under a will, intestacy or otherwise, to or for the use of the father, mother, husband, wife, child, grandchild, daughter-in-law, or son-in-law of the deceased shall be charged with duty at one half the several aforesaid rates. Proviso as to near relations.

4. All duties under this Ordinance shall be levied and collected *pro rata* upon the whole of the estate of the deceased person liable to the duty. No. 8, 1906, s. 4. Duties *pro rata*.

5. The Public Administrator shall, as soon as possible after the estate of a deceased person comes under his control and an executor or administrator applying for letters probate or letters of administration to the estate of a deceased person, shall, before the issue of letters of probate or administration to him or within such time as is limited by the Court issuing such letters probate or letters of administration, make and file with the Treasurer of the Yukon Territory a full, true and correct statement under oath, showing (a) a full itemized inventory of all the property of the deceased person and the value thereof; (b) the several persons so far as known to whom the same will pass under the will or intestacy, and the degree of relationship, if any, in which they severally stand to the deceased; and the executor or administrator shall, before the issue of letters probate or letters of administration, deliver to the said Treasurer a bond in a penal sum equal to ten per centum of the sworn value of the property of deceased liable to succession duty, to be approved by the said Treasurer conditioned for the due payment to His Majesty of any duty to which the property coming to the hands of such executor or administrator which was of the deceased may be found liable, or shall furnish such other security in lieu of such bond as may be required by the Commissioner. Administrator and executor to file statement.

2. This section does not apply to estates in respect to which no succession duty is payable. No. 8, 1906, s. 5.

6. If the said Treasurer is not satisfied with the value so sworn to by an executor or administrator, he shall report in writing to the Commissioner, who may direct that the Public Administrator make a valuation and appraise the said property. No. 8, 1906, s. 6. Where Treasurer not satisfied.

7. The Public Administrator shall forthwith give due and sufficient notice in writing to the executors and administrators and to such other persons as the Treasurer directs of the time and place at which he will appraise such property; and he shall appraise the same accordingly at its fair market value and make a report thereof in writing to the Treasurer, together with such other facts in relation thereto as the Treasurer may by order require. The Public Administration shall be entitled to receive the sum of five dollars per diem for services performed under this Ordinance and his actual and necessary travelling expenses Then Pub. Adm. to give notice.
Remuneration of Pub. Adm.

and the same shall be paid him by the Treasurer. No. 8, 1906, s. 7.

Treasurer to assess value.

8. The Treasurer shall, upon receiving the report of the Public Administrator, forthwith assess and fix the then cash value of all estates, interests, annuities and life estates, or terms of years growing out of such estate and the duty to which the same is liable, and shall immediately give notice thereof, by registered letter, to such parties as by the rules of the Territorial Court would be entitled to notice in respect of like interests in an analogous proceeding; and the value of every future or contingent or limited estate, income or interest shall, for the purpose of this Ordinance, be determined by the schedule hereto, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be six per centum per annum; and the Treasurer shall determine the value of such future or contingent or limited estate, income or interest upon the facts contained in such report, and his decision shall be conclusive as to the matters dealt with therein. No. 8, 1906, s. 8.

Decision of judge to be final.

9. Any person dissatisfied with the appraisement or assessment may appeal therefrom to a judge of the Territorial Court of the Yukon Territory within thirty days after the making and filing of such assessment, and upon such appeal the judge of said Court shall have jurisdiction to determine all questions of valuation and of the liabilities of the appraised estate, or any part thereof, for such duty, and the decision of the judge shall be final, unless the property in respect of which such appeal is taken shall exceed in value the sum of ten thousand dollars when a further appeal shall lie from the decision of the judge to the Court *en banc*. No. 8, 1906, s. 9.

Compensation to be fixed by judge.

10. Where a bequest or devise of property, which otherwise would be liable to the payment of duty under this Ordinance, is made to an executor or trustee in lieu of commissions or allowance, and said bequest or devise exceeds what would be a reasonable compensation for the services of the executor or trustee, such excess shall be liable to said duty, and such compensation shall be fixed by a judge of the Territorial Court. No. 8, 1906, s. 10.

Duty not to run until party comes into possession.

11. In all cases where there has been a devise, descent or bequest of property liable to succession duty, to take effect in possession or come into actual enjoyment after the expiration or one or more life estates or a period of years, the duty on such future estate or interest shall not be payable nor interest begin to run thereon until the person or persons liable for the same shall come into actual possession of such estate or interest by the determination of the estates for life or years, and the duty shall be assessed upon the value of the estate or interest at the time the right of possession accrues as aforesaid. No. 8, 1906, s. 11.

12. The Treasurer, in his discretion, upon application made by any executor or administrator, or by any person entitled to a future estate or interest, may commute the duty which would, or might but for the commutation, become payable in respect of such future estate or interest for a certain sum to be presently paid, and for determining that sum shall cause a present value to be set upon such duty, in the manner provided for computing the value of future interests by section 8 of this Ordinance. No. 8, 1906, s. 12.

Treasurer may commute duty in certain cases.

13. Where by reason of the number of deaths on which property has passed, or of the complicated nature of the interests of different persons in property which has passed on death, or from any other cause, it is difficult to ascertain exactly the amount of succession duty payable in respect of any property or any interest therein, or so to ascertain the same without undue expense in proportion to the value of the property or interest, the Treasurer, on the application of any person accountable for any duty thereon, and upon his giving to him all the information in his power respecting the amount of the property and the several interests therein, and other circumstances of the case, may, by way of composition for the duty payable in respect of the property or interest, and the various interests therein, or any of them, assess such sum on the value of the property or interest, as having regard to the circumstances appears proper, and may accept payment of the sum so assessed in full discharge of all claims for duties in respect of such property or interest, and shall give a certificate of discharge accordingly.

Where difficult to ascertain value.

Certificate.

2. Provided that the certificate shall not discharge any person from any duty in case of fraud or failure to disclose material facts. No. 8, 1906, s. 13.

Fraud.

14. The duties imposed by this Ordinance, unless otherwise herein provided for, shall be due and payable at the death of the deceased, or within two years thereafter, and if the same are paid within two years no interest shall be charged or collected thereon, but if not so paid, interest at the rate of six per centum per annum shall be charged and collected from the expiry of such period of two years, and such duties, together with the interest thereon, shall be and remain a lien upon the property in respect to which they are payable until the same are paid. No. 8, 1906, s. 14.

Duties payable at death.

15. A judge of the Territorial Court may make an order, upon the application of any person liable for the payment of said duty, extending the time fixed by law for payment thereof, and also the date when interest shall be chargeable, where it appears to such judge that payment within the time prescribed by this Ordinance is impossible, owing to some cause over which the person liable has no control. No. 8, 1906, s. 15.

Extension of time.

16. Any administrator, executor or trustee having in charge or trust any estate, legacy or property subject to the said duty

Duty to be collected before distribution.

shall deduct the duty therefrom or collect the duty thereon upon the appraised value thereof from the person entitled to such property, and he shall not deliver any property subject to duty to any person until he has collected the duty thereon. No. 8, 1906, s. 16.

Executors,
etc., to have
power to
sell.

17. Executors, administrators and trustees shall have power to sell so much of the property of the deceased as will enable them to pay said duty in the same manner as they may be enabled by law so to do for the payment of debts of the testator or intestate. No. 8, 1906, s. 17.

Executor,
etc., to pay
over all
duties to
Treasurer.

18. Every sum of money retained by an executor, administrator or trustee, or paid into his hands for the duty on any property, shall be paid by him forthwith into the Treasury of the Territory. No. 8, 1906, s. 18.

Refund to
legatee.

19. Where any debt shall be proven against the estate of a deceased person after the payment of legacies or distribution of property from which the said duty has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir, or next of kin, a proportion of the duty so paid shall be repaid to him by the executor, administrator or trustee, if the said duty has not been paid to the treasurer, or by the treasurer if it has so been paid. No. 8, 1906, s. 19.

Judge may
make order
to appear.

20. If it appears to a judge that any duty accruing under this Ordinance has not been paid according to law, he shall make an order directing the persons interested in the property liable to the duty to appear before the Court on a certain day, to be therein named, and show cause why said duty should not be paid. The service of such order and the time, manner and proof thereof, and fees therefor, and the hearing and determining thereon, and the enforcement of the judgment of the Court thereon, shall be according to the practice in or upon the enforcement of a judgment of the Territorial Court. No. 8, 1906, s. 20.

Costs in
discretion of
judge.

21. The costs of all such proceedings shall be in the discretion of the Court or judge, and shall be upon the Territorial Court scale, unless and until another tariff shall be provided. No. 8, 1906, s. 21.

Regulations
to be laid
before
council.

22. The Commissioner may make regulations for carrying into effect the provisions of this Ordinance, and such regulations shall be laid before the Yukon Council forthwith, if the Council is in session at the date of making such regulations, and if the Council is not in session, such regulations shall be laid before the Council within the first fourteen days of the session next after such regulations are made. No. 8, 1906, s. 22.

SCHEDULE.

Expectation.		Expectation.		Expectation.		Expectation.	
Age.	Years.	Age.	Years.	Age.	Years.	Age.	Years.
0	57.64	25	38.44	50	20.51	75	6.56
1	56.64	26	37.65	51	19.84	76	6.17
2	55.64	27	36.93	52	19.17	77	5.85
8	55.09	28	36.18	53	18.50	78	5.48
4	54.83	29	35.47	54	17.81	79	5.22
5	53.83	30	34.75	55	17.14	80	4.93
6	53.08	31	34.04	56	16.53	81	4.61
7	52.67	32	33.30	57	15.90	82	4.36
8	51.17	33	32.59	58	15.26	83	4.04
9	50.80	34	31.86	59	14.64	84	3.84
10	49.89	35	31.15	60	13.99	85	3.58
11	49.38	36	30.41	61	13.42	86	3.44
12	48.38	37	29.69	62	12.83	87	3.26
13	47.50	38	28.97	63	12.26	88	3.05
14	46.60	39	28.27	64	11.72	89	2.94
15	45.90	40	27.57	65	11.17	90	2.68
16	45.14	41	26.85	66	10.65	91	2.46
17	44.23	42	26.14	67	10.12	92	2.25
18	43.39	43	25.42	68	9.61	93	2.34
19	42.64	44	24.69	69	9.13	94	2.90
20	41.98	45	23.98	70	8.68	95	1.90
21	41.23	46	23.27	71	8.16	96	1.06
22	40.51	47	22.57	72	7.65	97	1.00
23	39.84	48	21.89	73	7.24	98	.50
24	39.15	49	21.20	74	6.83		

CHAP. 86.

An Ordinance respecting Land held by two or more
Persons.

Owners to
hold as
tenants in
common
unless by
intention
otherwise.

1. Whenever by any letters patent, transfer, conveyance, assurance, will or other assignment land or any interest in land is granted, transferred, conveyed, assigned or devised to two or more persons other than executors or trustees in fee simple or for any less estate legal or equitable such persons shall take as tenants in common and not as joint tenants unless an intention sufficiently appears on the face of such letters patent, conveyance, assurance, will or other assignment that they take as joints tenants. C.O.Y.T. c. 34, s. 1.

CHAP. 87.

An Ordinance respecting Standard Time in the
Yukon Territory.

1. The Commissioner shall appoint an official timekeeper, ^{Standard} whose duty it shall be to calculate the Standard Time of the ^{timekeeper.} Yukon Territory and to display the same to the public at all times. No. 5, 1909, s. 1.

CHAP. 88.

An Ordinance respecting Towns.

SHORT TITLE.

Short title. **1.** This Ordinance may be cited as *The Towns Ordinance*. C.O.Y.T. c. 65, s. 1.

INTERPRETATION.

Interpretation "Voter." **2.** In this Ordinance—
 1. The expression "voter" means any man, unmarried woman or widow, being a British subject of the full age of twenty-one years, who resides within any town created or existing hereunder and who possesses, holds or occupies any land therein under any title.
 "Town." 2. The expression "town" means any town organized under the provisions of this Ordinance. C.O.Y.T. c. 65, s. 2.

ESTABLISHMENT OF TOWNS.

Commissioner may establish unincorporated town. **3.** Whenever the Commissioner is satisfied by such proof as he requires that any portion of the Yukon Territory (no part of which is within the limits of any incorporated city or town) contains not less than ten dwelling houses he may cause notices to be posted in three conspicuous places within such area (one of which shall be the post office therein) that it is proposed to establish the same as a town after the expiration of thirty days from such posting. C.O.Y.T. c. 65, s. 3.

Town to be established unless petitioned against in 30 days. **4.** After the expiration of the said thirty days the Commissioner, unless a majority of the voters within such area by petition addressed to him object, may by order, establish the said area as a town under the name of the post office therein, and shall define its boundaries, fix a day for the election of an overseer and appoint one of the voters of the said town to act as returning officer at the election of such overseer. C.O.Y.T. c. 65, s. 4.

OVERSEER.

Election of overseer. **5.** The first election of overseer and all later elections shall be conducted as follows:

1. The returning officer shall by public notice posted in the post office and two other conspicuous places in the town at least one week before the election call a meeting of the voters for the election of an overseer to be held on the day fixed therefor;
2. Election meetings shall be called to commence at the hour of seven of the clock in the evening of the day appointed,

or if such day be a Sunday or a holiday, on the next following day which is not a Sunday or a holiday;

3. Nominations may be made during the first half hour of the meeting;

4. Male voters and no other persons shall be eligible for election as overseer;

5. When the time for nomination has closed—

(a.) If only one person has been nominated the returning officer shall declare such person to be elected overseer;

(b.) If more than one person has been nominated the returning officer shall at once proceed to take the vote of the meeting which shall be by open voting;

6. Every person tendering his vote shall before his vote is received make and sign before the returning officer a declaration in form A in the schedule hereto;

Person tendering vote must sign declaration. Poll to be closed if no vote tendered within five minutes after 9 P.M.

7. If at any time after nine o'clock of the evening of such meeting the returning officer announces that if no vote is tendered during the five minutes next ensuing after such announcement he will close the voting and no vote is tendered during such time, the returning officer shall declare the voting closed. The voting shall in no case continue later than eleven o'clock of such evening.

8. The returning officer shall declare elected the nominee having the largest number of votes;

Nominee having largest vote to be declared elected.

9. If there is an equality of votes the returning officer shall give the deciding vote but otherwise shall not vote. C.O.Y.T. c.65, s. 5.

Equality of votes returning officer casting vote.

6. Any person wilfully making a false declaration as a voter shall be liable on summary conviction to a penalty not exceeding \$50, and in default of payment to imprisonment for a period not exceeding ninety days. C.O.Y.T. c. 65, s. 6.

Voter on false declaration liable to penalty.

7. The returning officer shall make a return to the Territorial Secretary showing the result of the election and shall send therewith the declarations signed by the voters and his own declaration in form B in the schedule hereto. C.O.Y.T. c. 65, s. 7.

Returning Officer to send result to Territorial Secretary.

8. The person elected as overseer shall within five days after the declaration of his election deliver to the returning officer a bond executed by himself with two sufficient sureties in form C in the schedule hereto with an affidavit of justification endorsed thereon. C.O.Y.T. c. 65, s. 8.

Overseer elected to give bond within five days.

9. Until such bond is furnished the person elected shall not act as overseer. C.O.Y.T. c. 65, s. 9.

10. If such bond is not delivered to the returning officer within such time he shall proceed to hold another election as soon as it is possible consistently with the giving of notice as herein provided.

If bond not delivered to Returning Officer within time to hold another election.

2. At the election so to be held the person making default in delivering such bond shall not be eligible for such election.

3. The previous election shall become void on the election of another person under this section.

4. Immediately on receipt of the bond the returning officer shall transmit it to the Territorial Secretary.

5. If a person is elected overseer in the place of one who has failed to furnish a bond the provisions of this and the two next preceding sections shall be observed and followed as in the first instance. C.O.Y.T. c. 65, s. 10.

Overseer to enter on duties immediately after giving bond.

11. The first overseer elected in any town shall enter on his duties at once after furnishing such bond and shall hold office for the remainder of the calendar year in which he was elected and until his successor has furnished a bond.

2. The overseer elected at elections subsequent to the first election shall hold office for the calendar year next ensuing after the day on which the election is required to be held hereunder and until his successor has furnished his bond.

3. If a vacancy occurs in the office of overseer the Commissioner may order another election or appoint an overseer for the unexpired term, and if the Commissioner appoints an overseer the Commissioner may dispense with the necessity of such overseer furnishing a bond under the provisions of this Ordinance. Notice of such order or appointment may be sent by telegram signed by the Commissioner. C.O.Y.T. c. 65, s. 11.

Commissioner may remove and appoint.

12. The Commissioner may, if he sees fit, remove any overseer from his office and appoint another in his stead, and any overseer so appointed shall have all the powers of an elected overseer and such other powers in regard to the conduct of the town affairs as the Commissioner deems proper and necessary. C.O.Y.T. c. 65, s. 12.

Election to be held first Wednesday in September.

13. The election for overseer shall be held in each town on the first Wednesday in September in each year and for the purpose of such election the overseer shall appoint in writing before the first day of August in each year a returning officer; and should the person so appointed decline or be or become unable to act the overseer shall forthwith appoint another in his stead.

2. The returning officer shall receive a fee of \$10. C.O.Y.T. c. 65, s. 13.

Any voter may protest election on depositing \$200.

14. Whenever the due election of a person to be overseer or the sufficiency of the bond furnished by him is disputed, any voter may on depositing, within one month after declaration of the election, with the clerk of the Territorial Court the sum of \$200 as security for such costs as a judge orders him to pay and on alleging reasonable grounds therefor obtain a rule *nisi* calling on the person elected to show cause why he should not be removed from the said office.

2. The judge may on the return of such rule dispose of the same summarily or direct that it be set down for trial of the questions raised thereby as an action in court.

3. Upon such summary disposal or trial the judge may order that the overseer be removed from the office and that

another person be admitted thereto or another election held as justice requires, and the judge may make such orders as are necessary for the carrying out of the judgment or order. Costs of the proceedings shall be in the discretion of the judge. C.O.Y. T. c. 65, s. 14.

MEETINGS OF VOTERS.

15. An annual business meeting of the voters shall be held in the town before the fifteenth day of July in each year, which meeting shall be called by the overseer by public notice thereof posted in the post office and two other conspicuous places in the town for at least two weeks before such meeting. C.O.Y.T. c. 65, s. 15. Annual business meeting to be held.

16. The overseer shall at the annual business meeting submit to the voters a statement of the estimated total expenditure of the town for the current year which shall include: Overseer to furnish meeting with statement.

(a.) The amount payable in such year on any debt contracted hereunder;

(b.) Draining and street improvements;

(c.) Construction of sidewalks;

(d.) Fire protection and water supply;

(e.) Purchase of property for town purposes;

(f.) Scavenging;

(g.) Contingencies;

(h.) Remuneration of overseer. C.O.Y.T. c. 65, s. 16.

17. At the annual business meeting the order of business shall, as nearly as possible, be as follows: Order of business.

1. The election of a chairman and secretary.

2. The reading and dealing with:

(a.) The minutes of the last annual meeting;

(b.) The overseer's annual return provided for in this Ordinance and the auditor's report.

3. The consideration of the overseer's statement of estimated expenditure and deciding thereon.

4. The election of an auditor and fixing his remuneration.

5. Such other general business as may concern the town, but not exceeding the powers given herein.

6. The imposing of a business tax upon all persons doing business within the town and the fixing of the amount thereof. C. O.Y.T. c. 65, s. 17.

18. The voters may at the annual meeting, or at a special meeting duly called for the purpose, in addition to their other powers, make regulations further than those herein contained for the general cleanliness of and prevention of disease in the town, including the employment and remuneration of a scavenger, and also for the protection of property from fire. C.O.Y.T. c. 65, s. 18. Voters at annual meeting may make regulations.

Overseer to call meeting at request of five ratepayers.

19. The overseer may, whenever he deems fit and shall, upon being requested so to do by any five voters in writing giving the object of the meeting, call a special meeting of voters; notice shall be given of all special meetings, as in the case of the annual business meeting, but the notice shall also state the purpose of the meeting. C.O.Y.T. c. 65, s. 19.

ASSESSMENT AND TAXATION.

Revenue to be raised by rate not to exceed 20 mills.

20. The necessary revenue of the town shall be raised by the levying of a yearly rate upon the property and income therein not exceeding twenty mills on the dollar of the assessed value, and by a business tax if the same is provided for at the annual business meeting. The assessment of the property and income shall be made, the rate ascertained and the amount collected together with the business tax, if any, under the provisions of the Assessment Ordinance excepting that the assessment roll shall be made up and completed between the first day of January and the first day of July, and the Court of Revision be held on the tenth day after the completion of said roll C.O. Y.T. c. 65, s. 20.

DOG TAX.

Dogs to be taxed.

21. Every person who keeps or harbours a dog or bitch shall pay a yearly tax of five dollars for each dog and five dollars for each bitch so kept and harboured; such tax shall be payable on demand of the overseer and may be recovered in such mode as is provided in said Assessment Ordinance for the collection of taxes as may be applicable, if the tax is not paid after demand of the overseer he may cause the dog or bitch to be destroyed. Any person refusing or neglecting to pay such tax shall be liable to a penalty of ten dollars, and in default of payment to imprisonment for a period not exceeding twenty days. C.O.Y.T. c. 65, s. 21.

HAWKERS AND PEDLARS.

Hawkers and pedlars licence.

22. No person shall follow the calling of a hawker or pedlar in any town without first having obtained the written permission of the overseer and having paid to such overseer the sum of one hundred dollars to form part of the town fund.

2. Such sum shall be in addition to any Territorial license fee and shall entitle the person paying the fee to follow the business of a hawker or pedlar in such town for the twelve months next ensuing the date of such written permission. C.O.Y.T. c. 65, s. 22.

TOWN EXPENDITURE.

Overseer to expend funds according to estimates.

23. The funds of the town may from time to time be expended by the overseer for the purpose and in accordance with the estimates as passed at the annual business meeting and subject to such further direction as is made at any special meeting regarding the same. C.O.Y.T. c. 65, s. 23.

24. The overseer may incur any debt not exceeding five hundred dollars for town purposes pending the collection of taxes. All debts shall subject to the provisions herein contained be paid before the thirty-first day of December in each year. C. O.Y.T. c. 65, s. 24.

Overseer may incur debt up to \$500.

SUITS BY OR AGAINST TOWN.

25. Suits by or against the town may be brought by or against the overseer as representing the town. C.O.Y.T. c. 65, s. 25.

Overseer to represent town in suit.

26. In the event of judgment being obtained against the overseer for any liability of the town it may be enforced by execution rate levied by the sheriff in the manner provided in the next following section. C.O.Y.T. c.65, s. 26.

In event of judgment against town execution rate to be levied.

27. Any writ of execution against the town may be indorsed with the direction to the sheriff to levy the amount thereof by rate and the proceedings thereon shall be as follows:

Proceedings to realize rate.

1. The sheriff shall deliver a copy of the writ and indorsement to the overseer with a statement in writing of the amount required to satisfy such execution including the amount of interest thereon and sheriff's fees and demand the payment of the same.

2. If the amount demanded is not paid to the sheriff within thirty days after such delivery the sheriff shall examine the assessment roll of the town and shall in like manner as rates are struck for general town purposes strike a rate sufficient in the dollar to cover the amount claimed as aforesaid with such addition to the same as the sheriff deems sufficient to cover interest, his own fees, the overseer's percentage and any other expenses up to the time when such rate will probably be available.

3. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the overseer and shall annex thereto the roll of such rate and shall, by such precept after reciting the writ and that the town has neglected to satisfy the same and referring to the roll annexed to the precept, command the overseer to levy such rate at the time and in the manner by law required in respect to the general annual rate.

4. At the time for levying the annual rate next after the receipt of such precept the overseer shall add a column to the rate book headed: "Execution rate in———vs. the town of——" as the case may be, adding a similar column for each execution if there are more executions than one, and shall insert therein the amount by each such precept to be levied on each person respectively and shall levy the amount of such execution rate aforesaid and shall within the time that he is required to make the returns of the general annual rate return to the sheriff every such precept with the amount levied thereon deducting any percentage and expenses which he is entitled to be paid.

5. The sheriff shall after satisfying the execution and all fees thereon return any surplus within ten days after receiving the same to the overseer for the general purposes of the town.

6. If the overseer is not paid by percentage fixed at the annual meeting of the town he shall be paid for such collection a sum not exceeding two and one-half per centum. C.O.Y.T. c. 65, s. 27.

Overseer to be officer of court for purpose of execution.

28. The overseer for the purpose of carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to such execution shall be deemed to be an officer of the Court from which such writ issued and as such may be proceeded against by attachment, mandamus or otherwise, to compel him to perform the duties hereby imposed upon him. C.O.Y.T. c. 65, s. 28.

OVERSEER'S DUTIES AND POWERS.

Overseer's duties and powers.

29. The overseer shall have the following duties and powers:

1. He shall carry out the orders of the voters as expressed at the annual or special meeting of the voters in respect of public works and expenditure of town funds and such general orders as may be given upon matters concerning the town;

2. He shall enforce the provisions of this Ordinance and all regulations thereunder;

3. He shall make such regular inspection of premises in the town as is necessary to carry out the provisions herein respecting nuisances and the prevention of disease and of fire;

4. He shall have charge of all town property;

5. He shall keep a record of all taxes levied and collected and of all moneys received and expenditures made by him and give and take receipts for all moneys received or paid out by him as the case may be;

6. He shall keep or cause to be kept full and accurate minutes of each town meeting other than election meetings which minutes shall record by whom all motions were moved and seconded and the result of them;

7. He shall have the public improvements estimated in each year completed before the first day in November of each year;

8. He shall on application in reasonable hours produce to the auditor for inspection all books, accounts, minutes, lists and records of the town;

9. He shall impound or cause to be impounded animals unlawfully running at large. C.O.Y.T. c. 65, s. 29.

ANNUAL RETURN OF OVERSEER.

Overseer to make annual return to Territorial Secretary.

30. The overseer shall on or before the first day of November in each year render to the Territorial Secretary a return in writing showing:

(a.) Amount of money collected;

(b.) The amount of money expended and for what purpose and the balance on hand;

(c.) The outstanding liabilities if any of the town;

(d.) The names of all those who have been convicted of a breach of this Ordinance or any regulation made hereunder in the town stating the penalty imposed and the name of the convicting justice;

(e.) A list of the taxes unpaid giving the names of the persons in default.

2. The overseer shall submit a copy of such return to the voters at the annual business meeting. C.O.Y.T. c. 65, s. 30.

ANIMALS RUNNING AT LARGE.

31. The voters may at any meeting resolve that animals may not be permitted to run at large in the town or any part thereof in or during any period of the year. Regulations to prevent animals running at large.

2. When the voters so resolve no horse, mule, jack, cattle, sheep, swine, goat, goose, or other poultry shall be permitted in or during such period to run at large in the town or such part thereof and the overseer shall appoint a pound-keeper whose duty it shall be to keep and maintain a pound in the town for the impounding of stray animals of the description aforesaid.

3. In so far as they are not inconsistent herewith the provisions of the Ordinance respecting trespassing and straying animals shall apply and be followed and observed in all respects as if such town were a pound district under said Ordinance.

4. When any such resolution is passed the overseer shall forthwith notify the Territorial Secretary. C.O.Y.T. c. 65, s. 31.

PREVENTION OF DISEASE.

32. For the prevention of disease the following regulations shall be observed in every town. Regulations for the prevention of disease.

1. Privy pits shall be emptied and properly disinfected at least once each week between the 1st day of May and the 1st day of November in each year.

2. No privy pit shall be allowed to become offensive at any time.

3. No privy pit shall be within fifty feet of any well.

4. Where dry earth closets are ordered by resolution of a town meeting no privy pits shall be used.

5. No person shall deposit or cause to be deposited in any place where the same may become offensive, any manure, filth, rubbish or decaying animal or vegetable matter.

6. Stable-yards shall be cleaned during the first week of every month from the first day of May until the first day of November in each year.

7. All garbage, swill, slops and other rubbish shall be placed in suitable receptacles and removed regularly at least once every week between the 1st day of May and the 1st day of November in each year.

8. No stable-yard shall be allowed to become offensive at any time because of decaying animal or vegetable matter.

9. Foul water shall not be allowed to accumulate on any property.

10. Any person guilty of a violation of any of the provisions of this section shall be liable to a penalty not exceeding fifty dollars and in default of payment to imprisonment for a period not exceeding ninety days. C.O.Y.T. c. 65, s. 32.

PREVENTION OF FIRE.

Regulations
for the
prevention
of fires.

33. For the prevention of fire the following regulations shall be observed in each town:

1. No person shall keep on any premises a larger quantity of gunpowder or other explosive than twenty-five pounds unless the same is stored at least one hundred feet from any building;

2. No person shall keep on any premises a greater quantity of kerosene than one hundred and fifty gallons unless the same is stored at least sixty-five feet from any building;

3. No person shall set out fire within fifty feet of any building, provided nevertheless that a blacksmith may build a fire within fifty feet of his shop for the purposes of his trade;

4. No person shall deposit any ashes in any wooden vessel unless it is lined with metal. C.O.Y.T. c. 65, s. 33.

Space
between stove
pipes, floor
and partition.

34. There shall be a space of at least nine inches between any stovepipe and partition or floor through which it passes unless such stovepipe is surrounded in such partition or floor by a thimble of brick, cement or concrete at least two inches in width and of the full thickness of such partition or floor or by a metal safety flue with an air space of at least three inches.

2. At least twelve inches shall intervene between any stove in use and the partition or wall nearest thereto.

3. Every proprietor of any house more than one story high, with a roof having a pitch greater than one foot in three shall keep a ladder on such roof near the chimney thereof.

4. Any person guilty of a violation of any of the provisions of this section shall be liable to a penalty not exceeding fifty dollars and in default of payment to imprisonment for a period not exceeding ninety days. C.O.Y.T. c. 65, s. 34.

REMUNERATION OF OVERSEER.

Remunera-
tion of
overseer.

35. The remuneration of the overseer shall be fixed at the annual business meeting but shall not be less than one hundred dollars nor more than three hundred dollars per annum, together with two and one-half per centum of all rates and taxes collected by him and the overseer may retain such remuneration at the expiration of his term of office out of the moneys then in his hand. C.O.Y.T. c. 65, s. 35.

AUDIT AND DELIVERY OF BOOKS, ETC.

Audit of
overseer's
books.

36. At the expiration of the term of office of any overseer or upon his ceasing to hold office for any cause, all books, accounts, records, lists, vouchers, moneys and other property of the town shall be examined by the auditor and handed over to the successor in office of such overseer; the auditor shall make a full report thereon at the next meeting of the voters. C.O.Y.T. c. 65, s. 36.

OFFENCES AND PENALTIES.

37. No person shall discharge any fire arms within the limits of any unincorporated town under a penalty of not more than twenty and not less than five dollars. No. 3, 1905, s. 1. Discharge of fire arms.

38. Any overseer who neglects or refuses to render a true and correct account as and when required herein or neglects or refuses to hand over to his successor in office any property of the town as directed by the next preceding section shall be liable to a penalty not exceeding five hundred dollars and in default of payment to imprisonment for a period not exceeding six months. Offences and penalties.

2. Any overseer who neglects or refuses to discharge any other duty by this Ordinance imposed upon him shall be liable to a penalty not exceeding two hundred dollars and in default of payment to imprisonment for a period not exceeding three months.

3. Any person who violates any provision of this Ordinance for which violation no penalty is in this Ordinance provided or who violates the provisions of any judgment, order or regulation given or made under the provisions of this Ordinance shall be liable to a penalty not exceeding two hundred dollars and in default of payment to imprisonment for a period not exceeding three months.

4. All penalties imposed by this Ordinance shall when recovered be paid to the overseer to form part of the town funds. C.O.Y.T. c. 65, s. 37.

TITLE TO REAL ESTATE.

39. The title of any real property owned or purchased or in any way acquired by any town shall be vested in the Commissioner who shall hold the same for the purposes of the town. C.O.Y.T. c. 65, s. 38. Real estate held by town to be in commissioner's name.

ALTERATION OF BOUNDARIES.

40. The Commissioner may alter the boundaries of any town and may add to or take from the area of such town. C.O.Y.T. c. 65, s. 39. Commissioner may alter boundaries of town.

NOTICE OF MEETING.

41. Any notice required under this Ordinance for calling any meeting may be published in any newspaper published in such town instead of being posted, as in this Ordinance hereinbefore provided. C.O.Y.T. c. 65, s. 40. Notices may be published in newspapers.

42. Any affidavit or declaration required under any provision of this Ordinance may be sworn or made before a notary public, commissioner for taking affidavits or a justice of the peace, any one of whom may administer any oath or take any declaration required by any such provision. C.O.Y.T. c. 65, s. 41. Who may swear affidavits.

SCHEDULE.

FORM A—Sec. 5.

I, A. B., of _____ in the Yukon Territory (occupation) solemnly declare:

1. That I am a British subject of the full age of twenty-one years;

2. That I reside within the town of _____ and that I possess, hold or occupy land within the said town and (in case of a female);

3. I am an unmarried woman or widow (as the case may be).

Declared at	_____	in the	} (Voter sign here.)
Yukon Territory this	_____	A.D.	
day of	_____		
19	before me.		Returning officer.

FORM B.—Sec. 7.

I, A. B., returning officer for the town of _____ hereby solemnly declare that the record of votes hereto attached and signed by me is a true record of the votes given at the election of an overseer for the said town held on the day of _____ A.D. 19 _____ when _____ of _____ in the Yukon Territory was duly elected overseer for the said town.

Declared at	_____	in the	} (Returning officer signs here.)
Yukon Territory this	_____	A.D.	
day of	_____		
19	before me.		

A Commissioner for taking affidavits.

FORM C.—Sec. 8.

Know all men by these presents that we _____ of _____ in the Yukon Territory as principal, and _____ of _____ in the said territory _____ and _____ of _____ in the said territory as sureties, are held and firmly bound unto the Commissioner of the Yukon Territory, the said principal, in the sum of one thousand dollars, and each of the said sureties in the sum of five hundred dollars of good and lawful money of Canada to be paid to the said Commissioner, for which payments well and truly to be made we severally bind ourselves and our respective heirs, executors and administrators.

Sealed with our seal and dated the _____ day
of _____ A.D. 19 _____

Whereas under the provisions of the Towns Ordinance the
said _____ was on the _____
day of _____ A.D. 19 _____ duly elected to the office
of overseer in the town of _____

Now the condition of the above obligation is such that if
the said _____ shall at all times until
his successor in such office is duly appointed according to law
keep, fulfil, observe and comply with all and every provision of
the said Ordinance to which the said _____
as such overseer is or shall be subject and truly and faithfully
whenever required by law so to do, render accounts and delivery
of all moneys and property of any nature which may or but for
the default of the said _____ would
have come into his hands as such overseer, and if the said
_____ in all respects faithfully per-
forms his duty as such overseer in said town then this obligation
shall be void, but otherwise shall remain in full force and virtue.

Signed, sealed } L.S.
and delivered } L.S.
in presence of } L.S.

AFFIDAVIT OF JUSTIFICATION TO ACCOMPANY FOREGOING BOND.

We _____ and _____ the
sureties whose names are signed to the foregoing bond, do
severally solemnly declare and say as follows:

1. I, the said _____ for myself say that
I am worth property situate in the Yukon Territory to the value
of five hundred dollars over and above what will pay my just
debts and over and above all sums for which I am liable as
surety and the exemptions allowed by law.

2. And I, the said _____
for myself say that I am worth property situate in the Yukon
Territory to the value of five hundred dollars over and above
what will pay all my just debts and over and above all sums for
which I am liable as surety and the exemptions allowed by law.

The above named _____
and _____ severally made }
the foregoing declaration at _____ }
in the Yukon Territory _____ } Sureties sign here.
this _____ day of _____ A.D. }
19 _____ }
Before me _____ }

A commissioner for taking affidavits. C.O.Y.T. c. 65, s. 39.

CHAP. 89.

An Ordinance respecting the Removal of Trespassers from Public Property.

Sheriff or
police officer
to eject
persons from
public
property at
request of
Commissioner.

1. The Sheriff of the Yukon Territory, and all members of the Royal Northwest Mounted Police force of the Yukon Territory, shall, when required in writing from time to time by the Commissioner of the said Territory, eject all persons and remove all buildings, goods and chattels, whether attached to the realty or not, from

1. Dawson water front on the West side of First avenue in Dawson aforesaid and from the banks and shores of the Yukon river adjoining such waterfront, and

2. From any public street or highway laid out by proper authority in the Yukon Territory, and

3. From any Dominion lands in said Territory and from any lands which were Dominion lands until sold by the Commissioner or by the officer authorized to sell such lands, and which have been sold, and

4. From any public property, and

5. From any portion of such waterfront, banks, shores, street, highway, lands or property designated in such writing, and such Sheriff or member shall deliver possession of the same to His Majesty the King represented in that behalf by the said Commissioner, or to such person or persons as the Commissioner directs. C.O.Y.T. c. 12, s. 1.

Other persons
to assist
Sheriff.

2. Every person shall, when required by the Sheriff, or by the member of said force to whom such writing is directed, assist in such ejectment, and every peace officer and member of said force shall, when so required, assist in such ejectment and removal. C.O.Y.T. c. 12, s. 2.

No action
against
Sheriff
or officer.

3. No action shall be brought against any Sheriff, member of said force or against any person for any act done in performing or assisting to perform the requirements of such writing. C.O. Y.T. c. 12, s. 3.

SCHEDULE I.

Showing the portions of the Consolidated Ordinances of the Yukon Territory 1902, and of the Ordinances of the Yukon Territory which have been repealed prior to the Consolidation of 1914.

Ordinances Repealed.	Repealing Ordinance.
CONSOLIDATED ORDINANCES OF THE YUKON TERRITORY, 1902.	
Chap. 2, secs. 7 and 8, and Schedule 1, Tariff C.....	No. 17 of 1904.
" 2, sec. 9.....	No. 7 of 1908.
" 3, s.s. 2 of sec. 8.....	No. 18 of 1904.
" 3, secs. 25, 35 and 40.....	No. 18 of 1904.
" 3, secs. 61 to 74 inc.....	No. 18 of 1904.
" 3, secs. 80, 81, 84 and 91 to 99 inc.....	No. 18 of 1904.
" 3, Forms M, O and S in Schedule 1.....	No. 18 of 1904.
" 3, Forms A, B and C, Schedule 1, section 2.....	No. 18 of 1904.
" 4, sec. 28.....	No. 9 of 1913.
" 5, secs. 11 and 17.....	No. 1 of 1911.
" 5, secs. 22 and 29.....	No. 7 of 1909.
" 7, secs. 20, 21 and 24.....	No. 19 of 1903.
" 9, sec. 3.....	No. 6 of 1912.
" 14, secs. 2, 3 and 4.....	No. 12 of 1914.
" 14, secs. 6, 7 and 8.....	No. 2 of 1903.
" 16.....	No. 4 of 1904.
" 17, secs. 14 and 16.....	No. 22 of 1903.
" 17, Rules 1 and 2.....	No. 22 of 1903.
" 17, Rule 3 (sub. s. 3).....	No. 22 of 1903.
" 17, Rule 13 (sub. s. 2).....	No. 22 of 1903.
" 17, Rule 17 (sub. s. 1).....	No. 22 of 1903.
" 17, Rule 18.....	No. 22 of 1903.
" 17, Rule 25.....	No. 22 of 1903.
" 17, Rules 168, 169, 170, 171 and 172.....	No. 22 of 1903.
" 17, Rule 363.....	No. 22 of 1903.
" 17, Rule 367.....	No. 22 of 1903.
" 17, Rule 378 (s.s. 1).....	No. 22 of 1903.
" 17, Rule 395.....	No. 22 of 1903.
" 17, Rule 430.....	No. 22 of 1903.
" 17, Rule 435 (s.s. 4).....	No. 22 of 1903.
" 17, Rule 483.....	No. 22 of 1903.
" 17, Rule 509.....	No. 22 of 1903.
" 17, Rule 515.....	No. 22 of 1903.
" 17, Rule 521.....	No. 22 of 1903.
" 17, Rule 557.....	No. 22 of 1903.
" 17, Rule 383 (s.s. 1).....	No. 10 of 1904.
" 17, Rule 384 (s.s. 1).....	No. 10 of 1904.
" 17, Rule 386.....	No. 10 of 1904.
" 17, Rule 387.....	No. 10 of 1904.
" 17, Rules 620, 621 and 622.....	No. 8 of 1907.
" 17, Rules 609.....	No. 3 of 1908.
" 17, Forms H and J.....	No. 8 of 1908.
" 17, Rule 357 (s.s. 2).....	No. 4 of 1910.
" 17, Rule 383 (s.s. 1).....	No. 4 of 1910.
" 17, Rules 506 to 524 inc.....	No. 7 of 1914.
" 17, Rule 528.....	No. 7 of 1914.
" 17, Rule 542.....	No. 7 of 1914.
" 20.....	No. 4 of 1914.
" 26.....	No. 1 of 1905.
" 47, sub. sec. (c) of sec. 4.....	No. 16 of 1914.
" 47, s. 6.....	No. 8 of 1911.
" 48.....	No. 1 of 1912.
" 49, secs 6 and 7.....	No. 18 of 1903.
" 54.....	No. 14 of 1903.
" 57.....	No. 15 of 1914.
" 58.....	No. 15 of 1914.

SCHEDULE I—*Concluded.*

Showing the Portions of the Consolidated Ordinances of the Yukon Territory 1902, and of the Ordinances of the Yukon Territory, which have been repealed prior to the Consolidation of 1914.—*Continued.*

Ordinances Repealed.	Repealing Ordinance.
CONSOLIDATED ORDINANCES OF THE YUKON TERRITORY, 1902.—<i>Concluded.</i>	
Chap. 59.....	No. 15 of 1914.
“ 60.....	No. 15 of 1914.
“ 64, sec. 4 (s.s. j).....	No. 11 of 1904.
“ 64, sec. 7, Rule 10.....	No. 11 of 1904.
“ 64, sec. 37 (s.s. I).....	No. 11 of 1904.
“ 64, sec. 45.....	No. 2 of 1913.
“ 64, sec. 50 (s.s. 5).....	No. 1 of 1906.
“ 66, secs. 13, 14, 15, 16 and 17.....	No. 1 of 1914.
“ 66, sec. 85.....	No. 6 of 1910.
“ 76, sec. 56.....	No. 9 of 1907.
“ 76, secs. 58 and 59.....	No. 9 of 1907.
“ 76, sec. 61.....	No. 9 of 1907.
“ 76, sec. 70.....	No. 9 of 1907.
“ 77, sec. 3.....	No. 3 of 1911.
“ 79.....	No. 5 of 1906.
ORDINANCES OF THE YUKON COUNCIL.	
1903—No. 8, sec. 3.....	No. 11 of 1904.
1903—No. 8, sec. 5.....	No. 18 of 1914.
1903—No. 10.....	No. 17 of 1914.
1903—No. 14, secs. 3, 4 and 5.....	No. 2 of 1910.
1903—No. 19, secs. 2 and 6.....	No. 12 of 1907.
1904—No. 3.....	No. 5 of 1906.
1904—No. 10, sec. 4.....	No. 8 of 1909.
1904—No. 11, secs. 1 and 2.....	No. 6 of 1911.
1904—No. 12.....	No. 17 of 1914.
1904—No. 16.....	No. 17 of 1914.
1904—No. 17, sec. 9.....	No. 7 of 1908.
1904—No. 18, sec. 3.....	No. 11 of 1906.
1904—No. 18, secs. 5, 6 and 7.....	No. 11 of 1906.
1905—No. 1, sub. secs. 3 and 4 of sec. 23.....	No. 4 of 1906.
1906—No. 5, sub. secs. 22, 23, 24, 26 and 29 of Sec. 11.....	No. 11 of 1907.
1906—No. 6.....	No. 2 of 1914.
1906—No. 7.....	No. 17 of 1914.
1906—No. 10, sec. 1.....	No. 5 of 1910.
1909—No. 3.....	No. 15 of 1914.
1909—No. 7, sec. 4.....	No. 4 of 1912.
1910—No. 1, sec. 1.....	No. 5 of 1913.
1911—No. 5, secs. 1 and 2.....	No. 5 of 1913.
1912—No. 9, sub. sec. 2 of sec. 1.....	No. 7 of 1913.
1913—No. 5.....	No. 17 of 1914.

* See errata in same volume.

SCHEDULE II.

Ordinances and Parts of Ordinances repealed from the date of coming into force of "The Consolidated Ordinances of the Yukon Territory, 1914.

Chapter.	Title of Ordinance.	Extent of Repeal.
CONSOLIDATED ORDINANCES OF THE YUKON TERRITORY, 1902.		
1	An Ordinance respecting the Form and Interpretation of Ordinances.....	The whole.
2	An Ordinance respecting the Council of the Yukon Territory.....	"
3	An Ordinance respecting Elections.....	"
4	An Ordinance respecting Controverted Elections.....	"
5	An Ordinance respecting the Public Service of the Territory.....	"
6	An Ordinance respecting the Registration of Births, Deaths and Marriages.	"
7	An Ordinance respecting the Inspection of Steam Boilers and the Examination of Engineers Operating the Same.....	"
8	An Ordinance respecting Ferries.....	"
9	An Ordinance respecting the Public Health.....	"
10	An Ordinance to regulate Public Aid to Hospitals.....	"
11	An Ordinance respecting Commissioners to make Inquiries concerning Public Matters.....	"
12	An Ordinance respecting the removal of Trespassers from Public Property..	"
13	An Ordinance for the Protection of Miners.....	"
14	An Ordinance for the better Regulation of Traffic on Highways.....	"
15	An Ordinance for the Protection of Bridges.....	"
17	An Ordinance respecting the Administration of Civil Justice.....	"
18	An Ordinance respecting the Clerk and Deputy Clerk.....	"
19	An Ordinance respecting the Sheriff and Deputy Sheriff.....	"
21	An Ordinance respecting the Office of Public Administrator.....	"
22	An Ordinance respecting Commissioners to administer Oaths.....	"
23	An Ordinance respecting Notaries Public.....	"
24	An Ordinance to Abolish Priority among Execution Creditors.....	"
25	An Ordinance Exempting Certain Property from Seizure and Sale under Execution.....	"
27	An Ordinance respecting Alimony.....	"
28	An Ordinance to amend the Law relating to Slander.....	"
29	An Ordinance respecting Limitation of Actions in Certain Cases.....	"
30	An Ordinance respecting Constables.....	"
31	An Ordinance respecting Distress for Rent and Extra-Judicial Seizures.....	"
32	An Ordinance respecting Arbitration.....	"
33	An Ordinance respecting the Investigation of Accidents by Fire.....	"
34	An Ordinance respecting Land held by two or more persons.....	"
35	An Ordinance respecting the Sale of Goods.....	"
36	An Ordinance respecting Factors and Agents.....	"
37	An Ordinance respecting Choses in Action.....	"
38	An Ordinance respecting Preferential Assignments.....	"
39	An Ordinance respecting Mortgages and Sales of Personal Property.....	"
40	An Ordinance respecting Hire Receipts and Conditional Sale of Goods.....	"
41	An Ordinance respecting Partnerships.....	"
42	An Ordinance respecting Marriages.....	"
43	An Ordinance respecting the Personal Property of Married Women.....	"
44	An Ordinance respecting Compensation to the Families of Persons Killed by Accidents.....	"
45	An Ordinance respecting Insurance for the benefit of Wife and Children.....	"
46	An Ordinance respecting Masters and Servants.....	"
47	An Ordinance respecting the Legal Profession.....	"
49	An Ordinance respecting the Practice of Dentistry.....	"
50	An Ordinance respecting Chemists and Druggists.....	"
51	An Ordinance respecting Hotel and Boarding House Keepers.....	"
52	An Ordinance respecting Keepers of Livery, Boarding and Sales Stables....	"
53	An Ordinance respecting Liens in favour of Mechanics and Others.....	"
55	An Ordinance respecting Slaughter Houses and the Killing and Dressing of Animals for Food.....	"
56	An Ordinance respecting Newspapers.....	"
61	An Ordinance respecting Benevolent and Other Societies.....	"
62	An Ordinance respecting Mechanics and Literary Institutes.....	"
63	An Ordinance respecting Cemeteries.....	"

SCHEDULE II—Continued.

Ordinances and Parts of Ordinances repealed, &c.—Continued.

Chapter.	Title of Ordinance.	Extent of Repeal.
CONSOLIDATED ORDINANCES OF THE YUKON TERRITORY, 1902.—Continued.		
64	An Ordinance respecting Assessment.....	The whole.
65	An Ordinance respecting Towns.....	"
66	An Ordinance respecting Schools.....	"
67	An Ordinance for the Prevention of Fires.....	"
69	An Ordinance respecting Fast Driving.....	"
70	An Ordinance respecting Dogs.....	"
71	An Ordinance respecting Trespassing and Straying of Animals.....	"
72	An Ordinance respecting the Preservation of Game in the Yukon Territory..	"
73	An Ordinance to prevent the Pollution of Running Streams.....	"
74	An Ordinance for the Prevention of Prairie and Forest Fires.....	"
75	An Ordinance respecting the Importation of and Traffic in Intoxicating Liquors.....	"
76	An Ordinance respecting Intoxicating Liquors.....	"
77	An Ordinance respecting Insane Persons.....	"
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2	An Ordinance to amend the Ordinance for the Regulation of Traffic on Highways.....	"
3	An Ordinance to amend the Ordinance respecting Benevolent and other Societies.....	"
4	An Ordinance to amend the Ordinance respecting Chemists and Druggists..	"
5	An Ordinance to amend the Ordinance respecting Dogs.....	"
6	An Ordinance to amend The Liquor License Ordinance.....	"
8	An Ordinance to amend The Assessment Ordinance.....	"
9	An Ordinance to amend The Health Ordinance.....	"
11	An Ordinance respecting Auctioneers, Hawkers and Pedlars.....	"
12	An Ordinance to amend The Game Ordinance.....	"
14	The Miners Lien Ordinance.....	"
15	An Ordinance to amend the Ordinance respecting The Yukon Council.....	"
16	An Ordinance to amend The Assessment Ordinance.....	"
18	An Ordinance to amend The Dentistry Ordinance.....	"
19	An Ordinance to amend The Steam Boiler Ordinance.....	"
22	An Ordinance to amend The Judicature Ordinance.....	"
1904.		
2	An Ordinance to amend "The Interpretation Ordinance".....	"
4	The Public Printing Ordinance.....	"
5	The Evidence Ordinance.....	"
6	The Collection Ordinance.....	"
7	An Ordinance to amend The Prairie Fires Ordinance.....	"
8	An Ordinance to amend The Liquor License Ordinance.....	"
10	An Ordinance to amend The Judicature Ordinance.....	"
11	An Ordinance to amend The Assessment Ordinance.....	"
13	An Ordinance for the Protection of Sheep and other Animals from Dogs....	"
14	An Ordinance to amend The School Ordinance.....	"
17	An Ordinance to amend the Ordinance respecting the Yukon Council.....	"
18	An Ordinance to provide for Voters' Lists for Elections to the Yukon Council	"
1905		
1	The Juries Ordinance.....	"
2	An Ordinance to amend The Judicature Ordinance.....	"
3	An Ordinance prohibiting the Discharge of Fire Arms in unincorporated Towns.....	"
4	An Ordinance to amend The Vital Statistics Ordinance.....	"
5	An Ordinance to amend The Game Ordinance.....	"
8	The Woodman's Lien for Wages Ordinance.....	"
10	An Ordinance to amend The Judicature Ordinance.....	"

SCHEDULE II—Continued.

Ordinances and Parts of Ordinances, repealed, &c—Continued.

Chapter.	Title of Ordinance.	Extent of Repeal.
1906		
1	An Ordinance to amend The Assessment Ordinance.....	The whole.
2	An Ordinance to amend The Health Ordinance.....	"
3	An Ordinance to amend The Game Ordinance.....	"
4	An Ordinance to amend The Juries Ordinance.....	"
7	An Ordinance to amend The Assessment Ordinance.....	"
8	The Succession Duties Ordinance.....	"
10	An Ordinance to amend The Liquor License Ordinance.....	"
11	An Ordinance to amend the Ordinance respecting Voters' Lists.....	"
13	An Ordinance to amend The Collection Ordinance.....	"
14	An Ordinance to amend The Judicature Ordinance.....	"
1907		
2	An Ordinance to provide for Weight and Sale of Bread.....	"
3	An Ordinance respecting Road Houses.....	"
4	An Ordinance to amend the Ordinance respecting the Yukon Council.....	"
5	An Ordinance to amend the Health Ordinance.....	"
6	An Ordinance to amend the Ordinance respecting the office of Public Administrator.....	"
7	An Ordinance to amend the Dogs Ordinance.....	"
8	An Ordinance to amend The Judicature Ordinance.....	"
9	An Ordinance to amend The Liquor License Ordinance.....	"
10	An Ordinance to amend the Ordinance for the Prevention of Fires.....	"
11	An Ordinance to amend The Assessment Ordinance.....	"
12	An Ordinance to amend The Steam Boilers Ordinance.....	"
13	An Ordinance to amend the Ordinance respecting Aid to Hospitals.....	"
1908		
1	An Ordinance to amend The Roads House Ordinance.....	"
2	An Ordinance to amend The Health Ordinance.....	"
5	The Employers Liability Ordinance.....	"
6	An Ordinance to amend The Game Ordinance.....	"
7	An Ordinance to amend the Ordinance respecting the Yukon Council.....	"
8	An Ordinance to amend The Judicature Ordinance.....	"
9	An Ordinance to amend The Steam Boilers Ordinance.....	"
10	An Ordinance respecting The Driving of Logs.....	"
1909		
1	An Ordinance to amend The Game Ordinance.....	"
2	An Ordinance to amend the Ordinance respecting The Office of Public Administrator.....	"
3	An Ordinance to amend The Companies Ordinance.....	"
4	An Ordinance to amend The Assessment Ordinance.....	"
5	An Ordinance respecting Standard Time.....	"
6	An Ordinance respecting Personal Judgments in Lien Actions.....	"
7	An Ordinance to amend The Public Service Ordinance.....	"
8	An Ordinance to amend The Judicature Ordinance.....	"
10	An Ordinance to amend The Bills of Sale Ordinance.....	"
1910		
2	An Ordinance to amend The Miners Lien Ordinance.....	"
3	An Ordinance to amend The Collection Ordinance.....	"
4	An Ordinance to amend The Judicature Ordinance.....	"
5	An Ordinance to amend The Liquor License Ordinance.....	"
6	An Ordinance to amend The School Ordinance.....	"

SCHEDULE II—Continued.

Ordinances and Parts of Ordinances, repealed, &c—Continued.

Chapter.	Title of Ordinance.	Extent of Repeal.
1911		
1	An Ordinance to amend The Public Service Ordinance.....	The whole
2	An Ordinance to amend The Collection Ordinance.....	"
3	An Ordinance to amend an Ordinance respecting Insane persons.....	"
4	An Ordinance to amend The Ordinance respecting Clerk and Deputy Clerk.....	"
6	An Ordinance to amend The Assessment Ordinance.....	"
7	An Ordinance to amend The Assessment Ordinance.....	"
8	An Ordinance to amend The Legal Professional Ordinance.....	"
1912		
1	The Yukon Medical Ordinance.....	"
2	An Ordinance to amend The Judicature Ordinance.....	"
3	An Ordinance to amend The Prairie Fires Ordinance.....	"
4	An Ordinance to amend The Public Service Ordinance.....	"
6	An Ordinance to amend The Health Ordinance.....	"
7	An Ordinance to amend the Ordinance relating to Decision of Constitutional and Other Questions.....	"
9	An Ordinance to amend the Ordinance respecting the Yukon Council.....	"
1913		
1	An Ordinance to amend The Judicature Ordinance.....	"
2	An Ordinance to amend The Assessment Ordinance.....	ss. 1 and 2
3	An Ordinance respecting Pawn Brokers.....	The whole
7	An Ordinance to amend the Ordinance respecting the Yukon Council.....	"
9	An Ordinance to amend the Ordinance respecting Controverted Elections.....	"
1914		
1	An Ordinance to amend The School Ordinance.....	"
2	An Ordinance relating to the Decision of Constitutional and other Questions.....	"
4	An Ordinance respecting Practice and Procedure in Police Magistrates Courts.....	"
6	An Ordinance to amend the Ordinance respecting Limitation of Actions.....	"
7	An Ordinance to amend The Judicature Ordinance.....	"
8	An Ordinance regulating the Exportation of Foxes.....	"
9	An Ordinance to amend The Public Service Ordinance.....	"
10	An Ordinance to amend the Election Ordinance.....	"
11	An Ordinance to amend the Ordinance respecting Auctioneers, Hawkers and Pedlars.....	"
12	An Ordinance to amend the Ordinance respecting the Regulation of Traffic on Highways.....	"
14	The Motor Vehicle Ordinance.....	"
15	The Companies Ordinance.....	"
16	An Ordinance to amend The Legal Profession Ordinance.....	"
17	The Dawson City Corporation Ordinance.....	"
18	An Ordinance to amend The Assessment Ordinance.....	"
20	An Ordinance to amend The Liquor License Ordinance.....	"

SCHEDULE III.

Ordinances and parts of Ordinances left unrepealed.

No.	Title of Ordinance.	Portion of Ordinance.
ORDINANCES OF THE YUKON COUNCIL.		
1899.		
1	An Ordinance to incorporate The Svendsgaard Drug and Hospital Company, Limited.....	The whole.
3	An Ordinance to validate certain proceedings in the Courts of the Yukon Territory.....	"
10	An Ordinance for granting to the Commissioner certain sums of Money to defray the expenses of the Public Service of Yukon Territory.....	"
12	An Ordinance to incorporate The Yukon Overland Express and Transportation Company.....	"
16	An Ordinance concerning the Water Supply of Dawson.....	"
18	An Ordinance respecting the Grand Forks Water Association.....	"
20	An Ordinance respecting The Yukon Hygeia Water Supply Company.....	"
25	An Ordinance to interpret Ordinance No. 16 of 1899.....	"
27	An Ordinance respecting Hunker Creek Ferry.....	"
28	An Ordinance respecting the Klondike Ferry.....	"
35	An Ordinance to confirm, ratify and legalize certain transfers of Real Property made by J. E. Hansen as the attorney in fact of James N. Wilson, executor, in the Yukon Territory of the last Will and Testament of Arthur Harper deceased.....	"
46	An Ordinance respecting the Dawson City and Yukon Territory, Public Business Register and Business Directory.....	"
47	An Ordinance to provide for the building of a wagon road in the Yukon Territory.....	"
49	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.....	"
1900.		
5	An Ordinance respecting the Census.....	"
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.....	"
8	An Ordinance to incorporate the Dawson Telephone and Electric Company, Limited.....	"
14	An Ordinance to incorporate the Dawson City Water and Power Company Limited.....	"
26	An Ordinance respecting the Territorial Court.....	"
28	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public service of the Yukon Territory.....	"
29	An Ordinance respecting the Dawson Electric Light and Power Company Limited.....	"
30	An Ordinance respecting Taxation, Dawson.....	"
35	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.....	"
40	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.....	"
41	An Ordinance amending the Ordinance incorporating the Dawson City Water and Power Company Limited.....	"
1901.		
6	An Ordinance to incorporate the Hadley Stage Line Limited.....	"
7	An Ordinance to incorporate the Dawson Transfer and Storage Company Limited.....	"
8	An Ordinance entitled additional Ordinance respecting the Preservation of Game in the Yukon Territory.....	"
12	An Ordinance to enable the Court of Revision of the Town of Dawson to re-open, hear and determine Appeals from assessments for the year 1900.....	"
13	An Ordinance respecting Taxation for 1900 (Dawson).....	"
16	An Ordinance to incorporate the Yukon-Klondike General Trusts Company Limited.....	"

SCHEDULE III—Continued.

Ordinances and parts of Ordinances left unrepealed, —Continued.

No.	Title of Ordinance.	Portion of Ordinance.
1901—Concluded.		
19	An Ordinance to amend the Ordinance to incorporate the Dawson City Water and Power Company Limited.....	The whole.
27	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.....	"
39	An Ordinance to increase the capital stock of the Hadley Stage Line Limited.	"
43	An Ordinance empowering the Northern Commercial Company, to lay pipes, etc., in the Town of Dawson.....	"
45	An Ordinance to incorporate the City of Dawson.....	"
1902.		
5	An Ordinance to repeal certain Ordinances of the Yukon Council.....	"
10	An Ordinance to amend the Dawson City Charter.....	"
11	An Ordinance to confirm By-Law No. 12 of the City of Dawson.....	"
15	An Ordinance to incorporate The Dawson Amateur Athletic Association Limited.....	"
17	An Ordinance to amend the Dawson City Charter.....	"
21	An Ordinance to authorize the Consolidation of the Ordinances.....	"
Chapter.	CONSOLIDATED ORDINANCES 1902.	
68	An Ordinance respecting the Limits of Dawson and Klondike City.....	The whole.
78	An Ordinance to prevent the profanation of the Lord's Day.....	"
ORDINANCES OF THE YUKON COUNCIL.		
1903.		
1	An Ordinance to amend the Ordinance Incorporating The Dawson Amateur Athletic Association Limited.....	"
7	An Ordinance for granting to the Commissioner certain sums of money for the Development of Mining in the Yukon Territory.....	"
13	An Ordinance to incorporate The North Star Athletic Association Limited..	"
17	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	"
20	An Ordinance to provide for the Management of Free Public Libraries in Dawson.....	"
21	An Ordinance to incorporate The Zero Club Limited.....	"
1904.		
1	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	"
9	An Ordinance to validate the Town of Bonanza Assessment for 1904.....	"
19	An Ordinance granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	"
1905		
6	An Ordinance respecting the By-Laws of the City of Dawson.....	"
7	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
9	An Ordinance respecting The Town of Bonanza.....	"
1906		
9	An Ordinance closing portions of Fifth Avenue and Portions of Lambert and Elliott Streets in Whitehorse from Public use.....	"
12	An Ordinance for granting to the Commissioner certain sums of money to defray the Expenses of the Public Service.....	"

SCHEDULE III—Concluded.

Ordinances and parts of Ordinances left unrepaled, —Concluded.

No.	Title of Ordinance.	Portion of Ordinance.
1907		
1	An Ordinance to amend Chapter 20 of 1903 relating to Free Public Libraries in Dawson.....	The whole.
14	An Ordinance granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
1908		
4	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
1909		
9	An Ordinance for granting to the Commissioners certain sums of money to defray the Expense of the Public Service.....	"
1910		
7	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
1911		
5	An Ordinance to amend Chapter 16 of 1904.....	Sec. 3
7	An Ordinance to amend the Assessment Ordinance.....	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
10	An Ordinance to remit certain Taxes on Lots 17, 18, 19 and 20 in Dawson...	"
1912		
5	An Ordinance to validate Assessment Rolls of the City of Dawson.....	"
8	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
1913		
2	An Ordinance to amend the Assessment Ordinance.....	Sec. 3
4	An Ordinance to declare valid certain By-Laws of the City of Dawson.....	The whole.
6	An Ordinance authorizing the Consolidation of the Ordinances of the Yukon Territory and By-Laws of the City of Dawson.....	"
8	An Ordinance respecting Transient Traders as amended by Chapter 13 of the Ordinances of 1914.....	"
10	An Ordinance to provide for a Plebiscite respecting Dawson Public Schools...	"
11	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
1914		
3	An Ordinance to validate the Assessment of the City of Dawson.....	"
5	An Ordinance respecting the Consolidated Ordinances 1914.....	"
* 13	An Ordinance to amend the Ordinance relating to Transient Traders.....	"
19	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	"
21	An Ordinance relating to Charges for Electric Light and Water in Dawson...	"

* 13. Ordinance immediately before index.

ERRATA.

- In Chapter 24, Section 17, "30" should read "31".
- In Chapter 28, Section 95, "included" should read "concluded".
- In Chapter 39, Section 4, Sub-Section 2, "January" should read "March" and "October" should read "September".
- In Chapter 40, Section 5, Sub-Section 5, "sale" should read "safe".
- In Schedule II, Chapter 17 of 1914, The Dawson City Corporation Ordinance should be struck out.
- In Schedule III, Chapter 45 of 1901, an Ordinance to Incorporate the City of Dawson, should be struck out.
- In Schedule I, under Ordinances of the Yukon Council insert the following:—
1901—No. 45, the whole-----/No. 17 of 1914.
- In Schedule III, under Ordinances of 1914, insert the following:—
No. 17, The Dawson City Corporation
Ordinance -----The whole.

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